SEVENTY-SECOND REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1982, through December 31, 1982

Robert K. Koger, Chairman

Dr. Leigh H. Hammond, Commissioner

Sarah Lindsay Tate, Commissioner

John W. Winters, Commissioner

Edward B. Hipp, Commissioner

A. Hartwell Campbell, Commissioner

Douglas P. Leary, Commissioner

NORTH CAROLINA UTILITIES COMMISSION

Office of the Chief Clerk

Mrs. 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.

LETTER OF TRANSMITTAL

December 31, 1982

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, 1982, we hereby present for your consideration the report of the Commission's decisions for the 12-month period beginning January 1, 1982, and ending December 31, 1982.

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

Respectfully submitted,

NORTH CAROLINA UTILITIES COMMISSION

Robert K. Koger, Chairman

Dr. Leigh H. Hammond, Commissioner

Sarah Lindsay Tate, Commissioner

John W. Winters, Commissioner

Edward B. Hipp, Commissioner

A. Hartwell Campbell, Commissioner

Douglas P. Leary, Commissioner

Sandra J. Webster, Chief Clerk

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of the

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GENERAL ORDERS

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GENERAL ORDERS - GENERAL

DOCKET NO. M-100, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Amendment to NCUC Form E-1	)	ORDER MODIFYING NCUC FORM E-1 RATE
Rate Case Information Report	)	CASE INFORMATION REPORT - ELECTRIC
	)	COMPANIES

BY THE COMMISSION: It having come to the attention of the Commission that certain problems existed in the internal distribution of information contained in NCUC Form E-1, Rate Case Information Report, the Commission requested that a review of the minimum needs and requirements of the Commission and the Public Staff be conducted with respect to the number and content of copies of the General Rate Case Information Report. The review has now been completed and clearly shows that the needs and requirements of the Commission and the Public Staff have changed significantly. Therefore, the Commission is of the opinion that the NCUC Form E-1 General Instructions should be amended to reflect current requirements.

IT IS, THEREFORE, ORDERED as follows:

1. That all references as to the number of copies required in NCUC Form E-1 Section C shall hereby be deleted.

2. That NCUC Form E-1, Section B General Instructions Rate Case Information Report should be modified to include the following item:

> 7. The Company shall file its response in accordance with Rule R1-5. However, the total number of sets of data required shall be thirty (30). Further, the number of copies required of each individual data response item and the organization of each set of data shall be as listed below:

The number of copies of each data request item required is as follows:

Item No.	Copies Required	Item No.	Copies Required	Item No.	Copies Required
1	14	25	14	48	13
2	6	26	14	49	13
3	14	27	16	50	13
4	11	28	11	51	16
5	15	29	16	52	16
6	12	30	14	53	16
7	16	31	7	54	15
8	11	32	2	55	0
9	12	33	16	56	4
10	14	34	16		
11	13	35	12		
12	11	36	14		
13ab	11	37	13		
13a8	5	38	11		
13a9	5	39a,b,d,e,f	9		
14	14	39c1	1		
15	16	39c2	5		
16	13	40b,c,d	14		
17	16	40a	13		
18	12	41	14		
19	14	42	14		
20	15	43	11		
21	14	44	14		
22	11	45	14		
23	11	46	12		
24	9	47	12		

The content of each set provided should be the following:

Set 1 — May exclude the following items:
32, 39c1

Set 2 — May exclude the following items:
2, 13a8, 13a9, 24, 31, 32, 39c1, 39c2, 56

Set 3 — May exclude the following items:
32, 39c1, 56

Set 4 — May exclude the following items:
32, 39abdef, 39c1, 39c2

Set 5 — May exclude the following items:
2, 13a8, 13a9, 31, 32, 39c1, 39c2, 56

Set 6 — May exclude the following items:
2, 13a8, 13a9, 32, 39c1, 39c2, 56

Set 7 — May exclude the following items:
2, 13a8, 13a9, 24, 31, 32, 39c1, 39c2, 56

Set 8	May exclude the following items: 32, 35, 39abdef, 39c1, 43, 46-50
Set 9	May exclude the following items: 31, 32, 35-38, 39abdef, 39c1, 39c2, 43, 45-50
Set 10	May exclude the following items: 2, 13a8, 13a9, 24, 31, 32, 35-37, 38, 39abdef, 39c1, 39c2, 40a, 43, 45-50, 56
Set 11	May exclude the following items: 4, 6, 8-10, 12, 13ab, 13a8, 13a9, 18, 22-24, 28, 56
Set 12	May exclude the following items: 2, 4, 6, 8, 9, 10, 12, 13ab, 13a8, 13a9, 18, 22-24, 28, 31, 32, 39c1, 56
Set 13	May exclude the following items: 1-6, 8, 9, 11-14, 16, 18, 19, 20-26, 28, 30, 38-44, 56
Set 14	May exclude the following items: 1-4, 6, 8, 9, 11-14, 16, 18, 19, 22-26, 28, 30-32, 37-44, 46, 47, 54, 56
Set 15	May exclude the following items: 2, 4, 8, 11-13a9, 16, 21-23, 28, 31, 32, 35, 38-39, 56
Set 16	May exclude the following items: 2, 13a8, 13a9, 31, 32, 39c(1), 39c(2), 56
Sets 17-30	Shall include a copy of the application, testimony and exhibits only

Note: Sets 1-16 shall also include a copy of the application, testimony and exhibits. Additionally, Item 55 shall be excluded from all sets.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of February 1982.

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

DOCKET NO. M-100, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment to NCUC Form G-1) ORDER MODIFYING NCUC FORM G-1 RATE
Rate Case Information Report) CASE INFORMATION REPORT - GAS COMPANIES

BY THE COMMISSION: It having come to the attention of the Commission that certain problems existed in the internal distribution of information contained in NCUC Form G-1, Rate Case Information Report, the Commission requested that a review of the minimum needs and requirements of the Commission and Public Staff be conducted with respect to the number and content of copies of the

General Rate Case Information Report. The review has now been completed and clearly shows that the needs and requirements of the Commission and the Public Staff have changed significantly. Therefore, the Commission is of the opinion that the General Instructions contained in the NCUC Form P-1 General Instructions should be amended to reflect current requirements.

IT IS, THEREFORE, ORDERED as follows:

1. That all references as to the number of copies required in NCUC Form G-1, Section C shall hereby be deleted.

2. That NCUC Form G-1, Section B - General Instructions Rate Case Information Report should be modified to include the following item:

8. That the Company shall file its response in accordance with Rule R1-5. However, the total number of sets of data required shall be twenty-seven (27). The number of copies required of each individual data response item and the organization of each set of data shall be as listed below:

The number of copies of each data request item are as follows:

Item No.	Copies Required	Item No.	Copies Required
1	14	25	14
2	6	26	12
3a	12	27	15
3b,c	14	28	11
4	12	29	16
5	13	30	14
6	12	31a	13
7	13	31b,c,d	14
8	13	32	14
9	12	33	14
10	15	34a,b,c	13
11	14	34d	14
12	14	35	14
13ab	11	36	15
13a8	5	37	0
13a9	5	38	4
14	14		
15	14		
16	13		
17	14		
18	12		
19	12		
20	14		
21	14		
22	11		
23	11		
24	13		

GENERAL ORDERS - GENERAL

The content of each set provided should be the following:

Set 1	Shall include all items
Set 2	May exclude the following items: 2,13a8, 13a9, 24, 38
Set 3	May exclude the following items: 38
Set 4	Shall include all items
Set 5	May exclude the following items: 2, 13a8, 13a9, 38
Set 6	May exclude the following items: 2, 13a8, 13a9, 38
Set 7	May exclude the following items: 2, 13a8, 13a9, 24, 38
Set 8	Shall include all items
Set 9	May exclude the following items: 13a8, 13a9, 31a, 34a, 34b, 34c
Set 10	May exclude the following items: 2, 3a, 4-7, 9, 13ab, 13a8, 13a9, 18, 19, 22, 23, 26, 28, 38
Set 11	May exclude the following items: 2, 3a, 4-7, 9, 13ab, 13a8, 13a9, 18, 19, 22, 23, 26, 28, 38
Set 12	May exclude the following item: 38
Set 13	May exclude the following items: 1-3abc, 6, 8, 9, 13-23, 25, 26, 28, 30-35, 38
Set 14	May exclude the following items: 2, 4, 8, 11-13a9, 16, 22, 23, 28, 38
Set 15	May exclude the following items: 2, 13a8, 13a9, 38
Sets 16-27	Shall include a copy of the application, testimony and exhibits only

Note: Sets 1-15 shall also include a copy of the application, testimony and exhibits. Additionally, Item 37 shall be omitted from all copies.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of February 1982.

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

DOCKET NO. M-100, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Amendment to NCUC Form P-1 Rate	)	ORDER MODIFYING NCUC FORM P-1
Case Information Report	)	RATE CASE INFORMATION
Section B General Instructions	)	REPORT - TELEPHONE COMPANIES

BY THE COMMISSION: It having come to the attention of the Commission that certain problems existed in the internal distribution of information contained in NCUC Form P-1, Rate Case Information Report, the Commission requested that a review of the minimum needs and requirements of the Commission and the Public Staff be conducted with respect to the number and content of copies of the Rate Case Information Report required. The review has now been completed and clearly shows that the needs and requirements of the Commission and the Public Staff relating to such data responses have changed significantly. Therefore, the Commission is of the opinion that the General Instructions contained in NCUC Form P-1 should be amended to reflect current requirements.

IT IS, THEREFORE, ORDERED as follows:

1. That NCUC Form P-1 Section B - General Instructions Rate Case Information Report Item 9 should be modified to the following:

9. The company shall file its response in accordance with Rule R1-5. However, the total number of sets to be filed shall be twenty-nine (29). The number of copies required for each individual data response item and the organization of each set of data shall be as listed below:

GENERAL ORDERS - GENERAL

The number of copies of each data request item required is as follows:

Item No.	Copies Required	Item No.	Copies Required	Item No.	Copies Required
1	16	21	16	40d,e,f	13
2	5	22	16	41a	5
3a	14	23	13	41c	5
3b,c	16	24	16	41b,d	13
4	11	25	11	42	13
5	14	26	16	43	13
6	14	27	13	44	16
7	14	28	16	45	13
8	13	29	5	46	16
9	14	30a	14	47	16
10	13	30b	7	48	16
11	15	31a-f	13	49	16
12	13	31g	6		
13a1-8	16	32	13		
13a9	5	33	13		
13a10	5	34	7		
13b	13	35	9		
14	16	36a	16		
15	14	36b	9		
16	15	37	16		
17	14	38	7		
18	12	39	9		
19	14	40a,b,c	5		
20	14				

The content of each set provided should be the following:

Set 1 — Shall include all items

Set 2 — May exclude the following items:
2, 13a9, 13a10, 25, 29, 30b, 31g, 34-35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c

Set 3 — Shall include all items

Set 4 — Shall include all items

Set 5 — May exclude the following items:
2, 13a9, 13a10, 29, 30b, 31g, 34-35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c

Set 6 — May exclude the following items:
2, 13a9, 13a10, 29, 30b, 31g, 34-35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c

Set 7 — May exclude the following items:
2, 13a9, 13a10, 25, 29, 30b, 31g, 34-35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c

Set 8	Shall include all items
Set 9	May exclude the following items: 25, 30b, 31g, 34, 35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c
Set 10	May exclude the following items: 2, 13a9, 13a10, 25, 29, 30b, 31g, 34, 35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c, 45
Set 11, 12	May exclude the following items: 2, 3a, 4-10, 12, 13a9, 13a10, 13b, 15, 17-20, 23, 27, 29-34, 38, 40-43
Set 13	May exclude the following items: 2, 4, 13a9, 13a10, 18, 25, 29, 40a, 40b, 40c, 41a, 41c, 45
Set 14	May exclude the following items: 2, 4, 10, 13a9, 13a10, 18, 29, 45
Set 15	May exclude the following items: 2, 4, 8, 11, 12, 13a9, 13a10, 13b, 16, 23, 27, 29, 31a-f, 31g, 32-33, 40-43
Set 16	May exclude the following items: 2, 13a9, 13a10, 29, 30b, 31g, 34-35, 36b, 38-39, 40a, 40b, 40c, 41a, 41c
Sets 17-29	Shall include a copy of the application, testimony and exhibits

Note: Sets 1-16 shall also include a copy of the application, testimony and exhibits.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of February 1982.

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

DOCKET NO. M-100, SUB 68

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Revision of Rule R2-48 of the Commission's Motor Carriers Regulations Relating to the Classification of Motor Carriers	) ORDER AMENDING) RULE R2-48)

BY THE COMMISSION: The North Carolina Utilities Commission acting under the power and authority delegated to it for the promulgation of rules and regulations hereby adopts Amendments to its "Rule R2-48. Accounts; Annual Reports." These Amendments which are set forth in Exhibit A attched hereto revise Rule R2-48 to incorporate revisions adopted by the ICC effective January 1, 1980, changing revenue requirements for Class I, Class II and Class III common and contract carriers of passengers and freight. The purpose

of the amendment is to avoid confusion and inconsistency which arises when the ICC and the NCUC have different revenue classifications. The Amendment will allow motor carriers regulated by both this Commission and the ICC to duplicate the annual report filed with the ICC for filing with the NCUC. Furthermore, the Commission believes the present ICC revenue classifications are reasonable and should be adopted as its own.

IT IS, THEREFORE, ORDERED as follows:

1. That Exhibit A attached hereto is adopted as an Amendment to Rule R2-48.

2. That all motor carriers of passengers and motor carriers of freight regulated by the North Carolina Utilities Commission and the Interstate Commerce Commission shall be allowed to file with this Commission a duplicate of the annual report it files with the ICC.

3. That a copy of this Order be mailed to all Class I, Class II, and Class III railroads regulated by this Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of February 1982.

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

RULE R2-48. ACCOUNTS; ANNUAL REPORTS.

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

For purposes of annual, other periodical and special reports commencing with the year beginning January 1, 1980, and thereafter until further ordered, common and contract carriers of passengers subject to the North Carolina Utilities Commission's jurisdiction will assume their classification according to the most current dollar amounts in effect and prescribed by the Interstate Commerce Commission. Classifications in effect as of January 1, 1980, are as follows:

CLASS I: Carriers having annual carrier operating revenues (including interstate and intrastate) of $3 million or more.

CLASS II: Carriers having annual carrier operating revenues (including interstate and intrastate) of $500,000 but less than $3 million.

CLASS III: Carriers having annual carrier operating revenues (including interstate and intrastate) of less than $500,000.

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

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

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

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

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

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

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

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

For purposes of accounting and reporting regulations, commencing with the year beginning January 1, 1980, common and contract carriers of property subject to the North Carolina Utilities Commission's jurisdiction will assume their classification according to the most current dollar amounts in effect and prescribed by the Interstate Commerce Commission. Classifications in effect as of January 1, 1980, are as follows:

CLASS I: Carriers having annual carrier operating revenues of $5 million or more.

CLASS II: Carriers having annual carrier operating revenues of $1 million but less than $5 million.

CLASS III: Carriers having annual carrier operating revenues of less than $1 million.

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

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

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

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

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

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

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

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

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

(a) Instruction 28B (household goods)
(b) Instruction 27 and 28A (general commodity and other)

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

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

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

DOCKET NO. M-100, SUB 68

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Revision of Rule R3-9 of the Commission's Railroad Regulations Relating to the Classification of Railroads	) ORDER AMENDING) R3-9)

BY THE COMMISSION: The North Carolina Utilities Commission acting under the power and authority delegated to it for the promulgation of rules and regulations hereby adopts Amendments to its "Rule R3-9. Accounts; Annual Reports." These Amendments which are set forth in Exhibit A attached hereto revise Rule R3-9 to incorporate revisions adopted by the ICC effective January 1, 1980, changing revenue requirements for Class I, Class II and Class III railroads. The purpose of the amendment is to avoid confusion and inconsistency which arises when the ICC and the NCUC have different classifications. The Amendment will allow railroads regulated by both this Commission and the ICC to duplicate the annual report filed with the ICC for filing with the NCUC. Furthermore, the Commission believes the present ICC revenue classifications are reasonable, and should be adopted as its own.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of February 1982.

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

EXHIBIT A

RULE R3-9. ACCOUNTS; ANNUAL REPORTS

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

(b) For the purpose of annual, other· periodical and special reports, commencing with reports for the year beginning January 1, 1980, and thereafter until further ordered, operating carriers by railroad subject to the North Carolina Utilities Commission's jurisdiction will assume their classification according to the most current dollar amounts in effect; and prescribed by the Interstate Commerce Commission. Classification in effect as of January 1, 1980, are as follows:

Class I: Carriers having annual carrier operating revenues of $50 million or more.

Class II: Carriers having annual carrier operating revenues of $10 million but less than $50 million.

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

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

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

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

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

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

basis of the combined revenue for the year when the combination occurred.

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

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

DOCKET NO. M-100, SUB 85

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Proposed Rule Revision - Request to Exempt from Regulation the Transportation of Animal and Poultry Feed, Including Feed Ingredients and Pet Foods, in North Carolina Intrastate Commerce by Motor Carriers	) RECOMMENDED ORDER) EXEMPTING ANIMAL AND) POULTRY FEED FROM) REGULATION (RULE R2-52)

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on November 12, 1981

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Public Staff:

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

For the Intervenor:

Joseph W. Eason, Allen, Steed & Allen, Attorneys at Law, P. O. Box 2058, Raleigh, North Carolina 27602
For: Southern Motor Carriers Rate Conference, Inc.

PARTIN, HEARING EXAMINER: By Order dated September 25, 1981, the Commission initiated a rulemaking investigation to consider whether a proposed Rule R2-52(9) should be adopted which would make the transportation of animal and poultry feed, including feed ingredients and pet foods, exempt from Commission regulation. Notice of the rulemaking was given pursuant to Commission regulations. Southern Motor Carriers Rate Conference, Inc.'s motion for intervention filed on October 30, 1981, on behalf of its participating carriers in SMCRC Tariff No. 304-C, NCUC 304-C, was granted on November 10, 1981.

The hearing came on as scheduled at 10:00 a.m. on November 12, 1981. The Public Staff's continuing intervention in this docket was recognized at that time. By motion of both parties, the hearing was recessed for the purpose of conducting negotiations toward a stipulation regarding the language of the proposed exemption. When the hearing resumed, the parties agreed to stipulate that the language of the currently proposed exemption should be deleted and that in lieu thereof the following language should be substituted:

Agricultural livestock and poultry feed, if such products (excluding products otherwise exempt) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

The parties' agreement to the above stipulation was conditioned upon the Commission's interpretation of the language of the proposed exemption as parallelling the interpretation of the virtually identical language contained in the Motor Carriers Act of 1980, 49 U.S.C. 10526, rendered by the Interstate Commerce Commission in docket number MC-C-10792, which was decided March 23, 1981, titled "Petition for Declaratory Order - Livestock and Poultry Feed Exemption" and was reported at 132 M.C.C. 535.

The Hearing Examiner heard testimony from the following witnesses: Zack Roy Bissette, a common carrier in Elm City, North Carolina, opposed the proposed rule. John A. Guglielmi, Vice President in charge of Commodity Purchasing of Holly Farms; David McLeod, an attorney with the North Carolina Department of Agriculture; James Durby, Purchasing Director, Goldsboro Milling Company; Dale Starnes, Starnes Brothers Milling Company; and John R. Keemeier, Traffic Manager of Ralston-Purina supported the proposed deregulation of animal and poultry feed.

Upon consideration of the stipulation of the parties, the testimony presented at the hearing, and the entire record in this docket, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The poultry industry, which includes broilers, eggs, turkeys, ducks, and quail, is the biggest food industry in North Carolina. Much of the state's poultry production is exported to other states and countries.

2. The agricultural livestock industry is likewise important to the economy of North Carolina.

3. The exemption from regulation of the transportation of agricultural livestock and poultry feed, including feed ingredients, will be of great benefit to the farmers and to the citizens of North Carolina. The exemption will alleviate backhaul problems experienced by unregulated truckers and farmers by allowing them to return to sites of agricultural production with agricultural livestock and poultry feed, including feed ingredients. Empty backhauls will thus be eliminated. This exemption will greatly reduce fuel consumption and thereby lower transportation costs. Agricultural efficiency will also be increased.

4. The exemption adopted by this proceeding should not include pet food or pet food ingredients.

5. By Order issued on January 15, 1981, in this docket, the Commission exempted from regulation the transportation of soybean meal in truckloads. This exemption has resulted in lowering the transportation costs of soybean meal. Farmers and consumers have benefitted from the lowering of the costs of transporting soybean meal.

CONCLUSIONS

The Examiner concludes that Commission Rule R2-52 should be amended by adding a new subsection (9) to read as follows:

> "Rule R2-52. Exemption of clay, fertilizer, lumber, grain, pipe, peanuts, cotton seed, etc. - (a) Transportation of the following commodities is exempted from regulation:
>
> * * * * * * * * * * * * *
>
> "(9) Agricultural livestock and poultry feed, including feed ingredients, if such products (excluding products otherwise exempt) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production. This exemption shall not include pet food or pet food ingredients."

In so deciding that agricultural livestock and poultry feed should be so exempted, the Commission further finds and concludes that the transportation of such commodities in intrastate commerce is of such a nature and character as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in intrastate commerce. G.S. 62-261(8).

All of the witnesses in this proceeding except one supported the exemption of agricultural livestock and poultry feed; all of the comments and statements filed in this proceeding likewise supported the proposed exemption. Expressions of support came from the North Carolina Department of Agriculture, including a statement from Commissioner James A. Graham, and from officials in the milling, feed processing, and poultry industry. The witnesses agreed that the proposed exemption would greatly benefit the farmers and the citizens of North Carolina, in that transportation costs for livestock and poultry feed would be lowered. The exemption would allow unregulated farmers and truckers to return to sites of agricultural production with agricultural livestock and poultry feed, thereby reducing the problem of empty backhauls.

Attention is called to the Commission's Order in this docket issued January 15, 1981, wherein the transportation of soybean meal in truckloads was exempted. The witnesses in this proceeding agreed that this Order has resulted in lower transportation costs.

The rule adopted herein parallels the actions of the federal government as expressed in the Motor Carrier Act of 1980, 49 U.S.C. 10526(a)(6)(e), and in a decision of the Interstate Commerce Commission in docket number MC-C-10792, decided March 23, 1981, and reported in 132 M.C.C. 535.

IT IS, THEREFORE, ORDERED:

1. That the transportation of agricultural livestock and poultry feed, including feed ingredients, if such products are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production, be, and the same is hereby, exempted from regulation under the North Carolina Public Utilities Act, except as provided in G.S. 62-260(g) and G.S. 62-281.

2. That Commission Rule R2-52 be, and the same is hereby, amended by adding the following subsection:

> "(9) Agricultural livestock and poultry feed, including feed ingredients, if such products (excluding products otherwise exempt) are transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production. This exemption shall not include pet food or pet food ingredients."

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

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of January 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. M-100, SUB 88

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Proposed Amendment of Rule R1-17(c)) ORDER MODIFYING RULE

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on June 22, 1981

BEFORE: Donald R. Hoover, Hearing Examiner

APPEARANCES:

For the Respondents:

Robert T. Bockman, Associate General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

Steve C. Griffith, Jr., Duke Power Company, 422 S. Church Street, Charlotte, North Carolina 28242
For: Duke Power Company

Edward S. Finley, Jr., Hunton & Williams, P. O. Box 109, Raleigh, North Carolina 27609
For: Virginia Electric and Power Company

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

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

F. Kent Burns, Boyce, Morgan, Mitchell, Burns & Smith, P.A., P.O. Box 2479, Raleigh, North Carolina 27602
For: Public Service Company of North Carolina, Inc., Western Carolina Telephone Company, Westco Telephone Company, Heins Telephone Company, Mid-Carolina Telephone Company, Sandhill Telephone Company

Richard W. Stimson, Senior Attorney, General Telephone Company of the Southeast, P. O. Box 1412, Durham, North Carolina
For: General Telephone Company of the Southeast

R. Frost Branon, Jr., General Attorney, Southern Bell Telephone and Telegraph Company, P. O. Box 30188, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

Dwight W. Allen, Carolina Telephone and Telegraph Company, 720 Western Blvd., Tarboro, North Carolina 27886
For: Carolina Telephone and Telegraph Company

For the Using and Consuming Public:

Thomas K. Austin, Public Staff - N. C. Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

HOOVER, HEARING EXAMINER: On February 16, 1981, the Public Staff requested that the Commission amend Rule R1-17(c) to require that the applicant in general rate case proceedings file proposed updates to their testimony or case at least forty-five (45) days prior to the date of the hearing. The proposed amendment would alter the present rule under which said applicants are required to update at least ten (10) days prior to the date of the hearing.

On March 4, 1981, in Docket No. M-100, Sub 88, the Commission issued its Order soliciting comment on the Public Staff's proposed amendment. The following companies filed comments to the proposed amendment and stated their opposition to the proposed change: Piedmont Natural Gas Company, United Cities Gas Company, Duke Power Company, Carolina Telephone Company, Southern Bell Telephone and Telegraph Company, General Telephone Company of the Southeast, Heins Telephone Company, Public Service Company of North Carolina, Inc., Western Carolina and Westco Telephone Companies, Mid-Carolina and Sandhill Telephone Companies, Virginia Electric and Power Company, Central Telephone Company, Carolina Power & Light Company, and North Carolina Natural Gas Corporation.

Upon consideration of the comments filed by the parties, the Commission by Order dated June 3, 1981, set this matter for hearing on Monday, June 22, 1981, at 1:00 p.m., in the Commission Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina.

The matter came on for hearing as scheduled. Certain parties to the proceeding offered the testimony of the following witnesses: Utilities Commission - Public Staff, Nancy Bright, Director of Accounting; Carolina Power & Light Company, David R. Nevil, Manager, Rate Development and Administration in the Rates and Service Practices Department; North Carolina Natural Gas Corporation, Gerald A. Teele, Assistant Vice President; Duke Power Company, William R. Stimart, Vice President - Regulatory Affairs; and Carolina Telephone and Telegraph Company, T. P. Williamson, Vice President Administration.

Upon completion of direct testimony and cross-examination of the witnesses, the Public Staff requested that it be allowed an opportunity to submit modifications to its proposed amendment to Commission Rule R1-17(c). The Public Staff's request was granted and July 15, 1981, was established as the due date for said modifications. Other parties to the proceeding were allowed a period of 31 days or up to and including August 15, 1981, to submit comment with respect to the Public Staff's modified proposed amendment to Commission Rule R1-17(c), and/or to submit an alternative proposed rule.

The Public Staff filed its modified proposed amendment to Commission Rule R1-17(c) on July 15, 1981. On July 28, 1981, North Carolina Natural Gas Corporation filed "Comments on Public Staff's Proposed Rule R1-17(c) and Proposed Rule of North Carolina Natural Gas Corporation." On August 17, 1981, Carolina Telephone and Telegraph Company filed "Comments on Proposed Amendment to Rule R1-17(c)," and Southern Bell Telephone and Telegraph Company filed its comments in this regard. Finally, on August 18, 1981, Carolina Power & Light Company filed supplemental comments.

After having carefully considered the entire evidence of record concerning this matter, the Hearing Examiner concludes that Commission Rule R1-17(c) should be amended to read as follows:

> "(c) Supplemental Data. - The Commission shall consider such relevant, material, and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues, or the cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, including its construction work in progress, which is based upon circumstances and events occurring up to the time the hearing is closed.
>
> "Information relating to the change(s) referred to above relied upon by the applicant shall be filed with the Commission ten (10) working days prior to the date that the testimony of the Public Staff and other intervenors is due to be filed to the extent said change(s) are known by the applicant at that time.
>
> "To the extent that additional information becomes available subsequent to ten (10) working days prior to the filing of testimony

by the Public Staff and other intervenors, such information which will be offered to support change(s) shall be made available to the Commission and other parties as soon as practicable. Under such circumstances the Public Staff and other intervenors shall have the right to address said evidence through additional direct testimony, such option to be exercised at the discretion of the Public Staff and other intervenors."

IT IS, THEREFORE, ORDERED as follows:

That Commission Rule R1-17(c) be, and hereby is, amended to read as follows:

"(c) Supplemental Data. - The Commission shall consider such relevant, material, and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues, or the cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, including its construction work in progress, which is based upon circumstances and events occurring up to the time the hearing is closed.

"Information relating to the change(s) referred to above relied upon by the applicant shall be filed with the Commission ten (10) working days prior to the date that the testimony of the Public Staff and other intervenors is due to be filed to the extent said change(s) are known by the applicant at that time.

"To the extent that additional information becomes available subsequent to ten (10) working days prior to the filing of testimony by the Public Staff and other intervenors, such information which will be offered to support change(s) shall be made available to the Commission and other parties as soon as practicable. Under such circumstances the Public Staff and other intervenors shall have the right to address said evidence through additional direct testimony, such option to be exercised at the discretion of the Public Staff and other intervenors."

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of February 1982.

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

DOCKET NO. M-100, SUB 88

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Proposed Amendment of Rule R1-17(c)) ERRATA ORDER

BY THE CHAIRMAN: On February 17, 1982, Donald R. Hoover, Hearing Examiner, issued an Order in Docket No. M-100, Sub 88, captioned "Order Modifying Rule."

Said Order should have been captioned "Recommended Order Modifying Rule" and should have had attached thereto a Notice to Parties setting forth the due date for exceptions and the date said Recommended Order will become effective and final absent postponement of the effective date thereof by the Commission.

The Commission being of the opinion that the foregoing error should be corrected

IT IS, THEREFORE, ORDERED as follows:

1. That the caption reflected on the Order issued by Donald R. Hoover, Hearing Examiner, on February 17, 1982, Docket No. M-100, Sub 88 is hereby modified to read "Recommended Order Modifying Rule."

2. That the Notice to Parties attached hereto is hereby made effective with respect to the aforementioned Recommended Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. M-100, SUB 90

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rule-making Proceeding Concerning the Appropriate Cost-Study Group(s) for the SMCRC, MCTA, and NCMCA and the Proper Utilization of the Continuing Traffic Study (CTS)	) RECOMMENDED ORDER) ESTABLISHING COST-) STUDY GROUPS FOR THE) SMCRC, NCMCA, AND MCTA

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on February 9, 1982, at 10:00 a.m.

BEFORE: Hearing Examiner Jim Panton

BY HEARING EXAMINER PANTON: This matter was set for hearing to determine the appropriate cost-study group(s) for the general commodities carriers participating in the Southern Motor Carriers Rate Conference (SMCRC), North Carolina Motor Carriers Association (NCMCA), and the Motor Carriers Traffic Association (MCTA). In addition, determination was to be made as to the appropriateness of the application of the CTS mechanism, as employed by the SMCRC. At the public hearing held on February 9, 1982, the Hearing Examiner emphasized the Commission's concerns that the above-described matters run to the heart of the present regulatory mechanism for determining fair and reasonable North Carolina intrastate general commodity rates for carriers participating in the SMCRC, NCMCA, and MCTA. In addition, Examiner Panton pointed out that after much deliberation the Commission has concluded that the best way of resolving the aforementioned concerns is to give the interested parties six weeks to work together in any and every fair and reasonable way possible in order to agree on appropriate solutions.

On April 19, 1982, the working committee established by the parties in this matter to address the issues under consideration filed their report with recommendations for a fair and reasonable resolution to the matters at hand.

The working committee report selected a cost-study group for each of the rate bureaus, the SMCRC, NCMCA, and MCTA, which will sufficiently represent local North Carolina intrastate general commodity traffic movements under the tariffs of the respective rate bureaus. After a careful review of this report and the Commission's files, the Hearing Examiner concludes that the appropriate cost-study groups to be used in setting rates on intrastate general commodities traffic under the participating tariffs of the SMCRC, NCMCA, and the MCTA are those recommended by the working committee and set out in Appendix A attached hereto. Clearly the study groups approved herein will afford the Commission a better measurement of the operating results achieved by the general commodity carriers participating in the SMCRC, NCMCA, and the MCTA. Hence, the study carriers approved herein should be required to furnish North Carolina intrastate traffic and financial data in support of general commodity rate proposals made (collectively or otherwise) by the:

1. SMCRC in its Tariff 304 series
2. NCMCA in its Tariff 10 series
3. MCTA in its Tariff 3 series

Further, the Hearing Examiner concludes that the cost-study carriers selected herein should make every reasonable effort to file appropriate data supporting the rate requests in Docket No. T-825, Sub 271. The selected carriers should be accutely aware of the responsibility bestowed upon them as cost-study carriers, in that the very integrity and reasonableness of the regulatory process governing the involved tariffs is at stake. Thus, in finality, data compliance by the cost-study carriers is neither an option nor "sometime thing," but rather an essential and non-compromisable necessity.

The working committee also recommended that the NCMCA and MCTA cost-study carriers should not be required to participate in the SMCRC's CTS, and instead, should adapt their justification to the data resources. The Hearing Examiner adopts this position and requests that the Public Staff and the respective cost-study carriers make every reasonable effort to establish mutual parameters for this data requirement. This position should not be viewed as approval to the respective non-CTS cost-study carriers to provide less than adequate traffic and financial information in that adequate information is, of course, nonnegotiable, as spoken to above.

The working committee did not come to a conclusion on whether or not the present CTS is sufficient for use by the SMCRC. The Hearing Examiner, therefore, concludes that a decision on this matter is best deferred to the Commission at a later date, at which time the Commission will have had a better opportunity to evaluate the CTS and its application with the SMCRC cost-study group approved herein.

IT IS, THEREFORE, ORDERED as follows:

1. The appropriate cost-study groups for the SMCRC, NCMCA, and MCTA, as shown in Appendix A attached hereto, be, and hereby are approved.

2. The cost-study groups approved herein be, and hereby are, ordered to furnish North Carolina intrastate traffic and financial data in support of applicable general commodity rate proposals.

3. The cost-study groups approved herein be, and hereby are, ordered to furnish North Carolina intrastate traffic and financial data in support of the rate filing in Docket No. T-825, Sub 271.

ISSUED BY ORDER OF THE COMMISSION.
This the 21st day of April 1982.

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

APPENDIX A

A. Southern Motor Carriers Rate Conference Cost-Study Carriers

(1) Blue Ridge Trucking Company, Inc.
P.O. Box 5118, Biltmore Station
Asheville, North Carolina 28803

(2) Bruce Johnson Trucking Co., Inc.
P.O. Box 5647
Charlotte, North Carolina 28225

(3) Dixie Trucking Co., Inc.
4901 Sunset Road
Charlotte, North Carolina 28213

(4) Estes Express Lines
P.O. Box 25612
Richmond, Virginia 23260

(5) Fredrickson Motor Express Corp.
P.O. Box 21098
Charlotte, North Carolina 28206

(6) Standard Trucking Company
P.O. Box 30725
Charlotte, North Carolina 28230

B. North Carolina Motor Carriers Association Cost-Study Carriers

(1) Carpenter Trucking Co., Inc.
1810 Milton Road
Charlotte, North Carolina 28215

(2) A. V. Dedmon
Route 6, Highway 15 East
Shelby, North Carolina 28150

(3) Edmac Trucking Company, Inc.
Drawer 770
Fayetteville, North Carolina 28302

(4) Sherman & Boddie, Inc.
Durham Road - P.O. Box 621
Oxford, North Carolina 27565

(5) Wicker Service, Inc.
P.O. Box 1398
Burlington, North Carolina 27215

C. Motor Carriers Traffic Association Cost-Study Carriers

(1) DeHart Motor Lines, Inc.
P.O. Box 368
Conover, North Carolina 28613

(2) Shippers Freight Lines, Inc.
P.O. Box 1547
Salisbury, North Carolina 28144

(3) Super Motor Lines, Inc.
P.O. Box 6553
Greensboro, North Carolina 27405

(4) Western Carolina Express, Inc.
P.O. Box 3523
Hickory, North Carolina 28601

(5) Terminal Trucking Co.
Highway 29
Concord, North Carolina 28025

DOCKET NO. M-100, SUB 90

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Investigation of Appropriate Cost-Study Group for General Commodity Traffic Under Southern Motor Carriers Rate Conference, Inc., North Carolina Motor Carriers Association, Inc., and Motor Carriers Traffic Association, Inc.	) ORDER DENYING MOTION) AND EXTENDING) EFFECTIVE DATE OF) RECOMMENDED ORDER) OF APRIL 21, 1982

HEARING EXAMINER PANTON: After consideration of the Motion for Stay and Motion to Reconsider and Amend Recommended Order filed by the North Carolina Motor Carriers Association, Inc. (NCMCA), and the Motor Carriers Traffic Association, Inc. (MCTA), the Hearing Examiner concludes that reconsideration of the Hearing Examiner's Recommended Order of April 21, 1982, is not warranted. At first blush, it may seem that the arguments posed in the Motion by the NCMCA and the MCTA has merit, but, after further analysis, it is clear that the appropriate decision in this matter is to reaffirm the decisions in the Recommended Order of April 21, 1982. The Hearing Examiner bases this

conclusion on two facts. First, it is not, and was never, the purpose of this hearing to rule in any way as to how the data from the NCMCA and MCTA cost-study carriers should be considered with the data from the cost-study carriers participating in the Southern Motor Carriers Rate Conference (SMCRC). This is for the Commission to decide in a general rate case proceeding. This rul emaking proceeding was conducted in large part to determine representative cost-study groups for the SMCRC, NCMCA, and the MCTA. This was done in this proceeding and the parties should be commended for their efforts.

The second fact upon which the Hearing Examiner rests his decision not to reconsider the Recommended Order of April 21, 1982, is that the NCMCA and the MCTA are experienced rate bureaus that have appeared before this Commission numerous times in the past. The Hearing Examiner would be remiss if he did not recognize this fact. With this recognition the Hearing Examiner concludes that it is inappropriate to delay this matter any longer because the NCMCA and the MCTA assert that their cost-study carriers should be given more direction as to what financial data is required to support proposed rate filings. The historic record of this Commission is burdened, as most utilities in this State whether they be large or small will readily attest, with financial data duly filed to support rate proposals. For the Hearing Examiner to believe that the NCMCA and the MCTA lack either the expertise or the insight as to what constitutes appropriate data to support rate case filings would be to indulge in simple folly.

IT IS, THEREFORE, ORDERED as follows:

1. That the Motion of the NCMCA and the MCTA be, and hereby is, denied, except that the effective date of the Recommended Order of April 21, 1982, be, and hereby is, extended to May 17, 1982, and the time for filing exceptions be, and hereby is, extended to and includes May 11, 1982.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of May 1982.

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

DOCKET NO. M-100, SUB 91

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Revision of Rule R2-46, Safety Rules and Regulations, Transportation of Hazardous Materials by Private and For-Hire Motor Carriers	)) ORDER REVISING) RULE R2-46

BY THE COMMISSION: On March 1, 1982, the North Carolina Utilities Commission entered an Order in this docket entitled "Notice of Proposed Rule Revision" whereby the Commission gave notice that it would revise Rule R2-46 in conformity with Appendix A attached to said Order unless significant protests pertaining to said rule revision and requests for hearing were received on or before June 1, 1982.

No protests or requests for hearing in this matter have been received by the Commission. By letter filed with the Commission on March 15, 1982, the

Solid and Hazardous Wast Management Branch of the Environmental Health Section of the North Carolina Division of Health Services has indicated that it strongly supports the propoosed rule revision.

IT IS, THEREFORE, ORDERED that Rule R2-46 be, and the same is hereby, revised in conformity with Appendix A attached hereto.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of June 1982.

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

Rule R2-46. Safety rules and regulations. -- The rules and regulations adopted by the U. S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 - formerly Parts 290-298 - and amendments thereto) and the rules and regulations adopted by the U. S. Department of Transportation relating to hazardous materials (49 CFR Parts 170-190 - formerly Parts 71-79 - and amendments thereto) shall apply to all for-hire motor carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of the State of North Carolina, whether common carriers, contract carriers or exempt carriers; provided, that Section 393.95(d) is amended by inserting the words "or snow tires" immediately following the words "tire chains." The rules and regulations adopted by the U. S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390-398 and amendments thereto) and the transportation of hazardous materials (49 CFR Parts 170-190 and amendments thereto) shall also apply to all private motor carriers engaged in the transportation of hazardous waste and radioactive waste in interstate and intrastate commerce over the highways of the State of North Carolina.

DOCKET NO. M-100, SUB 94

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-65, Other Bus Safety Requirements, to Delete Paragraph (18) Thereto) ORDER AMENDING RULE R2-65

BY THE COMMISSION: Effective May 26, 1982, the Federal Highway Administration, Department of Transportation, rescinded the requirement for first-aid kits on buses by deleting Section 393.96 of Title 49, Code of Federal Regulations, which was included in parts of federal regulations adopted by this Commission pursuant to G.S. 62-281 in Rule R2-46. In addition to the general safety requirements this Commission has other bus safety requirements in its Rule R2-65 and paragraph (18) thereof is quoted as follows:

> "(18) First Aid - Passenger vehicles shall carry emergency first-aid equipment, and all drivers shall be trained in the use of same."

Upon review of the safety rules and regulations adopted by the United States Department of Transportation relating to safety of operation and equipment (49 CFR Parts 390 - 398), as amended, and subsequently adopted by

this Commission in Rule R2-46 and other bus safety requirements in Rule R2-65, the Commission is of the opinion that paragraph (18) of Rule R2-65 should be deleted due to the very limited use of first-aid kits on buses and the additional expense of this requirement and in an effort to make the rules and regulations of this Commission more compatable in this respect with the requirements of the United States Department of Transportation.

On August 30, 1982, the Commission issued an Order for Notice of Proposed Rule Revision in this matter, stating that unless significant protests or requests for hearing were received on or before September 30, 1982, the Commission would revise Rule R2-65 to delete paragraph (18) thereof; and as of this date the Commission has not received any protests nor request for hearing concerning this proposed rule revision.

Accordingly, the Commission concludes that its Rule R2-65 should be revised by deleting paragraph (18) thereto, as quoted hereinbefore.

IT IS, THEREFORE, ORDERED:

That Rule R2-65 of the Commissions' Rules and Regulations is hereby amended by deleting paragraph (18) thereof as quoted hereinbefore, effective with the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of November 1982.

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

GENERAL ORDERS - ELECTRICITY

DOCKET NO. E-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Carolina Power & Light Company, Duke Power Company, Virginia Electric and Power Company - Application for Property Insurance for Losses in Excess of $500,000,000	) ORDER ALLOWING) PARTICIPATION IN) EXCESS PROPERTY) INSURANCE PROGRAM

BY THE COMMISSION: On October 13, 1981, Virginia Electric and Power Company (Vepco) filed "Application for Authority to Obtain $500 Million of Property Insurance for Losses in Excess of $500 Million at Nuclear Sites." In its Application, Vepco proposes to obtain property insurance from Nuclear Electric Insurance Limited (NEIL), a mutual insurance company incorporated under the laws of Bermuda. Vepco, Duke Power Company, and Carolina Power & Light Company, with approval of this Commission, are members of NEIL and are currently participating in the insurance program for replacement power costs resulting from a nuclear accident. Vepco now proposes to participate in the NEIL program which will establish a new $500 million layer of property insurance coverage to meet losses in excess of $500 million.

The Application also states that in the event of nuclear accident at any participating utility all of the insured participants could be responsible for a retrospective premium adjustment not to exceed 7.5 times the annual premium. This retrospective premium would be assessed if the losses from an accident exceeded its accumulated funds.

On December 7, 1981, at the Commission's Regular Staff Conference, the Public Staff recommended that Vepco be allowed to participate in the "Excess Property Insurance Program," but that the Commission should reserve the right to later decide whether the ratepayers, stockholders, or some combination thereof, should pay any retrospective penalty that may be assessed.

The Commission initially indicated approval of participation in the manner recommended by the Public Staff, but on December 17, 1981, after being advised that Duke and CP&L would also be filing for approval to participate, the Commission decided to defer approval pending review of their applications.

On January 28, 1982, Duke and CP&L filed "Joint Application Regarding Property Insurance for Losses in Excess of $500,000,000." Like Vepco, Duke and CP&L seek permission to participate in the NEIL property insurance plan. Duke's initial annual premium will be approximately $2.11 million and CP&L's initial annual premium will be approximately $1.82 million. On February 22, 1982, at the Commission's Regular Staff Conference, the Public Staff, consistent with their position with regard to Vepco's participation, recommended that the Commission grant approval to Duke's and CP&L's participation in NEIL but that the Commission should reserve the right to determine whether any retrospective premium will be included in the cost of service for these utilities.

The Commission has studied the Applications and is of the opinion that the best interests of the companies and their customers will be served by the Applicants participating in the NEIL "Excess Property Insurance Program." Pursuant to G.S. 62-161 and G.S. 62-162, the Commission finds and concludes

that the proposed assumption of contingent liabilities for retrospective premiums as insureds of NEIL (a) is for a lawful object within their corporate purposes, (b) is compatible with the public interest, (c) is necessary or appropriate for and consistent with the proper performance by the Applicants of their service to the public as utilities and will not impair their ability to perform that service, and (d) is reasonably necessary and appropriate for such purposes.

Finally, the Commission concludes that the policy offered by NEIL is by far the most economical means of obtaining property insurance for the companies, and that but for the provision allowing for a retrospective premium adjustment, the annual premiums would be far greater.

IT IS, THEREFORE, ORDERED that Vepco, Duke, and CP&L are each authorized to take all reasonable steps that may be required to participate in the NEIL "Excess Property Insurance Program" described in the applications filed in this docket.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of March 1982.

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

DOCKET NO. E-100, SUB 40

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 UPDATED FORECAST A) PLAN FOR MEETING LONG-RANGE NEEDS) FOR ELECTRIC GENERATING FACILI-) TIES IN NORTH CAROLINA - 1980/81

HEARD IN: Commission Hearing Room, 2nd Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on March 17 - 20 and on March 24 - 27, 1981;

New Hanover County Administration Building, Wilmington, North Carolina, on March 23, 1981;

Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on March 23, 1981; and

Guilford County Courthouse, No. 2 Governmental Plaza, Greensboro, North Carolina, on March 23, 1981

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Douglas P. Leary and Leigh H. Hammond

APPEARANCES:

For the Respondents:

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

Steve C. Griffith, Jr., Vice President and General Counsel, and W. Edward Poe, Jr., Assistant General Counsel, Duke Power Company, P.O. Box 33189, Charlotte, North Carolina 28242
For: Duke Power Company

Guy T. Tripp, III, and Edgar M. Roach, Jr., Hunton and Williams, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602
For: Virginia Electric and Power Company

James E. Tucker, Hunton and Williams, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27602
For: Nantahala Power and Light Company

For the Intervenors:

Daniel V. Besse, Attorney at Law, N. C. Public Interest Research Group, P.O. Box 17691, Greensboro, North Carolina 27410
For: North Carolina Public Interest Research Group and Conservation Council of North Carolina

Thomas S. Erwin, Attorney at Law, P.O. Box 928, Raleigh, North Carolina 27602
For: Conservation Council of North Carolina

Thomas R. Eller, Jr., Attorney at Law, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

M. Travis Payne, Augustus S. Anderson, Jr., Thomas W. Jordan, Jr., and Deborah Greenblatt, Attorneys at Law, P.O. Box 183, Durham, North Carolina 27705
For: Kudzu Alliance

For the Using and Consuming Public:

Karen E. Long, and Theodore C. Brown, Jr., Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

Robert E. Cansler, Associate Attorney, North Carolina Department of Justice, c/o DHR Western Regional Office, D/SS Building 17, Western Carolina Hospital, Black Mountain, North Carolina 28711
For: The Attorney General of North Carolina

BY THE COMMISSION: The General Statutes of North Carolina require that the Commission develop an analysis of the long-range needs for expansion of

facilities for the generation of electricity in North Carolina. G.S. 62-110.1(c) provides that:

> The Commission shall develop, publicize, and keep current an analysis of the long-range needs for expansion of facilities for the generation of electricity in North Carolina, 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.

On October 8, 1980, the Commission issued an Order scheduling a hearing and inviting participation in this docket. The Order required the Public Staff, Carolina Power & Light Company (CP&L), Duke Power Company (Duke), Virginia Electric and Power Company (Vepco), and Nantahala Power & Light Company (Nantahala) to file their forecast reports and testimony and exhibits in support of their forecasts. The Order also invited other interested parties to participate in this docket and established a schedule for such persons to file petitions of intervention, testimony, and exhibits. It further directed CP&L, Duke, Vepco, and Nantahala to publish notice of the hearing in newspapers throughout the State for four consecutive weeks. Proof of publication has been filed with the Commission as required by the Order.

Notice of intervention from the Public Staff was received and recognized by the Commission. The Commission also received petitions to intervene from the following parties: CP&L, Duke, Vepco, Nantahala, North Carolina Public Interest Research Group, Inc., David Springer, North Carolina Textile Manufacturers Association, Inc., Kudzu Alliance, and the Conservation Council of North Carolina. The Commission granted all of the petitions to intervene and made the petitioners thereto parties of record in this proceeding.

On February 2, 1981, Nantahala Power and Light Company filed its testimony and exhibits in the case.

The Public Staff's Report entitled Analysis of Long Range Needs for Electric Generating Facilities in North Carolina - 1981 was filed with the Commission on February 23, 1981. On that same day, CP&L, Duke, and Vepco filed their testimony and exhibits in this case. The Public Staff also filed an addendum to their testimony on March 12, 1981. On March 13 and 20, 1981, the Kudzu Alliance and the Conservation Council of North Carolina filed their testimony and exhibits. On March 24, 1981, Vepco filed rebuttal testimony of Dr. Irene M. Moszer.

The hearing began as scheduled on March 17, 1981. Duke presented the testimony and exhibits of the following witnesses: Warren H. Owen, Senior Vice President, Engineering and Construction for Duke; Donald H. Sterrett, Manager, System Planning for Duke; David Rea, Manager, Forecasting for Duke; and Donald H. Denton, Jr., Vice President, Marketing for Duke.

The Public Staff presented the testimony and exhibits of the following witnesses: Hsin-Mei C. Hsu, an Analyst Programmer in the Economic Research Division of the Public Staff; Thomas S. Lam, a Utilities Engineer in the Electric Division of the Public Staff; Dennis J. Nightingale, Director of the Electric Division of the Public Staff; John C. Romano, a Utilities Engineer in the Electric Division of the Public Staff; James D. Seabolt, an Economist in the Economic Research Division of the Public Staff; Richard G. Stevie, an Economist in the Economic Research Division of the Public Staff; and T. Michael Kiltie, an Economist in the State Budget and Management Division of the North Carolina Department of Administration.

Nantahala presented the testimony of N. Edward Tucker, Director, Rates, Research, and Corporate Planning for Nantahala.

CP&L presented the testimony and exhibits of the following witnesses: Bobby L. Montague, Manager, System Planning and Coordination for CP&L, and Archie W. Futrell, Jr., Director, Economic and Energy Forecasting and Special Studies for CP&L.

Vepco presented the testimony and exhibits of the following witnesses: Dr. Irene M. Moszer, Director, Forecasting and Economic Analysis for Vepco; Jack H. Ferguson, Executive Vice President - Power for Vepco; and John G. Barrie, Jr., Manager, Financial and Regulatory Services, Accounting and Control Department of Vepco.

The Conservation Council of North Carolina presented the testimony and exhibits of Dr. Lavon B. Page, Associate Professor of Mathematics at North Carolina State University.

The Kudzu Alliance presented the testimony and exhibits of Wells Eddleman, Energy Consultant.

The following public witnesses appeared and testified during the course of the hearing in Raleigh, North Carolina: David Martin, John Runkle, Bill Holman, Dr. E. Roy Weintraub, James Henderson, Robin VanLieu, Daniel Read, Steve Schull, Meredith Emmett, Elisa Wolper, Marilyn Butler, Rob Freedman, David Silver, John Roth, Ray Bunnage, John Cowgell, and Helen T. Reed.

At the hearing in Asheville, North Carolina, the following public witnesses testified: Mary Robertson, Nathaniel Coleman, Jesse Coleman, Joe T. Jones, Charles Brookshire, Ruben Falk, John Paden, Aleesa Young, Kitty Boniske, Linda Lonon, Alfred Sellers, Charles Hall, Judy Allen, Tolula Rodgers, Melville Thomason, Joe Rotowitz, Tish Robbins, and Walter Greene.

At the hearing in Greensboro, North Carolina, the following public witnesses testified: Martin Jones, Dorothy Bardolph, Carolyn Allen, Polly Walker, Allen Myrick, Kay House, and Gerald Meisner.

At the hearing in Wilmington, North Carolina, the following public witnesses testified: Ron Shackelford, Leonard G. Anderson, Thomas G. Cunningham, and Sheila Anderson.

Based on the foregoing, the testimony and exhibits offered at the hearing, and the Commission's file and record in this matter, the Commission now makes the following

FINDINGS OF FACT

1. Duke Power Company and Carolina Power & Light Company provide 95% of the electricity consumed in North Carolina. Virginia Electric and Power Company and Nantahala Power and Light Company supply the remaining 5%.

2. The policy of the State of North Carolina is to encourage the growth of industry in this State to provide additional employment and higher living standards.

3. The historical rates of growth in peak load for CP&L, Duke, and Vepco for the periods 1975 - 1980 and 1970 - 1980 have been:

	1975 - 1980		1970 - 1980	
	Summer	Winter	Summer	Winter
CP&L	3.94	5.20	5.83	6.53
Duke	4.24	4.13	5.13	5.11
Vepco	3.53	6.05	5.75	6.69

4. The probable future rates of growth in kWh sales for CP&L, Duke, and Vepco for the period 1981 - 1995, taking into account conservation measures an load management as appear most likely at the time of this hearing, will fall in the following range:

	Annual Sales
CP&L	3.3 - 4.3%
Duke	4.5 - 4.7%
Vepco	3.0 - 4.0%

5. The probable future rates of growth in kW peak demand for CP&L, Duke, and Vepco for the period 1981 - 1995, taking into account conservation measures and load management as appear likely at the time of this hearing, will fall in the following range:

	Summer Peak	Winter Peak
CP&L	3.4 - 4.1%	3.4 - 3.5%
Duke	4.3 - 4.5%	4.1 - 4.1%
Vepco	2.1 - 3.8%	2.8 - 3.9%

6. The appropriate generating reserve for CP&L, Duke, and Vepco continues to be 20% for planning purposes.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, AND 3

These findings are based on information contained in the files and records of the Commission, testimony presented at the hearing, and upon findings of the Commission in previous Orders including Docket No. E-100, Subs 22, 33, and 35. These findings are essentially uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4, 5, AND 6

It is abundantly clear that forecasting future electricity needs 5, 10, and 15 years into the future is at best an imprecise art. Virtually all of the forecasting tools in common use assume, in part, that historical trends will continue into the future. As a result, any shift in behavioral patterns can introduce errors into the forecast. A prime example of this was the shift in usage patterns in the mid-1970s which rendered virtually all prior forecasts invalid. Most forecast methodologies require independent forecasts of such diverse phenomena as growth in population, in real personal income, in housing stock, and in prices of alternative fuels. Predicting the behavior of the economy and making the various independent component forecasts upon which the energy forecasts depend will only provide a rough guide, not a precise map, of the future, especially when such forecasts are made many years and even decades into the future. Because of the inherent difficulty in accurately forecasting future economic and social conditions, planning must be based on the assumption that actual electricity usage in the future could fall anywhere within a range or band of forecasted values.

In these uncertain and changing times of load growth, a primary consideration of any capacity expansion plan must be that of maintaining as much flexibility as is economically and feasibly possible. Of course, this is made very difficult by the extremely long lead times (up to fourteen years) associated with the construction of base load generating plants.

The principal value of these periodic load forecast and capacity planning hearings is to bring all parties together, including consumers, in a public hearing so that the State, through the Commission, can be assured that sufficient planning is taking place to ensure that adequate electric power will be available in the future, but, at the same time, excessive capacity will not be constructed causing higher rates than necessary.

Since the hearing, many substantive changes have been made in the point forecasts of the utilities and in plant addition schedules. However, the revised forecasts still fall in the band of forecasted values. The Commission will continue to monitor actual peak demand and usage experience between formal load forecast hearings.

Testimony on probable future growth rates in kWh sales and in kW demand was presented in this proceeding by witnesses Futrell and Montague of CP&CL,

witnesses Rea and Denton of Duke, witnesses Barrie and Moszer of Vepco, witness Tucker of Nantahala, and witnesses Hsu, Seabolt, Stevie, Kiltie, and Romano for the Public Staff. The growth rates for CP&L, Duke, and Vepco are summarized as follows:

PROJECTED ANNUAL GROWTH RATES IN
PEAK LOAD AND ENERGY SALES
FOR 1981 - 1996

Forecast	% Growth in kW Peak Demand Summer	% Growth in kW Peak Demand Winter	% Growth in kWh Energy Sale
CP&L			
CP&L	3.4%	3.4%	3.3%
Public Staff - most likely	4.1%	3.5%	4.3%
Public Staff - low	3.7%	2.9%	3.8%
Duke			
Duke	4.3%*	4.1%*	4.5%*
Public Staff - most likely	4.5%	4.1%	4.7%
Public Staff - low	4.1%	3.6%	4.4%
Vepco			
Vepco	2.1%+	2.8%+	3.0%+
Public Staff - most likely	3.8%	3.9%	4.0%
Public Staff - low	3.4%	3.4%	3.7%

* 1979 - 1995
\+ 1981 - 1995

CP&L, Duke, Vepco, and the Public Staff each utilized generally accepted forecasting procedures. Although their specific forecast models are different, econometric techniques were employed in each study to develop correlations between past usage patterns and those social and economic variables which might explain the variations in such usage patterns. Forecasts of the future behavior of said social and economic variables were then utilized to project future energy requirements. Although there is broad room for differences of opinion concerning such things as basic assumptions, treatment of raw data, selection of statistical techniques, and selection of social and economic variables, the basic methodology employed by the major electric utilities and the Public Staff is widely used for projecting and quantifying future trends. Each requires the analysis of massive amounts of data, as shown by even a cursory review of the studies filed by the major electric utilities and the Public Staff in this proceeding.

The range of forecasts resulting from the variety of data used and the different assumptions made requires that flexibility be included in planning capacity addition schedules. It can require suddenly accelerating construction, and it can require the deferral or cancellation of construction. Therefore, the precision achieved by the various forecasts must be considered when selecting an appropriate capacity addition schedule.

In order to determine what effect the precision achieved by the various forecasts would have on future construction by the major electric utilities,

the Commission must review the capacity addition schedules proposed by said utilities in response to their forecasts. Testimony on capacity addition schedules was presented in this proceeding by witness Montague of CP&L, witnesses Owen and Sterrett of Duke, witness Ferguson of Vepco, witness Tucker of Nantahala, and witnesses Nightingale and Lam for the Public Staff. The capacity addition schedules for CP&L, Duke, and Vepco are summarized as follows:

CAROLINA POWER & LIGHT COMPANY
Comparison of Capacity Addition Schedules

Year		Public Staff		Company	
		Unit	mW	Unit	mW
1981	S				
	W				
1982	S	Uprate	35		
	W				
1983	S	Mayo 1	720	Mayo 1	720
	W				
1984	S				
	W				
1985	S	Harris 1	900		
	W			Harris 1	900
1986	S				
	W				
1987	S	Peaking	250		
	W				
1988	S	Harris 2	900	Harris 2	900
	W				
1989	S				
	W				
1990	S	Mayo 2	720	Mayo 2	720
	W				
1991	S				
	W				
1992	S	Harris 3	900	Harris 3*	900
	W				
	W				
1993					
	W				
1994	S	Base/Inter.	720	Harris 4*	900
	W				
1995	S				
	W				
1996	S	Harris 4	900		
	W				

*Subsequent to the hearing, CP&L announced that Harris Units 3 & 4 were to be cancelled.

DUKE POWER COMPANY
Comparison of Capacity Addition Schedules

Year		Public Staff		Company	
		Unit	mW	Unit	mW
1981	S	McGuire 1	1180	McGuire 1	1180
	W				
1982	S	McGuire 2	1180		
	W				
1983	S			McGuire 2	1180
	W				
1984	S	Catawba 1	1145	Catawba 1	1145
	W				
1985	S	Catawba 2	1145		
	W			Catawba 2	1145
1986	S	Peaking	400	Retirement	-135
	W	Retirement	-135		
1987	S	Peaking	800	Retirement	-93
	W	Retirement	-93		
1988	S			Retirement	-85
	W	Retirement	-90		
1989	S	Base/Inter.	1120	Retirement	-90
	W	Retirement	-90		
1990	S	Cherokee 1	1280	Cherokee 1*	1280
		Bad Creek 1 & 2	500	Bad Creek 1 & 2	500
				Retirement	-108
	W	Retirement	-108		
1991	S	Bad Creek 3 & 4	500	Bad Creek 3 & 4	500
				Retirement	-76
	W				
1992	S	Cherokee 2	1280		
	W				
1993	S	Base/Inter.	1120	Cherokee 2*	1280
	W				
1994	S	Cherokee 3	1280		
	W				
1995	S			Cherokee 3*	1280
	W				
1996	S	Perkins 1	1280		
	W				

* Subsequent to filing testimony Cherokee units were to be indefinitely postponed

VIRGINIA ELECTRIC AND POWER COMPANY
Comparison of Capacity Addition Schedules

Year		Public Staff		Company	
		Unit	mW	Unit	mW
1981	S				
	W				
1982	S				
	W				
1983	S	Peaking	1000		
	W				
1984	S	Peaking	400		
	W				
1985	S	Bath County	1050*		
	W			Bath County	525+
1986	S	Bath County	1050*		
	W			Bath County	525+
1987	S				
	W				
1988	S	Peaking	150		
	W				
1989	S	North Anna 3	898		
	W			North Anna 3	907
1990	S	Base/Inter.	800		
	W				
1991	S	Base/Inter.	800		
	W				
1992	S	North Anna 4	900		
	W			Fossil	550
1993	S	Base/Inter.	800		
	W			Fossil	550
1994	S	Nuclear Base	900		
	W			Fossil	550
1995	S	Base/Inter.	800		
	W				
1996	S	Nuclear Base	900		
	W				

* Total capacity
\+ Vepco portion of total capacity

The capacity addition schedule presented by CP&L and the schedule presented by the Public Staff for CP&L are similar through 1995. The only significant difference is 250 mW of peaking capacity the Public Staff would add in 1987. On cross-examination the Public Staff witness implied that CP&L was not really expected to add additional internal combustion turbine generators and that alternative ways to achieve additional peaking capacity included purchases from other utilities and increased load management or conservation measures. In effect, then, there is no difference in the CP&L and the Public Staff forecasts as far as the effect such forecasts will have on the resulting capacity addition schedules through 1995. These statements do not take into account the cancellation of Harris 3 and 4.

The capacity addition schedule presented by Duke and the schedule presented by the Public Staff for Duke are similar through 1995, except for three

significant differences. The only significant differences through 1988 are 400 mW of peaking capacity the Public Staff would add in 1986 and 800 mW of peaking capacity it would add in 1987. As discussed earlier, additional peaking capacity might also be achieved by outside purchases or by increased conservation or load management. The Company still has several years of lead time to see whether or not its near term load forecast proves accurate before it must take action to provide the additional peaking capacity suggested by the Public Staff analysis.

The only significant difference between the capacity addition schedule presented by Duke and the schedule presented by the Public Staff for Duke for the 1989 - 1993 period is 1120 mW of base/intermediate capacity the Public Staff would add in 1989. Witness Owen testified that Duke is continuing with the necessary engineering and purchase commitments to keep its four pumped storage hydroelectric units, Bad Creek 1 - 4, available for service at the end of the 1980s. This could provide a viable alternative to the additional base/intermediate unit suggested by the Public Staff. Therefore, it appears that there is little difference in the Duke and Public Staff forecasts as far as the effect such forecasts will have on the resulting capacity addition schedules through 1993, if the flexibility contained in such capacity addition schedules is considered.

The capacity addition schedule presented by Vepco and the schedule presented by the Public Staff for Vepco differ significantly in the number and timing of generating plant additions. This is primarily due to the difference between the growth rates forecast by the Public Staff and by Vepco. The major differences through 1989 are the 1400 mW of peaking capacity the Public Staff would add in 1983 - 84, and the additional 1050 mW of capacity the Public Staff would add in 1985 - 86 by not selling a portion of the Bath County pumped storage units. As discussed earlier, additional peaking capacity might also be achieved by outside purchases or by increasing conservation or load management. However, it is questionable whether or not as much as 1400 mW additional capacity could be constructed by 1983 - 84, although such peaking capacity could probably be constructed by 1985 - 86 if the Public Staff's near term forecast should prove accurate. Therefore, the higher Public Staff forecast of future generating capacity needs for Vepco becomes more serious.

The major differences between the capacity addition schedules presented by Vepco and the schedule presented by the Public Staff for Vepco for the 1990 - 1995 period is 800/900 mW the Public Staff would add each year beginning in 1990 through 1995, while Vepco would only add 550 mW each year beginning in 1992 through 1994. The Vepco plan should be flexible enough to allow for accelerating to some extent the completion of North Anna 3 and of the three fossil units scheduled for the early 1990s, and additional flexibility is expected from generation provided by small power producers and by cogeneration facilities. However, the wide disparity between the capacity additions needed to meet the Public Staff forecast and those actually planned by Vepco is disturbing.

The Commission recognizes that the Public Staff was unable to go into as much detail in its analysis of growth for Vepco as it did in its analysis of growth for CP&L and Duke, and that its forecast of Vepco's load growth may suffer as a result. However, the Commission is also not convinced that the forecast by Vepco is any more accurate than the Public Staff forecast when such forecasts are compared with the historical growth rates for Vepco for the past five and 10 years.

The Commission concludes that the ranges of load forecasts defined by the CP&L and Duke load forecasts and by the Public Staff load forecasts respectively will result in very similar capacity addition schedules, and that such ranges should be adopted as the current load forecasts of this Commission for CP&L and Duke. The forecasts as revised since the close of the hearing still fall within these ranges.

The Commission further concludes that it should also adopt the range of load forecasts defined by the Vepco load forecast and by the Public Staff load forecast as the current load forecast of this Commission for Vepco, although said range of forecasts will result in quite different capacity addition schedules. Such Commission forecast for Vepco must necessarily remain less precise than the Commission would like, but it is the best forecast that the Commission can make in this proceeding in view of the evidence before it.

The Commmission will now review the capacity addition schedules proposed by the parties to determine if they will provide an adequate and reasonable level of reserve capacity. It is virtually impossible to plan for major capacity additions in a manner which will provide a constant level of reserves. Reserves will generally be less than optimum just prior to placing new plants into service, and reserves will generally be more than optimum just after new plants are placed into service. The Commission also notes that reserves must be adequate to account for a variety of uncertainties which until recently were unknown. Among the new uncertainties is the impact of regulatory policies and environmental laws. Units are subject to being out of service as a result of pollution control equipment malfunctions and Nuclear Regulatory Commission orders and directives. Further uncertainty is created by the as yet unknown impact of load management programs currently being implemented and relied upon to reduce the need for future generating plant additions.

The Commission has found in previous proceedings of this nature that a minimum reserve margin of 20% should be utilized for planning purposes. The witnesses for CP&L, Duke, and the Public Staff testified in this proceeding that a 20% minimum reserve margin would provide adequate and reliable electric service, while the Vepco witness testified that a 20% - 25% reserve margin would be sufficient. Therefore, the Commission concludes that a 20% reserve margin continues to be appropriate for planning purposes for the major electric utilities operating in North Carolina.

The CP&L capacity addition schedule, using CP&L's load forecast, provides for reserves in excess of 20% in all but two years, 1985 (16.5%) and 1987 (19.5%). The reserves through 1995 range from the 1985 low of 16.5% to a high of 29.8%, and they average 24.1%. The Commission finds this to be reasonable, especially since 1,018 mW of the total reserves are comprised of IC turbines which can be allowed to sit idle at very low cost to the consumer but which can be pressed into service when needed. As stated earlier, after the conclusion of the hearing in this proceeding, CP&L announced that it was cancelling Harris Units 3 & 4. This would reduce projected reserve margins below 14.0% after 1992. The Commission has concerns over the adequacy of this reserve level and we will continue to monitor the prudence of this situation.

The Duke capacity addition schedule, using Duke's load forecast, provides for reserves through the 1989 summer peak ranging from a low of 14.5% to a high of 33.1%, and averaging 22.7% for the period. From that time foreward,

Duke projects inadequate reserves through 1995 ranging from a high of 14.5% to a low of negative 5.8%. The Commission finds the reserves for Duke to be reasonable through the end of the 1980s and recognizes that the low reserves projected into the 1990s reflect the postponement of the Cherokee units. If growth in the near term exceeds expectations, there should still be time to adjust capacity additions planned for the early 1990s.

The Vepco capacity addition schedule, using Vepco's load forecast, provides for reserves in excess of 25% in all but two years, 1989 (24.8%) and 1992 (24.0%). The reserves through 1995 range from the 1992 low of 24.0% to a high of 38.9%, and they average 28.8%. The Commission finds this to be reasonable, since it is based on a load forecast which is significantly low in comparison to the Public Staff load forecast.

The Commission concludes that the capacity addition schedules presented by CP&L and Duke will not result in excessive reserve margins through 1995, and that such schedules will result in adequate reserves at least through the end of the 1980s. The Commission further concludes that the capacity addition schedule presented by Vepco will also not result in excessive reserve margins through 1995.

Nantahala is forecasting total energy sales in 1981 of 541.4 kWh increasing to 867.7 kWh by 1995, a 3.2% rate of growth. System peak demand in the 1981 - 1982 winter is expected to be 147.9 mW and 261.9 mW by 1995 - 1996, a 3.9% rate of growth.

For several years Nantahala's existing generating facilities have not been capable of supplying the total requirements of its customers. For this reason, the Company entered into agreements with the TVA to purchase on a firm basis all electricity needed in excess of that available from its plants. These long-term arrangements expire in 1982. For future supply, Nantahala plans to negotiate new agreements with the TVA. All indications are that the TVA has anticipated new agreements and has planned its system to include Nantahala's requirements. Further, the Company has no finite plans for construction of additional generating capacity at this time.

Nantahala's forecast is developed for its long-range budgeting purposes. The Company's budgets are prepared for five-year periods. Since Nantahala is not planning its generation system to meet its total requirements, planning for construction is limited to the transmission and distribution systems. Lead times for T&D additions fall well within the five-year normal forecasting period.

The public witnesses generally expressed concern about overestimating the future need for additional generating capacity and also concern about the types of generating facilities being planned for supplying such future capacity. Many urged more conservation of energy and greater emphasis on alternate sources of energy.

Intervenor witness Eddleman provided a discussion of alternate energy sources and suggested that such alternatives were not being fully recognized in the forecasts proposed by the Public Staff or by the major electric utilities. He also contended that such lack of recognition was partially responsible for what he perceived to be the poor track record of the Public Staff and the major electric utilities in forecasting peak loads for the past

few years. Intervenor witness Page also pointed out what he perceived to be a tendency by the Public Staff and by the major electric utilities to overestimate the rate of growth in the demand for electricity and he also expressed concern with reliance on nuclear power to meet future electric generating needs in North Carolina. Public witness Weintraub once again urged the Public Staff to extend the sensitivity anaylsis in its forecasts by examining 1%, 2%, and 2.5% average annual growth rates in real electricity prices and by also examining at least one larger set of elasticities for the price range selected.

One of the primary difficulties faced by this Commission is separation of the fact of the energy alternatives that are known to be available and desirable and the belief that such alternatives will all become cost effective and available in quantity in time to be of significant value during the current planning horizon. The Commission is placed in the position of having to evaluate firm capacity addition schedules to meet "known" or "most likely" future occurrences at the same time it works to encourage energy alternatives which could change those "known" or "most likely" sets of conditions. Thus, the Commission is required as a matter of practicality to allow for flexibility in generation planning.

The Commission has found in earlier dockets, including the previous load forecast docket, that the most economical method of electric generation for Duke, CP&L, and Vepco is a combination of hydroelectric generation and coal-fired and nuclear-fueled steam generation. Therefore, the Commission recognizes the need for base load nuclear and coal-fired power plants and centralized hydroelectric peaking plants in North Carolina during the planning period of the forecast. The Commission also recognizes, however, that conservation, load management, and the development of alternative energy sources will play an increasingly larger role during the latter years of this century. The current load forecast of the Commission is based in large part on the premise that conservation and load management efforts are not a temporary phenomenon but represent permanent changes in the attitude of society toward the use of energy. More recently, the Commission has authorized the establishment and funding of a North Carolina Alternative Energy Corporation in order to develop more efficient uses of energy resources.

IT IS, THEREFORE, ORDERED:

1. That the findings of fact and conclusions of this Order are hereby adopted as the Commission's Plan to meet the future requirements for electric service in North Carolina.

2. That in future load forecast proceedings, CP&L, Duke, Vepco,and the Public Staff shall file as a minimum a 15-year summer peak demand forecast, a 15-year winter peak demand forecast, a 15-year energy forecast, and proposed capacity addition schedules which would provide adequate, reliable, and economic electric service in North Carolina in the event of the occurrence of the most likely growth rate, the fastest expected growth rate, and the slowest expected growth rate. Said capacity addition schedules shall include new additions, retirements, cold reserve shutdowns, etc.

3. That the 1982/83 Load Forecast Proceedings are hereby tentatively scheduled for public hearing beginning in late March 1983, with prefiled

reports of the Public Staff, Duke, CP&L, Nantahala, and Vepco due in late February 1983, and comments of all interested parties due in early March 1983. A further Order will be issued at a later date in order to institute said proceeding and to confirm the hearing schedule and the scope of investigation.

ISSUED BY ORDER OF THE COMMISSION.
This the 20th day of April 1982.

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

DOCKET NO. E-100, SUB 41

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Determination of Rates for Purchase and Sale of)
Electricity Between Electric Utilities and Qualifying) RECOMMENDED ORDER ON
Cogenerators or Small Power Producers and Rulemaking) WHEELING OF POWER
Concerning Conditions and Requirements for Such)
Service

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina on November 17, 1981

BEFORE: Hearing Examiner Allen L. Clapp

APPEARANCES:

For the Respondents:

Samuel Behrends, Jr., Esq,; Carolina Power & Light Company; P. O. Box 1551, Raleigh, North Carolina 17602; and John Bode, Esq.; Bode, Bode and Call, Attorneys at Law, P. O. Box 391, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

W. Edward Poe, Jr., Esq.; Duke Power Company, P. O. Box 33189, Charlotte, North Carolina 28242
For: Duke Power Company

Edgar M. Roach, Jr., Esq.; Hunton and Williams, Attorneys at Law; P. O. Box 109, Raleigh, North Carolina 27602; and Douglas Michael Palais, Esq.; Hunton and Williams, Attorneys at Law; P.O. Box 1535, Richmond, Virginia 23212
For: Virginia Electric and Power Company

For the Intervenors:

Jerry B. Fruitt, Esq.; Eller and Fruitt, Attorneys at Law; P. O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

Ralph McDonald, Esq.; Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law; P. O. Box 2246, Raleigh, North Carolina 27602
For: Olin Corporation, PPG Industries, Inc., The Singer Company, Weyerhauser Company, and Kemp Furniture Industries, Inc.

For the Public Staff:

G. Clark Crampton, Esq.; Staff Attorney; Public Staff-- North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

CLAPP, HEARING EXAMINER: On September 21, 1981, the North Carolina Utilities Commission issued a Recommended Order in this docket approving rates and terms and conditions for the purchase and sale of electricity between electric utilities and qualifying cogenerators and small power producers. That Order also rescheduled a further hearing on wheeling provisions. No exceptions were filed by any party and, consequently, the Recommended Order became effective and final on October 12, 1981.

The Commission's Order included the following Finding of Fact:

"18. Wheeling of power through one utility to another may be a cost efficient means of improving power supply."

The evidence and conclusions for this finding of fact noted, however, that the evidence in this docket at that time was not sufficient to determine the necessity or cost of such wheeling services. Consequently, each electric utility in North Carolina and the Public Staff were ordered to file on or before October 13, 1981, "memoranda of law, testimony and data, concerning rates and requirements for wheeling services, specifically addressing, as a minimum, the rates of wheeling through one utility to another and wheeling from one customer installation to another installation of the same customer."

Pursuant to an Order dated October 6, 1981, the filing deadline was extended to October 30, 1981. On that date, Carolina Power & Light Company (CP&L) filed a memorandum of law and the direct testimony and exhibit of Bobby L. Montague, Vice President of the Planning and Coordination Department of CP&L. Duke Power Company (Duke) filed the direct testimony of Donald H. Denton, Vice President of Marketing for Duke. Vepco filed a memorandum of law and the direct testimony of Johnnie M. Barr, Jr., Director of Cost Analysis for Vepco.

Based upon the foregoing, the testimony and exhibits at the hearing, and the Commisison's file and record in this matter, the Commission makes the following

FINDINGS OF FACT

1. The rules promulgated by the Federal Energy Regulatory Commisison (FERC) in Title 18 C.F.R. Part 292, implementing Section 210 of the Public Utility Regulatory Policies Act (PURPA), provide for wheeling of power by utilities on a voluntary basis.

2. There has been no showing that the setting of wheeling rates for the power generated by qualifying facilities in North Carolina is cost-effective or necessary to encourage cogeneration and small power production. Charges to qualifying facilities for the wheeling of their power through a utility system may appropriately be determined on a case-by-case basis. There are complaint procedures available for use by qualifying facilities which are unable to reach agreement with a utility concerning wheeling rates or provisions.

3. Jurisdiction over wheeling may reside with either the FERC or this Commission, depending upon the circumstances.

EVIDENCE AND CONCLUSIONS

The evidence for these findings is in 18 C.F.R. Part 292, the prior record in this docket, and the testimony of CP&L witness Montague, Duke witness Denton and Vepco witness Barr. Title 18, C.F.R. 292.303(d) prescribes electric utility obligations under the FERC Rules. Section 292.303(d) provides:

> "Transmission to electric utilities. If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase energy or capacity from such qualifying facility may transmit the energy or capacity to any other electric utility. Any electric utility to which such energy or capacity is transmitted shall purchase such energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to such electric utility. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted up or down to reflect line losses pursuant to 292.304(e)(4) transmission." (emphasis added)

This language indicates that mandatory wheeling was not contemplated by the FERC. Indeed, in the introductory section of FERC Order No. 69, which established the rules, the FERC explicitly stated with respect to 292.303(d):

> "(T)he Commission notes that this transmission (wheeling) can only occur with the consent of the utility to which energy or capacity from the qualifying facility is made available. Thus, no utility is forced to wheel." Order No. 69 at 31 (emphasis added).

Section 201(b)(1) of the Federal Power Act grants the FERC (formerly the Federal Power Commission) control over "the transmission of electric energy in interstate commerce...." It is not necessary that power actually move in interstate commerce in order to be regulated by the FERC. Rather, power is construed as being in interstate commerce if the utility generating such power is interconnected with utilities in other states by means of a power line grid. CP&L, Duke and Vepco are all connected to such a grid, and are all engaged in "the transmission of electric energy in interstate commerce." See Federal Power Commission v. Florida Power & Light Company, 404 U.S. 453 (1972). Section 203 of PURPA granted the FERC authority to order wheeling in very limited circumstances, but did not grant the states any such authority.

While the above would tend to indicate that, to the extent that such service is regulated at all, wheeling is regulated entirely by the FERC,

wheeling may in some circumstances be under the jurisdiction of both the FERC and this Commission.

Under the FERC rules, electric utilities to which power is offered by qualifying facilities are obligated to purchase such power. The obligation of each utility to purchase this power may be passed on to another utility only if the utility in whose service territory the qualifying facility is located does not wish to purchase the power and if the qualifying facility agrees to the wheeling of the power.

CP&L, Duke and Vepco have all stated that they intend to purchase any and all energy and capacity offered to them by qualifying facilities located within their respective service territories. Under these circumstances, wheeling of energy or capacity generated by qualifying facilities is not expected to occur if a qualifying facility is econonically viable at the avoided-cost rate levels of the utility with which it would connect. CP&L witness Montague expressed concern that wheeling of power generated by qualifying facilities in North Carolina to other regions may result in increased demands upon CP&L's system with resultant increased costs to North Carolina consumers of electricity. That is a legitimate matter for concern. However, in the case where a marginal qualifying facility would not be economically viable at its connecting utility's avoided costs but would be so at a neighboring utility's avoided costs, even after paying reasonable costs of wheeling to the intermediate utility, assuming also that it is practical to meter and wheel such energy, there does not appear to be significant adverse impact on the intermediate utility's ratepayers if the intermediate utility wheels power from the qualifying facility to the receptor utility. Although such wheeling could be necessary to the economic viability of marginal installations, there is no evidence as to the need or appropriateness of setting such rates and provisions at this time.

With respect to wheeling from one customer installation to another installation of the same customer, CP&L witness Montague, Duke witness Denton and Vepco witness Barr all expressed a common concern. These witnesses stated that a qualifying facility could only find it economically advantageous for them to wheel power between installations, rather than buying from utilities and selling to utilities on Commission-approved tariffs, if the economic benefits to these qualifying facilities, ie., rate reductions, would exceed the utilities' avoided costs, thus implying an imbalance in rate designs. Such a situation would lead to increased costs to the utilities' other customers because such economic advantage would be the result of subsidization of qualifying facilities by the utilities' other customers. Such a subsidization is prohibited by PURPA and by the FERC rules.

It is clear that this Commission has jurisdiction over the rates, including terms and conditions, paid by retail customers to utilities for electric service. This includes the authority to allow, require or prevent the use of the totalized meter concept in billing customers that take electric service through multiple meters, whether at the same site, on contiguous properties or at separate locations. Jurisdiction is retained regardless of whether any or all of these facilities include cogeneration at the site. The Commission is also charged with preventing discrimination among and between customers, with promoting efficiency, and with reducing the need to construct new electric generating facilities. In order to accomplish these goals, it is necessary for the Commission to examine the cost impacts of various kinds of service

requirements and conditions, including self-generation, and to set rates accordingly. Such rates must be as fully reflective of the complete set of service conditions and costs as practical. To that extent, the Commission has jurisdiction over the effective charges or discounts included within the calculation or application of such rates, including wheeling charges. (See G.S. 62-2, 62-23, 62-30, 62-32, 62-131, 62-133 and 62-140.)

There is substantial evidence in the record that the current rates, terms and conditions set by this Commisison in its Order of September 21, 1981, will encourage cogeneration and small power production in North Carolina without forcing the utilities' other customers to subsidize such generation. No evidence has been presented by any party to this proceeding that wheeling of power generated by qualifying facilities is necessary to maintain the economic viability of existing qualifying facilities or to encourage further development of cogeneration and small power production. There has also been no showing that wheeling of power generated by qualifying facilities will be cost-effective either for such facilities or for North Carolina's other consumers of electricity. Under these circumstances, it is unnecessary and inappropriate to require wheeling or to set rates and terms and conditions for such service especially since, if required, such rates and provisions might best be set on a case-by-case basis. It is concluded that such rates and provisions, if needed in the future, should be determined through negotiation between the qualifying facility and the utility. Where agreement cannot be reached, it would be appropriate for this Commission or the FERC, as appropriate, to consider appropriate action in a complaint proceeding initiated under applicable rules.

While it is clear that the Commission has jurisdiction over wheeling between facilities under joint operation and control, if such is ever found to be reasonable in a particular instance, it is also clear that the Commission does not have the jurisdiction to require or to set rates and conditions for wheeling from a qualifying facility through one utility to another. It is equally clear, however, that this Commission has the mandate to cooperate with other states and the federal government in promoting and coordinating the latter service.

Should situations occur which are not presently contemplated by the parties to this proceeding in which wheeling may be desirable, the utilities are encouraged to work with qualifying facilities on a case-by-case basis to develop cost effective and equitable arrangements. The Commission will stay informed of developments in this area and will encourage and require cooperation between utiltiies and qualifying facilities in the development of individual wheeling rates, terms and conditions if such are appropriate.

IT IS, THEREFORE, ORDERED THAT

CP&L, Duke and Vepco shall consider requests by qualifying facilities for wheeling services on a case-by-case basis and are encouraged to develop wheeling rates, terms and conditions if such service is appropriate and cost justified.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of January 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. E-100, SUB 41

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Filing by Utilities Holding Company for Approval to Enter into a Rate with Duke Power Company That Would Include Payment of Capacity Credits	) ORDER ALLOWING COMPANY TO RECEIVE CAPACITY CREDITS AS DEFINED IN DOCKET NO. E-100, SUB 41

BY THE COMMISSION: On June 18, 1982, Utilities Holding Company filed a letter with this Commission, stating the need to receive capacity payments in order to continue operating at its present capacity and to make necessary repairs to its equipment. As defined in the above-mentioned docket, this Company would be described as "existing capacity" and thus would not be eligible for capacity payments absent a showing of financial need for the payment of capacity credits to continue the benefits from such facility over the foreseeable future. Utilities Holding Company has indicated that its operations would have to be substantially curtailed without capacity payments by Duke Power Company.

This matter was presented for Commission consideration by the Public Staff at the Commission's regular Monday morning Staff Conference held on July 12, 1982. Based upon its investigation into the matter at hand, the Public Staff recommended that the Commission approve Utilities Holding Company's request as filed for purposes of payment of capacity credits under Duke Power Company's Schedule PP.

IT IS, THEREFORE, ORDERED as follows:

1. That Utilities Holding Company shall for all reasons other than those stated herein, continue to be defined as existing capacity.

2. That in order for this Company to continue hydroelectric operations it must receive additional revenues. These additional revenues are essential for the Company to make necessary repairs and replacements.

3. That this filing by Utilities Holding Company to receive capacity payments as stated in Duke's PP rate schedule is approved for this instance only.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of July 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

GENERAL ORDERS - ELECTRICITY

DOCKET NO. E-100, SUB 41

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Determination of Rates for Purchase and Sale of Electricity between Electric Utilities and Qualifying Cogenerators or Small Power Producers and Rulemaking Concerning Conditions and Requirements for Such Service	) ORDER

BY THE COMMISSION: On January 11, 1982, Hearing Examiner Allen L. Clapp issued a recommended order in this docket entitled "Recommended Order on Wheeling of Power." By an accompanying Notice, the parties were required to file exceptions to the Recommended Order on or before January 26, 1982, and further, were advised that if no exceptions were filed, the Recommended Order would become effective and final on February 1, 1982, unless the Commission postponed the effective date thereof.

On January 25, 1982, Kemp Furniture Industries, Inc., an Intervenor in the proceeding, filed a motion with the Commission asking that the time for filing exceptions be extended from January 26, 1982, until February 9, 1982, and that the effective date of the Recommended Order be postponed. In response to this motion, the Commission issued an Order on January 28, 1982, allowing Kemp Furniture Industries, Inc., an extension of time within which to file exceptions until February 9, 1982, and providing that the effective date of the Recommended Order dated January 11, 1982, be postponed "until further Order of the Commission." Subsequently, on February 9, 1982, counsel for Kemp Furniture Industries, Inc., filed with the Commission a letter advising that his client had decided not to file exceptions.

It has now come to the attention of the Commission that no further Order regarding the effective date of the Recommended Order of January 11, 1982, has ever been entered, as comtemplated by the Commission Order of January 28, 1982. It was not the intention of the Commission that the effective date of the Recommended Order be postponed indefinitely.

IT IS, THEREFORE, ORDERED that the Recommended Order of January 11, 1982, in the present docket be regarded as effective as of the present date.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of December 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. E-100, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Revision of the Commission Rule R1-32 Requiring Filing of Annual Reports by Public Utilities	) ORDER REVISING) RULE R1-32

BY THE COMMISSION: On March 18, 1982, the Commission issued an Order in Docket No. E-100, Sub 45, entitled "Notice of Rulemaking; Order Allowing Comments; Proposed Amendment to Rule R1-32." The proposed amendment to Commission Rule R1-32 was made on the recommendation of the Public Staff and would require electric companies to continue to provide certain information as a part of the annual reports filed with this Commission in addition to the revised Form No. 1 filed with the Federal Energy Regulatory Commission (FERC). The proposed amendment to Rule 1-32 arises from a Order issued by the FERC on January 6, 1982, wherein the Form No. 1 was revised to eliminate the requirement for Certified Public Accountant certification on certain schedules, to establish specific reporting thresholds for certain schedules, to revise the instructions on specific schedules, to delete reporting columns from certain schedules, and to delete numerous schedules in their entirety.

The proposed rule revision would add a subsection (g) to Rule R1-32 which requires electric companies to continue to file certain of the aforereferenced data with the Commission on an annual basis in conjunction with the filing of the revised FERC Form No. 1.

Comments on the proposed revisions were filed by Carolina Power & Light Company, Duke Power Company, Virginia Electric and Power Company, and Nantahala Power & Light Company excepting to the proposed rule revisions. Generally speaking, the companies took the position that the information was not needed on a continuing basis; that it was unnecessary; that it was of minimal value; that it minimized cost savings; and that it was unduly burdensome.

Following written comments by the aforementioned electric companies the matter was considered by the Commission in Monday morning Staff Conference on April 16, 1982. Representatives from the Commission Staff, Public Staff, Carolina Power & Light Company, and Duke Power Company presented their views on the matter.

Based upon the foregoing, the Commission concludes that electric companies in the State should file the information attached hereto as Appendix A with the Commission annually in conjunction with the filing of the FERC Form No. 1 and that the proposed revision to Rule R1-32 shown in Appendix A should be adopted.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission Rule R1-32 shall be revised by adding subsection (g) shown in Appendix A attached hereto.

2. That the information shown in Appendix A applicable to the calendar year 1981 shall be filed with the Commission by each electric company in this state within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of May 1982.

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

APPENDIX A

ADDITION TO COMMISSION RULE R1-32

(g) In addition to filing FERC Form No. 1 as revised by the Federal Energy Regulatory Commission effective on February 5, 1982, for reports to be filed on or before April 30, 1983, and for reports filed thereafter, Electric Companies shall also file the following financial schedules in addition to the revised FERC Form No. 1, or modify the revised FERC Form No. 1 schedules as follows:

(1) The following schedules previously included in FERC Form No. 1 but not included in the revised FERC Form No. 1 shall continue to be filed in Revised Form No. 1 and assigned the page numbers indicated below:

Schedule Title	Page Number of Previous Form No. 1	Page Number To Be Assigned Revised Form No. 1
Investments	202	216
Accumulated provision for uncollectible accounts	204	219
Production fuel and oil stocks	209	218-A
Miscellaneous current and accrued assets	210	221
Preliminary survey and investigation charges	212	222
Deferred losses from disposition of utility plant	214-A	222-A
Unamortized loss and gain on reacquired debt	214-B	222-B
Miscellaneous current and accrued liabilities	224	262
Operating reserves	226	263
Investment tax credits generated and utilized	228	274
Gain or loss on disposition of property	300	305
Income from utility plant leased to others	301	306
Particulars concerning certain other income accounts	303	307
Extraordinary items	306	319
Plant acquisition adjustments and accumulated provision for amortization of plant acquisition adjustments	407	325
Sales of electricity - by communities	410-411	302-303
Lease rentals charged	421A-D	328A-D

(2) The schedule entitled "Charges for Outside Professional and Consultative Services," which was Page 354 of previous Form No. 1 shall be filed as Page 324 of revised Form No. 1, but the previous $10,000 limit may be increased to $50,000.

(3) For Page Numbers 102 and 250 of revised Form No. 1 the electric companies shall file the information requested by these schedules instead of making reference to Securities and Exchange Commission 10-K Report Form.

(4) The limit of $5,000 required in Line Number 5 of Page 333 of revised Form No. 1 shall be decreased from $5,000 to $1,000.

(5) A column (e) entitled "Increase or Decrease" shall be added to Pages 110 - 113 of revised Form No. 1.

(6) Columns (c) through (j) of Pages 214C-D of previous Form No. 1 shall be added as Columns (c) through (j) of Page 224 of revised Form No. 1. Column (c) of Page 224 of revised Form No. 1 shall be changed to Column (k).

(7) The information requested in instruction 1.B of Page 106 of previous Form No. 1 which was omitted from Page 106 of revised Form No. 1 shall continue to be provided on Page 106 of revised Form No. 1.

(8) Page 337 of revised Form No. 1 shall be filed based on the instructions for Page 304 of previous Form No. 1.

(9) Pages 350 and 351 of revised Form No. 1 shall be filed based on the instructions for Pages 353 - 353A of previous Form No. 1.

(10) A summary of operation and maintenance expenses shall be inserted on Page 323 of revised Form No. 1 in the same format as contained on Page 420 of previous Form No. 1.

GENERAL ORDERS - GAS

DOCKET NO. G-100, SUB 24
DOCKET NO. G-21, SUB 177

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
General - Gas, and North Carolina Natural Gas Corporation - Rulemaking Proceeding for Curtailment of Gas Service Due to Gas Supply Shortage) RECOMMENDED ORDER

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Hearing Examiner Robert P. Gruber

APPEARANCES:

For the Applicant:

Charles Meeker and William McCullough, Sanford, Adams, McCullough & Beard, Attorneys at Law, P. O. Box 389, Raleigh, North Carolina 27602

and

Edward Jacobs, Attorney at Law, General Counsel's Office, CF Industries
For: CF Industries

For the Respondents:

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

James M. Day, Boyce, Mitchell, Burns & Smith, Attorneys at Law, P. O. Box 2479, Raleigh, North Carolina 27602

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

Thomas W. Steed, Jr., Allen, Steed & Allen, P.A., Attorneys at Law, P. O. Box 2058, Raleigh, North Carolina 27602

and

Keith R. McCrea, Grove, Jaskiewicz, Gillian & Cobert, Attorneys at Law, 1730 M Street, N. W., Washington, D. C. 20036
For: Kerr Glass Manufacturing Corporation and Owens-Illinois, Inc.

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

Thomas R. Eller, Jr., Attorney at Law, P. O. Box 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

Richard J. Bryan, Senior Staff Attorney, Burlington Industries, Inc., 3330 W. Friendly Avenue, Greensboro, North Carolina 27420
For: Burlington Industries, Inc.

For the Public Staff:

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

ROBERT GRUBER EXAMINER: On August 4, 1980, CF Industries, Inc. ("CFI"), filed a Motion seeking a higher curtailment priority for gas employed in an essential agricultural use. More specifically, CFI sought to modify NCUC Rule R6-19.2 to conform the Commission's definition of "process gas" to the definition of "process fuel" as prescribed by the United States Department of Agriculture ("USDA"), in C.F.R. Section 2900.2(e). The USDA's definition of process fuel which CFI requested the Commission to adopt included "natural gas used to produce steam which in turn is directly applied in processing of products and for compression of products so that processing may take place." Under the USDA definition, some boiler fuel uses of natural gas would have been included as process gas. The effect of CFI's proprosal would have been that gas used for "essential agricultural" purposes would have been moved into Priority 2.

At a November 24, 1980 Staff Conference, the Commission considered CFI's proposal and the recommendations of the Public Staff. The Public Staff recommended that the Commission either reject outright the CFI proposal or alternatively that it consider that NCUC Rule R6-19.2 be amended to place large agricultural boiler fuel use in Priority 6.1. On December 1, 1980, the Commission instituted a rulemaking to consider the adoption of the Public Staff's alternative proposal, and pending the hearing, the Public Staff's proposal was adopted on an interim basis. Subsequently, on December 10, 1980, the Commission issued an amended order which stated that it would consider the CFI proposal to place gas used for "essential agricultural" purposes in Priority 2 as well as the alternative propsal that it be placed in Priority 6.1.

The matter came on for hearing on February 24, 1981, before a Commission Hearing Examiner. Parties appearing at the hearing are indicated above. The following testimony was presented at the hearing:

CFI presented the testimony of of Arthur DeLeon, Manager, Energy Planning in support of its request for a higher priority for natual gas employed to produce steam by essential agricultural users.

Aluminum Company of America (Alcoa) presented the testimony of Mr. Maynard F. Strickland, Chief Industrial Engineer at its Badin Works in opposition to

both the CFI proposal and the alternative proposal. The Public Staff presented the testimony of Ray J. Nery, Chief Gas Engineer. Also filed in the record and considered were written statements of position by the North Carolina Textile Manufacturers Association, Inc. and Owens-Illinois and Kerr Glass.

Subsequent to the hearing, and prior to the filing of proposed orders and briefs, the United States Court of Appeals for the D. C. Circuit on June 30, 1981, issued a decision entitled Process Gas Consumers Group v. United States Department of Agriculture (No. 80-1558) which held that the term "essential agricultural use" as defined in Section 401(f)(1)(B) of the Natural Gas Policy Act of 1978 ("NGPA") does not include boiler fuel and, therefore, the USDA's definition of process fuel as contained in 7 C.F.R. Section 2900.2(e) is not in a accord with NGPA. The Court ruled that the USDA's definition of process fuel be vacated and set aside.

On August 3, 1982, CFI filed "Motion for Leave to Amend" in which it moved to amend its original motion as follows: (1) To suspend consideration of the CFI proposed amendment to Rule R6-19.2 pending Appellate review of the Process Gas Consumers Group case, (2) to continue for the 1981-82 winter heating season the interim amendment heretofore approved by the Commission, and (3) to make a final determination of the "process gas" definition and the interim amendment to Rule R6-19.2 in the 1982 summer season.

The NCTMA and Public Service Company of North Carolina filed responses opposing the motion for leave to amend. On September 28, 1981, the Commission issued "Order Allowing CFI to File Motion for Leave to Amend," which allowed all parties to respond to said motion. Alcoa and the NCTMA have filed responses.

On October 29, 1981, CFI filed "CF Industries Supplemental Comments and Reply to Alcoa's Response." On November 17, 1982, Alcoa filed "Response of Aluminum Company of America to Supplemental Comments of CF Industries."

Having considered the foregoing, the Examiner concludes as follows:

The United States Court of Appeals has ruled that "process fuel" does not mean boiler fuel, and, therefore, CFI's proposed amendment which would place certain agricultural uses of boiler fuel in NCUC Priority 2 must be rejected. Any rule adopted by this Commission should be in full compliance with the NGPA, and CFI's proposal is clearly in violation of that Act.

The only remaining question to be decided is whether the interim rule should be adopted. This rule splits Priority 6 into two sub-classes, with boiler fuel for essential agricultural uses with No. 2 oil or propane as the only alternative fuel (Priority 6.1) being placed ahead of other industrial boiler fuel in the 300-1500 MCF daily requirement range (Priority 6.2).

The Examiner can find no compelling support in this record for splitting Priority 6 into two sub-classes. No justification is presented in the record for placing one use of boiler fuel ahead of others. The Public Staff which first suggested the interim rule only as alternative to CFI's original proposal does not recommend adoption of this rule. Accordingly, the interim rule should be terminated.

Finally, in the joint Brief by Kerr Glass Manufacturing Corporation and Owens-Illinois, Inc., these companies urge the Commission to consider revisions to the existing priorities in Rule R6-19.2 which reflect non-boiler essential agricultural uses. This examiner does not believe it would be proper to consider any such revisions in this order since notice of such revisions was not given in the order instituting this proceeding. If Ownes-Illionis and Kerr Glass still desire the Commission to consider such revisions, they should file a motion or petition for a rule-making addressed to the full Commission which can institute a new rule making proceeding to consider these proposals.

IT IS, THEREFORE, ORDERED:

1. That CFI's Motion to Amend Rule is denied.

2. That the Interim Amendment to Rule is rescinded.

3. That this proceeding is terminated.

4. That regulated companies shall mend their tariffs and rates and regulations to comply with this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of April 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. G-100, SUB 40

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Order Establishing Uniform Procedures for Refunding Overcollections to Customers Who Are Entitled to Same	)	ORDER REQUIRING REPORT

BY THE COMMISSION: On August 19, 1980, the North Carolina Utilities Commission entered an Order in this docket revising its Rule R1-17(g)(10) so as to require each of the five natural gas utilities in North Carolina receiving refunds from Transcontinental Gas Pipeline Corporation (Transco) to place such refunds in a deferred account, pending further order of the Commission, and to report to this Commission, within five (5) days thereafter, the following: amount of refunds placed in deferred account; applicable North Carolina Utilities Commission docket number; applicable Federal Energy Regulatory Commission (FERC) docket number; period to which refunds apply; and the rate of interest to be applied to refunds. Rule R1-17(g)(10) further requires the natural gas utilities to make refunds to their customers at the earliest possible date pursuant to an Order approving such refunds issued by the Commission.

On January 1, 1981, Transco placed in effect, subject to refund, a general rate increase in FERC Docket No. RP80-117. This Commission allowed the State's natural gas utilities to track the Transco increase pursuant to G.S.

62-133(f) and Rule R1-17(g), entering Orders which provide substantially as follows:

> "That in the event the Federal Energy Regulatory Commission should by final order deny any portion of the Transco rates on which this request is based, [the Company] shall immediately file revised tariffs on one day's notice reflecting the change, place refunds that result from this action in the deferred account for refunding to customers, and notify the Commission of the amount of the refund."

The subject dockets are: North Carolina Natural Gas Corporation (NCNG), No. G-21, Sub 215; Piedmont Natural Gas Company, Inc. (Piedmont), No. G-9, Sub 206; Public Service Company of North Carolina, Inc. (Public Service), No. G-5, Sub 161; Pennsylvania & Southern Gas Company (P&S), No. G-3, Sub 101; and United Cities Gas Company (United Cities), No. G-1, Sub 83.

Settlement discussions among the parties to FERC Docket No. RP80-117 and the FERC Staff began in November 1981. Transco subsequently filed another general rate increase, in Docket No. RP82-3-000, to become effective April 13, 1982. On February 12, 1982, Transco filed a proposed Settlement Agreement, which was approved by FERC letter order dated April 12, 1982. The Settlement Agreement provided for a return in Docket No. RP80-117 to Transco's "pre-filed rates," that is, to rates in effect before January 1, 1981, adjusted for certain filings during the pendency of the proceedings, and for the withdrawal of the rate increase in Docket No. RP82-3-000. The Settlement Agreement further provided for the refund by Transco of the total amount collected from and after January 1, 1981, from each affected customer in excess of the "pre-filed rates," with interest, and for an additional lump-sum refund of $25 million, without interest, to be allocated among the affected customers. In filing tariffs on April 30, 1982, to implement the Settlement Agreement effective April 1, 1982, Transco stated that refunds would be made on or before June 12, 1982.

Pursuant to North Carolina Utilities Commission Rule R1-17(g)(10), the natural gas utilities filed reduced tariffs in the various dockets, effective with the Settlement Agreement, reflecting the return to Transco's "pre-filed rates." In separate dockets, also pursuant to Rule R1-17(g)(10), the utilities later filed reports showing the amounts of refunds received from Transco under the Settlement Agreement which had been placed in the deferred account. The dockets and amounts are as follows: NCNG, No. G-21, Sub 214, $4,329,607.34; Piedmont, No. G-9, Sub 202, $5,085,209.16; Public Service, No. G-5, Sub 159, $4,967,238.98; P&S, No. G-3, Sub 98, $366,240.70; and United Cities, No. G-1, Sub 80, $272,951.53. As of August 1982, however, only one of the companies, United Cities, had filed a plan for Commission approval to refund such amounts. By Order entered July 28, 1982, the Commission approved United Cities' plan to refund the balance in the deferred account in the Company's August billing cycle.

By letter dated August 3, 1982, and signed by Commissioner Campbell as Acting Chairman, the Commission directed the four remaining natural gas utilities to file plans by August 15, 1982, refunding to customers the amounts received from Transco under the Settlement Agreement effective on September bills. P&S filed a refund plan on August 13, 1982, effective September, and NCNG filed a plan on August 16, 1982, effective October 15 - November 15.

Public Service, having been granted an extension until August 20, 1982, filed a refund plan on August 19, 1982, effective September - October. Piedmont requested to be heard at the Commission's weekly Staff Conference on August 24, 1982.

While the Commission believes it to be incumbent upon the natural gas utilities to seek timely approval of refund plans, we recognize that no such requirement is explicitly stated in Commission Rule R1-17(g)(10). Nevertheless, being of the opinion that refunds should be returned to ratepayers as soon as possible after receipt by the utilities and noting the amounts received from Transco in FERC Docket No. RP80-117 for the period January 1, 1981, to March 31, 1982, which have been held by the utilities in the deferred account since June 1982, the Commission concludes that a uniform automatic filing requirement for refund plans should now be imposed. Moreover, such a procedure should reduce the number of filings and Orders heretofore necessary to account for and to distribute refunds due to customers in certain cases.

Therefore, the Commission concludes that it is appropriate to find that, in every docket in which a natural gas utility has been allowed to increase its rates pursuant to G.S. 62-133(f) to recover an increase in the wholesale price of natural gas arising out of a proceeding before the FERC, any natural gas utility which subsequently learns that it will receive refunds from its wholesale supplier pursuant to a FERC order approving a Settlement Agreement should be required to file a report for Commission consideration detailing the following information not later than seven (7) days after the date of entry of such FERC order:

1. The amount of the refunds expected to be received from the wholesale supplier;

2. The timing of the refunds expected to be received from the wholesale supplier; and

3. A proposed refund plan designed to distribute the full amount of the refunds plus applicable interest to the utility's customers.

The Commission further concludes that, in all other respects, Commission Rule R1-17(g)(10) should remain in full force and effect and that the additional reporting requirements set forth hereinabove should become effective thirty (30) days from the date of this Order unless significant protests, comments, and/or requests for hearing with respect to such additional reporting requirements are received during said thirty day period.

IT IS, THEREFORE, ORDERED as follows:

1. That any natural gas utility which has been allowed to increase its rates pursuant to G.S. 62-133(f) to recover an increase in the wholesale price of natural gas arising out of a proceeding before the FERC, which subsequently learns that it will receive refunds from its wholesale supplier pursuant to a FERC order approving a Settlement Agreement shall file a report for Commission consideration detailing the following information not later than seven (7) days after the date of entry of such FERC order:

1. The amount of the refunds expected to be received from the wholesale supplier;

2. The timing of the refunds expected to be received from the wholesale supplier; and

3. A proposed refund plan designed to distribute the full amount of the refunds plus applicable interest to the utility's customers.

2. That the reporting requirements set forth in decretal paragraph number 1 above shall become effective thirty (30) days from the date of this Order unless significant protests, comments, and/or requests for hearing with respect to such additional reporting requirements are received during said thirty (30) day period.

3. That Commission Rule R1-17(g)(10) shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of September 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

GENERAL ORDERS - TELEPHONE

DOCKET NO. P-100, SUB 57

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 ALLOWING INCREASE) AND REQUIRING THE FILING) OF RATES FOR INTRASTATE) TOLL SERVICE

HEARD IN: Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, December 1 and 2, 1981.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Edward B. Hipp and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Hunton & Williams, P.O. Box 109, Raleigh, North Carolina 27602
For: Southern Bell Telephone and Telegraph Company

Robert W. Sterrett, Jr., Gene V. Coker, 4300 Southern Bell Center, Atlanta, Georgia 30375
For: Southern Bell Telephone and Telegraph Company

R. Frost Brannon, Jr., P.O. Box 30188, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

For the Respondents:

James M. Kimzey, Kimzey, Smith and McMillan, P.O. Box 150, Raleigh, North Carolina 27602
For: Central Telephone Company

Dwight W. Allen, General Counsel, Carolina Telephone and Telegraph Company, 720 Western Boulevard, Tarboro, North Carolina 27886
For: Carolina Telephone and Telegraph Company

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

F. Kent Burns and James M. Day, Boyce, Morgan, Mitchell, Burns and Smith, P.O. Box 2479, Raleigh, North Carolina 27602
For: Western Carolina Telephone Company, Westco Telephone Company, Mid-Carolina Telephone Company, Sandhill Telephone Company, Heins Telephone Company, Randolph Telephone Company, and Mebane Telephone Company

For the Intervenors:

Thomas R. Eller, Jr., Eller and Fruitt, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

Thomas K. Austin, 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 August 3, 1981, Southern Bell Telephone and Telegraph Company (Southern Bell or Applicant) filed an application with the Commission for authority to increase intrastate rates and charges to produce increases in total annual revenues of $129,049,865. The Commission being of the opinion that the matter constituted a general rate case under G.S. 62-137 issued an Order on August 28, 1981, declaring it to be a general rate proceeding, suspending the proposed rates for 270 days from the date the rates were to become effective, and establishing the test period as the 12 months ending May 31, 1981.

In said Order, the Commission found that the public interest required intrastate message toll service (MTS), wide area telecommunications 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 MTS, WATS, and interexchange private line rates and charges were separated from Docket No. P-55, Sub 794, and placed in Docket P-100, Sub 57, for investigation and hearing with all other telephone companies under the jurisdiction of the Commission being made parties thereto.

Notice of Intervention in the proceeding was filed by the Public Staff, North Carolina Utilities Commission on August 7, 1981.

On November 3, 1981, the North Carolina Textile Manufacturers Association, Inc., filed a petition for leave to intervene in this docket. On November 19, 1981, the Commission issued an Order allowing the intervention of the North Carolina Textile Manufacturers Association, Inc.

On December 1-2, 1981, in public hearing, the Commission heard from witnesses of the telephone companies and Public Staff regarding increases in MTS, WATS, and interexchange private line service rates and charges.

Southern Bell offered the testimony of the following witnesses: B. A. Rudisill, District Manager, Bell, Independent Relations, with respect to the settlement effect which will result from the changes requested in toll rates by Southern Bell; Robert L. Savage, Division Staff Manager, Rates, describing the proposed changes in the rates and charges for MTS, WATS, and interexchange private line channel offerings.

Numerous witnesses appeared and offered testimony on behalf of the various Independent telephone companies (Independents) operating in North Carolina. Those witnesses and the companies they represent include: Brian W. McCormick, Western Carolina Telephone and Westco Telephone Companies; Harold W. Shaffer, Mid-Carolina Telephone Company; T. E. Stephens, General Telephone Company of the Southeast; T. G. Allgood, Jr., Carolina Telephone and Telegraph Company;

Phil W. Widenhouse, Concord Telephone Company; Thomas S. Moncho, Central Telephone Company.

The prefiled testimony of James E. Heins of Heins Telephone Company and of David O. Albertson of Citizens Telephone Company was copied into the record; additionally, the supplemental statement of position of North State Telephone Company was copied into the record.

The Public Staff presented the testimony of three witnesses: Millard N. Carpenter, Communications Engineer, regarding the Public Staff's analysis of the Applicant's proposal regarding interexchange private line service, foreign exchange service (FX) and enterprise service; Richard G. Stevie, Director of the Economic Research Division, presented the results of his analysis of Southern Bell's adjustments to toll revenues for "repression"; Hugh L. Gerringer, Communications Engineer, regarding the Public Staff's recommendations on MTS rates and the restructuring of WATS rates and charges, the amount of additional intrastate toll revenues which will be received by Southern Bell and the Independents, flow through of the additional revenues and the projected change in the intrastate toll settlement ratio.

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

FINDINGS OF FACT

1. Southern Bell and the Independents made parties to this proceeding are duly franchised public utilities subject to the jurisdiction of this Commission.

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

3. Southern Bell's proposed changes in the intrastate MTS rate schedules are just and reasonable.

4. Southern Bell's proposed formats for restructuring both the recurring and nonrecurring intrastate WATS rates and charges are just and reasonable. However, the recurring and nonrecurring rates proposed under those formats produce undesired customer billing impacts and should be modified.

5. Certain increases proposed by Southern Bell in interexchange private line service and foreign exchange service are excessive. Increases in rates and charges for these services should be designed according to the recommendations and limitations proposed by the Public Staff.

6. An adjustment for repression of MTS revenues due to a price increase is not appropriate in this proceeding.

7. The estimated annual amount of additional end-of-test-period intrastate toll revenues subject to toll settlements that will be produced for Southern Bell and the Independents combined due to the changes in all intrastate toll rates (MTS, WATS, and interexchange private line) is $27,328,394.

8. The method used by both Southern Bell and the Public Staff for distributing the annual additional intrastate toll revenues among Southern Bell and the Independents is proper and reasonable resulting in additional toll revenues of $14,929,896 for Southern Bell and $12,398,498 for the Independent telephone companies as shown on Appendix A under the column "Increase In Settlement Revenue."

9. The increase in non-settlement revenues resulting from the herein approved rates and charges for interexchange private line service, and foreign exchange service is $58,454. Appropriate distribution of these revenues among the jurisdictional companies is shown on Appendix A under the column entitled "Non-settlement Revenue."

10. The jurisdictional telephone companies, which presently do not have general rate cases pending before the Commission, should have an opportunity to show cause why the increased revenue derived from the rate changes herein found reasonable will not result in an excessive rate of return on their jurisdictional rate base, unless said additional toll revenues are deemed de minimis.

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

Southern Bell witness Savage and Public Staff witness Gerringer presented testimony and exhibits regarding Southern Bell's proposed changes in the intrastate MTS rate schedules. In addition, witnesses appearing for the Independents presented testimony regarding Southern Bell's proposed changes in the rates and charges for all intrastate toll services including MTS, WATS, and interexchange private line.

Southern Bell witness Savage testified that the proposed changes in the MTS rate schedules were fair and reasonable and were designed to bring the price for many intrastate calls equal to or more in line with that of a like interstate call between North Carolina and a point in another state. In addition, witness Savage indicated that since MTS provides a large contribution to the overall requirements of Southern Bell, thereby maintaining local service rates at a lower level than would otherwise be possible, the proposed changes in MTS rates would continue to provide for the contribution.

Public Staff witness Gerringer testified that beginning with the mileage band of 31-40 miles, Southern Bell proposed increases in the intrastate Direct Distance Dialed (DDD) rates for both the Initial One Minute and Each Additional Minutes categories make these rates identical to interstate DDD rates that became effective on June 28, 1981. No changes were proposed in any of the rates for the mileage bands in the range of 0-30 miles. Also, no

changes were proposed in the add-on charges that apply to all types of operator-handled intrastate calls. Witness Gerringer testified that the Public Staff was not opposed to Southern Bell's proposed changes in MTS rate schedules since they result in an increase in intrastate MTS revenues which provide a desired contribution to maintain local service rates at a lower level than otherwise would be possible.

Witnesses for the Independents testified in general regarding all of the toll rate changes including MTS rate changes proposed by Southern Bell. All independent witnesses concurred with the proposed changes. Carolina Telephone Company witness Allgood testified that since a major toll rate increase had not occurred since April 1978 during which time the intrastate toll settlement ratio had declined which tends to put upward pressure on basic telephone rates, Carolina Telephone Company endorsed the proposed rate changes.

Based on the evidence and testimony presented in this proceeding, the Commission concludes that the changes proposed by Southern Bell in the MTS rate schedules are just and reasonable and, therefore, should be approved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Southern Bell witness Savage and Public Staff witness Gerringer presented testimony and exhibits regarding Southern Bell's proposed restructuring of the rates and charges for intrastate WATS. In addition, witnesses for the Independents presented testimony regarding the proposed changes.

Southern Bell witness Savage testified that the format and schedules proposed for restructuring the recurring rates and charges for both Out-WATS and In-WATS ("800" Service) arrangements, which were designed similar to those that became effective on June 1, 1981, for interstate WATS, would establish price schedules which will be more usage sensitive and which will result in the relative contribution level paid by each customer being more nearly equal.

Witness Savage testified that Southern Bell's proposals for the WATS recurring rates and charges included separate access line charges, which do not include any usage allowance, for each access line provided for both Out-WATS and "800" Service arrangements. The access line charge of $37 for Out-WATS and $34 for "800" Service does not include the provision of a company provided telephone set. The usage charges were designed with a declining charge per hour with six taper points defining six blocks of usage (0-15 hrs., 15.1-40 hrs., 40.1-80 hrs., 80.1-120 hrs., 120.1-180 hrs., all over 180 hrs.) The usage charges were also set to maintain the overall relationships of present WATS prices to those of the MTS rate schedules. Witness Savage indicated that the combined effect of the access line and usage charge proposals would result in an overall decrease for some 75% of the Out-WATS and "800" Service customers in North Carolina.

Witness Savage further testified that the proposed nonrecurring charges for both Out-WATS and "800" Service arrangements were established at levels based on their costs without contribution. A four-element schedule (service ordering, central office line connection, premises visit, premises wiring) is proposed for both arrangements.

Public Staff witness Gerringer testified that the Public Staff was not opposed to the proposed format for restructuring the recurring rates for both Out-WATS and "800" Service arrangements to make them more usage sensitive.

However, the Public Staff was concerned with the estimated distribution of the impact of the proposed rates and charges on customer billings. Based on a sample of WATS customers and their usage characteristics, Southern Bell's proposed access line charges and block usage rates will produce an estimated 8.1% annual increase in WATS revenues of $2,913,915 for Southern Bell and the Independents combined. Application of this rate design to the sampled customer usage profile results in a customer billing distribution change from negative 50.3% at the low usage end (0-15 hrs.) to plus 113.2% at the high usage end (all over 180 hrs.) for Out-WATS and from negative 36.6% at the low usage end to plus 143.4% at the high usage end for "800" Service. Witness Gerringer testified that in order to reduce the customer billing impact of the proposed rates and charges, the Public Staff recommended that based on the sampled customer usage profile, the recurring rates and charges for Out-WATS and "800" Service be redesigned so as to produce no more than a plus 75% customer billing impact for each service. The Public Staff further recommended that this rate redesign should yield the same level of additional total WATS recurring revenues that the proposed rates are estimated to produce.

Witness Gerringer further testified that regarding Southern Bell's proposed nonrecurring rates and charges for both Out-WATS and "800" Service arrangements the Public Staff was not opposed to the proposed four-element format. He pointed out that the present charge for main and extension installations is $55 for both services, while the proposed total installation charge applying all four elements will be $237 for Out-WATS or an increase of 331% and will be $240 for "800" Service or an increase of 336%. Witness Gerringer testified that the Public Staff was concerned with these 331% and 336% increases and recommended that all proposed nonrecurring rates and charges be scaled uniformly so as to produce revenues that are 100% more than the revenues produced for the test period based on the present rates. Since present rates produce annual revenues of $101,035, the Public Staff's recommendation would result in rates that produce annual revenues of $202,070.

Witnesses for the Independents testified in general that restructuring the WATS rate and charges to make them more usage sensitive was desirable. Concord Telephone Company witness Widenhouse testified that Concord Telephone Company concurred in the need to restructure WATS service but believed that Southern Bell's proposals were too drastic for a one-time change, particularly in view of the competitive alternatives open to business customers.

Based on the evidence and testimony presented in this proceeding, the commission concludes that the format changes proposed by Southern Bell for restructuring the recurring and nonrecurring rates and charges for intrastate WATS (both Out-WATS and "800" Service) are desirable. However, the Commission concludes that all proposed nonrecurring rates and charges should be scaled uniformly so as to produce revenues that are 100% more than the revenues produced for the test year based on the present rates. The following table properly distributes the aforementioned nonrecurring charges.

NONRECURRING CHARGES

	Out-WATS Charges	In-WATS Charges
Service ordering	$ 31.75	$ 31.75
Central office line connection	58.75	60.40
Premises visit	12.00	12.00
Premises wiring	8.00	8.00

Total WATS nonrecurring increase = $101,005

The Commission further concludes that the recurring rates proposed under those formats should be modified reducing the magnitude of the discount which low users will receive and reducing the magnitude of the increase which high users will experience. The Commission concludes that the following table properly distributes recurring charges for Out-WATS and In-WATS and will result in just and reasonable intrastate toll revenues for Southern Bell and the Independents combined.

RECURRING CHARGES

Usage Charges Per Hour of Use	Out-WATS	% Increase or Decrease	In-WATS	% Increase or Decrease
0-15	12.92	-43.6%	14.01	-28.7%
15.1-40	10.20	-34.9%	11.02	- 7.5
40.1-80	7.38	- 7.0	8.00	+51.7
80.1-120	4.97	+30.4	5.40	+85.5
120.1-180	3.64	+55.1	3.95	+99.3
180.1 +	2.37	+76.6	2.57	+78.2

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The Commission's finding on the reasonableness of the proposed rates for interexchange private line service is based on the testimonies of Southern Bell witness Savage and Public Staff witness Carpenter.

Southern Bell witness Savage presented the Company's proposals on interexchange private line services. Witness Savage stated that the proposed rates and charges were based on current costs and that current cost is the appropriate basis for setting rates for these services.

Public Staff witness Carpenter presented testimony regarding his review of the Applicant's proposals for interexchange private line service and foreign exchange service. Witness Carpenter concluded that in a number of categories of service Southern Bell's proposed percentage increases were excessive and that the increases in those categories should be limited to a reasonable level. Witness Carpenter recommended limitations of 30% on recurring revenues and 50% on nonrecurring revenues.

Witness Carpenter also recommended that rates and charges to be applied for bridging on FX should be no more than 50% of the rates and charges for bridging applicable to 2001 channels. This recommendation was due to the desire to limit increases on the FX category due to full imposition of bridging charges where today no rates and charges apply.

The Commission concludes that some of the proposed increases in private line rates and charges are excessive and may cause unreasonable burdens on subscribers to these services. The Commission concludes that the limitations recommended by witness Carpenter, a maximum increase in revenues from each category of 30% on recurring charges and 50% on nonrecurring charges, are reasonable and should be applied on each category of service which witness Carpenter identified.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

In its application for an increase in MTS 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 customer 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 no testimony in support of the adjustment. The adjustment was based upon an econometric analysis which indicated that the Company's requested 7.62% increase in rates would only produce a 5.77% increase in revenues after repression.

The Public Staff offered the testimony of Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff. Witness Stevie testified that, in general, repression does exist. If real price increases, customers respond by reducing the quantity that they will demand, other things remaining the same. However, witness Stevie further testified that there are complications in applying the economic theory to this procedure of adjusting MTS rates for repression.

First, witness Stevie concluded that the aggregate nature of the econometric model precludes its use in estimating repression effects or in setting rates for different types of toll services. The model is too aggregate in two respects: aggregate across customer classes such as residential, commercial, and industrial and aggregate for MTS rates which vary with respect to distance, time-of-day, and level of operator assistance. The use of an aggregate model overlooks the relative impact of a price increase on each of the demands for MTS.

Second, witness Stevie testified that factors other than price also affect the level of demand for MTS. Growth in real income, wholesale and retail sales, employment, and industrial activity all affect the demand for MTS. Witness Stevie concluded that to account for the effect of a price increase, one must also project the impacts of these other factors. However, to do so requires that one must forecast a future test year.

And third, witness Stevie testified that Southern Bell's repression adjustment assumes that the 7.62% increase in MTS rates is a real price increase instead of a nominal price increase. He further stated that the extent of a real price increase from a rate increase depends upon whether or not nominal price rises faster than inflation. Upon examining the real price of MTS rates (nominal price adjusted for inflation) and the percent increase in rates requested, witness Stevie concluded that no real price increase will result and, therefore, no repression will occur from the increase in MTS rates.

While the Commission finds no fundamental deficiency in the econometric approach employed by Southern Bell, 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 on MTS. The Commission is particularly concerned about the aggregate nature of the model used by the Company. 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.

Furthermore, the Commission concludes that adjustments to the test year for only a price increase overlooks the impacts of other variables which impact the demand for MTS. To adjust for price increases and projections of other variables is a future test year consideration. To base rates upon such an adjustment is not reasonable since the test year concept contemplates the use of known facts and not hypothetical facts.

The Commission, upon review of the evidence relating to repression, concludes that an adjustment for repression of MTS revenues due to a price increase is a future test year consideration and is not appropriate in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Southern Bell witness Savage and Public Staff witnesses Gerringer, Carpenter, and Stevie presented testimony and exhibits regarding the determination of the estimated annual amount of additional end-of-test period intrastate toll revenues subject to toll settlements that would be produced for Southern Bell and the Independents combined related to Southern Bell's proposed changes in all intrastate toll rates (MTS, WATS, and interexchange private line) in its general rate case in Docket No. P-55, Sub 794.

The following tabular summary shows a comparison of the total increase in intrastate toll revenues subject to toll settlements estimated by Southern Bell with those estimated by the Public Staff:

	Southern Bell's Estimate	Public Staff's Estimate
MTS	$292,331,560	$305,615,879
	x 5.77%	x 7.62%
	16,867,531	23,287,930
WATS	3,245,795	3,014,950
Interexchange Private Line	1,981,339	1,281,860
Total for Southern Bell and the Independents combined	$ 22,094,665	$ 27,584,740

Regarding the estimated additional revenues for MTS, Southern Bell witness Savage testified that Southern Bell used an intrastate toll message sample (including messages for both Southern Bell and the Independents) in order to determine the aggregate percentage increase in intrastate MTS revenues due to the proposed changes in the MTS rates. This increase was determined by comparing the revenues the message sample would produce when priced at the

current rates and when priced at the proposed rates. The results of this approach showed a 7.62% aggregate revenue increase. After allowing for repression, Southern Bell determined the resulting increase to be 5.77%. To estimate the annual amount of additional intrastate MTS revenues that would be produced by the proposed changes in the MTS rate schedules, Southern Bell applied the 5.77% revenue increase determined from use of the message sample to the actual gross intrastate MTS revenues of $292,331,560 billed during the 12-month period ending May 31, 1981, for Southern Bell and the Independents combined, resulting in an annual increase in MTS revenues of $16,867,531.

Public Staff witness Gerringer testified that the Public Staff's estimate of the additional MTS revenues was first based on using the 7.62% increase resulting from applying Southern Bell's basic message sample approach, but not allowing for the effects of repression (the disallowance of repression effects is treated by Public Staff witness Stevie in Evidence and Conclusions for Finding of Fact No. 6) and second based on applying the 7.62% increase to an end-of-test-period level of gross billed intrastate toll revenues to arrive at an annual increase effect. He testified that Southern Bell had not determined an end-of-test-period annual amount of MTS revenues since they had used actual gross billed revenues for the test period. Witness Gerringer testified that using regression analysis he determined the end-of-test-period level of gross billed revenues for Southern Bell and the Independents combined to be $305,615,879 which when multiplied by the 7.62% increase resulted in an annual increase in MTS revenues of $23,287,930.

Witness Gerringer further testified that the estimated WATS additional revenues of $3,245,795 shown in the table for Southern Bell were composed of two parts - a $2,913,915 increase from the proposed recurring rates and charges and a $331,880 increase from the proposed nonrecurring rates and charges while the Public Staff's recommendations regarding proposed WATS rates and charges resulted in an increase of $2,913,915 from recurring rates and charges and an increase of $101,035 from nonrecurring rates and charges for a total increase of $3,014,950.

Southern Bell witness Rudisill testified regarding the amount of settlement revenue which the companies would receive due to Southern Bell's proposed changes in interexchange private line rates and charges. The total increase in settlement revenue under Southern Bell's proposals was calculated by witness Rudisill to be $1,981,339. Witness Rudisill pointed out that settlements to the Standard Schedule Companies would not be affected by the increases in private line revenues. Witness Rudisill also stated that the above figure did not reflect I-I billed revenues which were not included in settlements.

Public Staff witness Carpenter presented testimony on the amount of settlement revenue which the companies would receive under the limited increase in interexchange rates and charges which he proposed (see Evidence and Conclusions for Finding of Fact No. 5). Using the same procedure as used by witness Rudisill, witness Carpenter determined the amount of additional settlement revenue under his proposals to be $1,281,860.

Based on the Commission's conclusions rendered in Evidence and Conclusions for Finding of Fact No. 6 as to the disallowance of any repression effects of intrastate toll revenues, the modification regarding proposed changes in WATS and interexchange private line rates and charges and the acceptance of the

end-of-test-period approach taken by witness Gerringer for determining the additional MTS revenues as being reasonable, the Commission concludes that the total annual additional intrastate toll revenues subject to toll settlements that will be produced for Southern Bell and the Independents combined due to the allowed changes in intrastate toll rates sought by Southern Bell as part of Docket No. P-55, Sub 794, is $27,328,394.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Southern Bell witness Rudisill and Public Staff witness Gerringer presented testimony regarding the distribution among Southern Bell and the Independents of the estimated annual additional intrastate toll revenues subject to toll settlements resulting from this proceeding. Witnesses for several of the Independents settling on an actual cost basis presented testimony regarding the amount of additional intrastate toll revenues that each would expect to receive through additional toll settlements. Some Independents based these estimates on expectations regarding the impact of the proposed toll rate changes or 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 a representative level of end-of-test-period intrastate toll revenues.

Southern Bell witness Rudisill testified that in estimating the amount of additional toll revenues or toll settlements which would result for each company from the toll rate changes proposed by Southern Bell, it was necessary to first estimate the effect on the Standard Schedule Companies. This involved recalculating the May 1981 settlement statement for each such company as if the proposed changes in the MTS rates had been in effect. The toll settlement difference between the recalculated amount and the actual amount for May was then annualized. Regarding settlement effects resulting from the proposed WATS rate changes, witness Rudisill first determined the change in May 1981 WATS settlements for the six Standard Schedule Companies that had intrastate WATS customers in May 1981, consistent with the method used to estimate the change in the MTS settlements. This change was then annualized. Witness Rudisill indicated that changes in the rates for interexchange private line services would not affect the settlements for the Standard Schedule Companies since private line settlements for them are determined based on nationwide average cost tables that are related to facility units rather than to billed revenues. Based on Southern Bell's proposals, the total annual settlement increase for all Standard Schedule Companies was $121,215.

Regarding the toll revenue or settlement effect of the proposed toll rate changes for Cost Settlement Companies, including Southern Bell, witness Rudisill testified that he estimated that effect by spreading the balance of the estimated total revenue increase after settlement effects for the Standard Schedule Companies based on the percent of total net intrastate toll investment each company had as of May 31, 1981. Based on Southern Bell's proposals, the annual intrastate toll revenue or settlement increase for all Cost Settlement Companies was $21,973,450, of which $11,929,386 was Southern Bell's portion.

Regarding the estimated impact of the proposed toll rate changes on the intrastate toll settlement ratio, witness Rudisill first testified that the actual achieved ratio for the test period ending May 31, 1981, was 10.9%. He

next proformed that ratio to an end-of-period level based on present toll rates resulting in a proformed intrastate toll settlement ratio of 9.54%. Finally, witness Rudisill projected that the ratio would go from 9.54% to 11.41% reflecting the impact of Southern Bell's total proposed changes to intrastate toll rates, if approved by the Commission. Under cross-examination, witness Rudisill testified that the purpose of his method was to distribute a known number of revenues (a gross amount) that will be generated strictly based on proposed increases in tariff rates and not to spread expenses that would result in a net effect of additional revenues for a given company at the end of the test year.

Public Staff witness Gerringer testified that he used the same methods used by witness Rudisill in distributing the additional toll revenues or settlements among Southern Bell and the Independents. His results differed from witness Rudisill's due to using the Public Staff's estimate rather than Southern Bell's estimate of the total additional intrastate toll revenues subject to toll settlements that would be produced by the changes in toll rates proposed by Southern Bell (see Evidence and Conclusions for Finding of Fact No. 7). In paralleling the distribution methods used by witness Rudisill, witness Gerringer first estimated the increase in intrastate toll settlements for the Standard Schedule Companies to be approximately $255,000 with the qualification that a more accurate determination of this amount should be made based on the Commission's final decision regarding the adjustments and recommendations proposed by the Public Staff.

Witness Gerringer then took the Public Staff's estimate for the total additional intrastate toll revenues of $27,584,740 and reduced it by the $255,000 amount leaving a total of $27,329,740. Witness Gerringer distributed this amount between Southern Bell and the Cost Companies combined based on relative net intrastate toll investments, resulting in additional intrastate toll settlements of $14,837,316 (54.29%) for Southern Bell and of $12,492,424 (45.71%) for the Cost Companies combined.

Regarding the estimated impact of the proposed toll rate changes on the intrastate toll settlement ratio, witness Gerringer testified that based on the Public Staff's estimate of the total additional intrastate toll revenues subject to toll settlements and using Southern Bell's intrastate toll rate base at May 31, 1981, the intrastate toll settlement ratio would increase by 2.26 percentage points. Under cross-examination, witness Gerringer testified that the distribution of the additional intrastate toll revenues among Southern Bell and the Independents was not dependent on knowing an estimated absolute level of toll settlement ratio resulting from the impact of the additional toll revenues. He particularly expressed reservation concerning the accuracy of the estimated 9.54% proformed settlement ratio based on present toll rates which several witnesses for the Independents had used as a starting point in developing an absolute level of toll settlement ratio used for determining what they considered to be the appropriate additional toll revenues they would receive from this proceeding.

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 as 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 these proceedings. Finally, the Commission concludes that the estimated additional toll revenues shown for each company in Appendix A under column entitled "Settlement Revenue" are consistent with and result from application of the distributional methods herein concluded to be proper and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Public Staff witness Carpenter testified regarding the amount of additional revenue which each independent company would bill and retail as a result of the proposed changes in rates and charges for interexchange private line service, foreign exchange service, and Enterprise service. Witness Carpenter stated that all Independents other than Carolina, General, and Western Carolina who furnish I-I private lines or I-I foreign exchange service will bill and retain additional revenues due to the proposed increases and that witness Rudisill had not included those increased revenues in the revenue figures in his testimony. Witness Carpenter pointed out that Southern Bell had reported figures in item 31-d of the Minimum Filing Requirement a portion of the increase in I-I revenues not included in settlements which would result if its proposed rates and charges were approved. Witness Carpenter estimated the full amount of increase in I-I revenues not included in settlements and presented those revenue figures as well as increased revenue due to changes in rates for Enterprise service on Carpenter Exhibit No. 3. The sum of those revenues for all companies under witness Carpenter's recommendations is $58,454.

The Commission concludes that the full amount of additional non-settlement annual revenue which will result from changes in interexchange private line, foreign exchange, and Enterprise rates and charges is as presented by witness Carpenter. The amount of revenue for each jurisdictional company is shown on Appendix A under the column entitled "Non-Settlement Revenue." This column is a summary of data contained on Carpenter Exhibit No. 3.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Public Staff witness Gerringer and witnesses for the Independents presented testimony and exhibits regarding the flow-through of the additional intrastate toll revenues estimated to be realized from the changes in the rates and charges approved herein.

Public Staff witness Gerringer testified that, after the resulting additional intrastate toll revenues both subject to toll settlements and not subject to toll settlements had been accurately determined for each company, the Public Staff recommended that the following guidelines be applied regarding these additional revenues:

1. For the companies that have rate cases pending before the Commission or that have filed a rate case before issuance of the Commission's final decision in this proceeding, the additional revenues for such company should be considered in its rate case. Presently, the following companies have rate cases before the Commission: Southern Bell, Carolina, Randolph, Lexington, and Mid-Carolina.

2. For the following companies, provided that they do not qualify under the first condition, the additional revenues are deemed de minimis with no flow-through recommended: Ellerbe, Mebane, Pineville, Saluda, Service, and Sandhill. The Public Staff's determination of the de minimis level is based on additional revenues of $10,000 or less and an increase in total operating revenues resulting from these additional revenues of less than 1%.

3. That the remaining nine companies - North State, Barnardsville, Central, Citizens, Concord, General, Heins, Western Carolina, and Westco - be required to flow-through the additional revenues by reducing local service rates. Of these nine companies, Central, General, Western Carolina, and Westco have had rate cases concluded and increases granted within the past six months.

Under cross-examination, witness Gerringer testified that the flow-through of the additional revenues be 100% for the affected companies. He indicated that it would not be proper to allow these companies to keep all or a portion of these revenues based on statements and exhibits showing earnings and rates of return before and after the inclusion of the additional revenues since appropriate earnings and rates of return could only reasonably be determined in a general rate proceeding where the company's total operations could be evaluated.

Several witnesses for the affected Independents recommended that their companies be allowed to keep the additional revenues since they would not earn their most recent authorized return even with additional revenues due to offsetting increases in expenses. However, under cross-examination, these witnesses agreed that the examination of expenses and their impact on company's earnings should be properly made in a general rate proceeding.

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 four companies (Southern Bell, Carolina, Lexington, and Mid-Carolina) with rate increases before the Commission, the additional intrastate toll revenues for such companies will be considered in each respective company's rate case. 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. Provided, however, with respect to the additional toll revenue realized during the interim of time between the effective date of the intrastate toll rates established herein and the issuance date of a final Order with respect to each company's general rate increase application, the said five companies file within ten days of the issuance date hereof a bond or undertaking for refund or rebate of additional intrastate toll revenues realized during said interim period should the Commission find upon conclusion of each general rate case proceeding that such revenues or any part thereof should pass through to the company's customers.

All other telephone companies in North Carolina, except as provided hereafter, 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 A 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 A which files exceptions to this flow-through provision within ten days after issuance of this Order with an affidavit showing irreparable injury therefrom and requesting the right to be heard theron 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, 1981, 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 so as to accomplish 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 ten 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 A are based on data supplied by Southern Bell in response to a letter request from the Commission dated January 28, 1982, copies of which were sent to all parties of record.

Finally, based upon the foregoing and other evidence of record, the Commission concludes that the level of additional intrastate toll revenues expected to be realized by Barnardsville, Ellerbe, Mebane, Pineville, Randolph, Saluda, Service, and Sandhill is de minimus. Therefore, said companies are hereby excused from the flow-through provisions of this Order and thus are relieved of any filing requirements related thereto.

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 adjust the rates, charges, rules, and regulations for the North Carolina intrastate message toll, WATS, interexchange private line, foreign exchange, and Enterprise services to produce, based upon a test year period ending May 31, 1981, additional annual gross revenues not exceeding $27,762,018. (This amount includes revenues to be received by telephone membership corporations concurring in rates and charges herein revised.)

2. That Southern Bell Telephone and Telegraph Company shall file and serve appropriate revised tariffs reflecting the changes approved herein with three days following issuance of this Order.

3. That the Public Staff and any other intervenor may file written comments concerning the company's tariffs within three days of the date upon which the tariffs are filed with the Commission.

4. That each independent telephone company shall file appropriate concurrence tariffs for effectiveness on March 15, 1982.

5. That all telephone companies, except as provided under Evidence and Conclusions for Finding of Fact No. 10, shown in Appendix A shall file new tariffs to reduce local service rates by the amount of additional toll revenues they will receive under this Order, as shown in Appendix A 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 A which files exceptions to this flow-through provision within ten 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, 1981, 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 so as to accomplish 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 ten 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.

6. That the rates, charges, and regulations necessary to reflect the changes required herein be effective upon the issuance of a further order approving the tariffs filed pursuant to Paragraph 2 above.

7. That Southern Bell shall continue to file monthly a report with the Commission setting forth the rate of return (settlement ratio) used for intrastate toll settlement pruposes 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 5th day of February 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

APENDIX A
DOCKET NO. P-100, SUB 57
INCREASE IN ANNUAL REVENUE
RESULTING FROM CHANGES IN MTS, WATS,
INTEREXCHANGE PRIVATE LINE SERVICE, AND ENTERPRISE SERVICE

	Increase In Settlement Revenue	Increase In Non-Settlement Revenue	Total Revenue Increase
Barnardsville	$ 13,750	$ 1	$ 13,751
Carolina	7,155,570	184	7,155,754
Central	1,702,266	43,605	1,745,871
Citizens	93,501	18	93,519
Concord	371,253	10,062	381,315
Ellerbe	2,730	-	2,730
General	1,188,012	-	1,188,012
Heins	195,252	84	195,336
Lexington	37,517	90	37,607
Mebane	9,428	2	9,430
Mid-Carolina	572,005	2,846	574,851
North State	136,888	244	137,132
Pineville	1,428	1	1,429
Randolph	5,529	19	5,548
Saluda Mountain	729	-	729
Sandhill	5,867	-	5,867
Service	2,014	-	2,014
Southern Bell	14,929,896	1,237	14,931,133
Western Carolina/Westco	904,759	61	904,820
Total	27,328,394	58,454	27,386,848
Non-regulated Co-ops	433,624		
Total All Companies	$27,762,018		

GENERAL ORDERS - TELEPHONE

DOCKET NO. P-100, SUB 57

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

BY THE COMMISSION: On February 5, 1982, the Commission issued its Order Allowing Increase and Requiring the Filing of Rates for Intrastate Toll Service in Docket No. P-100, Sub 57. The Order required Southern Bell Telephone and Telegraph Company to file appropriate revised tariffs reflecting additional gross revenues not exceeding $27,762,018. The Public Staff and other intervenors were allowed three days to file written comments concerning the revised tariffs.

On February 8, 1982, Southern Bell filed tariffs reflecting the revised rates and charges in response to the Commission's February 5, 1982, Order. On February 11, 1982, the Public Staff filed a letter to the Chairman stating that the proposed tariffs comply with the Commission's guidelines as set forth in the February 5, 1982, Order.

The Commission is of the opinion that the revised tariffs accurately reflect the rates and charges allowed in the February 5, 1982, Order and should be allowed to become effective on one day's notice for service rendered after the date of this Order.

IT IS, THEREFORE, ORDERED:

1. That the rates and charges filed in this docket by Southern Bell on February 5, 1982, are herein approved to become effective on one day's notice for service rendered after the date of this Order.

2. That Southern Bell shall give public notice of the approved rate increase by mailing a copy of a Commission approved notice by first class mail to each of its North Carolina customers during the first normal billing cycle which includes service billed under the new rates.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of February 1982.

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

DOCKET NO. P-100, SUB 57

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 - Supplementary Proceedings, Citizens Telephone Company) ORDER

BY THE CHAIRMAN: On February 5, 1982, the Commission issued an Order Allowing Increase and Requiring the Filing of Rates for Intrastate Toll Service. Decretal paragraph 5 of said Order set forth specific instructions requiring independent telephone companies to file certain data with the Commission. By subsequent Order, a hearing was scheduled to be held July 7, 1982, for the following specific purposes:

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 shown in Appendix A to the Order herein issued February 5, 1982, 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 this Commission in the companies' last general rate cases.

On June 30, 1982, a Motion of Citizens Telephone Company in Nature of Summary Judgment was filed with the Commission. The Commission has reviewed all of the filings of Citizens Telephone Company along with the testimony of Public Staff witness Curtis Toms and concludes that the Motion of Citizens Telephone Company should be granted.

IT IS, THEREFORE, ORDERED that the Motion of Citizens Telephone Company in Nature of Summary Judgment is hereby granted.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of July 1982.

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

DOCKET NO. P-100, SUB 57

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

HEARD IN: Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, July 7, 1982

BEFORE: Commissioner Edward B. Hipp, Presiding; Chairman Robert K. Koger and Commissioner A. Hartwell Campbell.

APPEARANCES:

Glenda R. Beard and Dale E. Sporleder, 4100 N. Roxboro Road, P.O. Box 1412, Durham, North Carolina 27702
For: General Telephone Company of the Southeast

James M. Kimzey, Kimzey, Smith & McMillan, 506 Wachovia Building, P.O. Box 150, Raleigh, North Carolina 27602
For: Central Telephone Company

John R. Boger, Jr., Williams, Willeford, Boger, Grady, and Davis, P.A., P.O. Box 810, Concord, North Carolina 28024
For: Concord Telephone Company

Paul L. Lassiter and Thomas K. Austin, Public Staff - North Carolina Utilities Commission, Legal Division, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On August 3, 1981, Southern Bell Telephone and Telegraph Company (Southern Bell) filed an application with the Commission for authority to increase intrastate rates and charges for both local and toll services. By order dated August 28, 1981, the Commission found the filing to constitute a general rate case as required by G.S. 62-137. In said order, the Commission further found the public interest would be served by the establishment of uniform toll rates in this state. Accordingly, this docket was initiated to investigate the proposed increased toll rates with all telephone companies under the jurisdiction of this Commission being made parties thereto.

On December 1-2, 1981, a hearing was held regarding the proposed increase in MTS, WATS, and interexchange private line service rates and charges.

On February 5, 1982, the Commission issued in this docket an Order Allowing Increase and Requiring the Filing of Rates for Intrastate Toll Service. Decretal Paragraph No. 5 of said Order provided:

> "That all telephone companies, except as provided under Evidence and Conclusions for Finding of Fact No. 10, shown in Appendix A shall file new tariffs to reduce local service rates by the amount of additional toll revenues they will receive under this Order, as shown in Appendix A 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 A which files exceptions to this flow through provision within ten 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 of 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, 1981, 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."

Upon proper applications, interim stays were granted to several independent telephone companies.

On April 15, 1982, an Order was issued establishing a full evidentiary hearing to determine whether the flow-through provisions of the February 5, 1982, Order should be made permanent in whole or in part by the independent companies seeking to retain the additional toll revenues.

On June 30, 1982, an Order was issued to establish the procedures for receiving testimony on July 7, 1982. The order for receiving testimony was as follows:

General Telephone Company of the Southeast
Central Telephone Company
Concord Telephone Company
Citizens Telephone Company
Public Staff

Notice was given that the purpose and scope of the proceeding was to determine the following:

1. Whether the data submitted by the respondent companies was 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; and

4. Whether the additional toll revenues shown in Appendix A to the Order herein issued February 5, 1982, 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 this Commission in the companies' last general rate cases.

On July 2, 1982, Citizens Telephone Company was granted its Motion in Nature of Summary Judgment.

Hearings were held on July 7, 1982. All parties were present and represented by counsel.

Each of the independent telephone companies offered testimony as did the Public Staff.

Witnesses for the independent telephone companies presented what they perceived as the impropriety of using actual earnings to facilitate measurement of the impact of the toll rate increases. Company witnesses Blanchard and Puffer who represented General Telephone Company (General) of

the Southeast and Central Telephone Company, respectively, presented returns on average original cost rate base and average common equity. Both witnesses also made selected annualization adjustments to operating expenses in addition to adjustments to operating revenues for the effect of adjustments allowed by the Commission in rate cases arising during the test period. Both witnesses also contended that evaluations should be made of the impact of the toll service rate increase only after consideration is given to both local service rate increases going into effect during the test period and the effect of selected annualized expense adjustments which were allowed by the Commission in the companies' last general rate cases. Both witnesses maintained that the annualized expense adjustments represented only the remaining portion of the expenses not booked during the test period.

The testimony and exhibits for Concord Telephone Company were presented by witness Widenhouse. Witness Widenhouse calculated his return on common equity by utilizing an end-of-period capital structure, an end-of-period rate base, and the actual level of operating revenues and expenses experienced by the Company during the 12-month test period ended December 31, 1981. The return on common equity which resulted from utilizing these components was less than the return allowed by the Commission in the Company's last general rate case, thus, Company witness Widenhouse contended that the Company should not be required to flow through the additional toll revenues arising from this docket.

Public Staff witness Toms presented calculations of the actual earnings of each of the participating independent telephone companies. Witness Toms testified that his presentations were made in accordance with Ordering Paragraph No. 5 of the Commission Order in Docket No. P-100, Sub 57. He testified further that he had utilized the same methodology in calculating the actual returns of the various companies as was utilized by the Commission in Docket No. P-100, Sub 45.

With respect to General Telephone Company of the Southeast, Public Staff witness Toms made adjustments to the average original cost rate base to remove land held for future use and pre-July 1, 1979, construction work in progress. Witness Toms testified that both of these adjustments were necessary in order to be consistent with the Commission's findings in Docket No. P-19, Sub 182, and to comply with Ordering Paragraph No. 5 of this docket. Since adjustments for the annual revenue effect of the Company's test-period rate increase had already been made by Company witness Blanchard, the only remaining adjustment made by witness Toms was an adjustment to recognize the income tax effects of his adjustments to the average original cost rate base. Witness Toms testified that after the effect of the above-mentioned adjustments, the results showed that General would have been earning a return on average common equity of 16.71% before the effect of the toll increase, whereas the Commission allowed the Company the opportunity to earn a return in Docket No. P-19, Sub 182, of 15.95%, as imputed by both General and the Public Staff at the hearing.

During his cross-examination, the Public Staff witness Toms was asked a series of questions concerning the concept of matching revenues and expenses. In response, witness Toms testified that he had previously considered the question of matching and that after consulting with personnel from Legal, Communications, and the Director of Accounting, and finally, after considering the fact that his procedure was consistent with the procedures followed by the

Commission in Docket No. P-100, Sub 45, he concluded that the question of matching was not at issue in this proceeding. He testified further that matching was more important in rate cases where an end-of-period level of rate base, revenues, expenses, and a reasonable capital structure were being presented. Finally, he testified that Ordering Paragraph No. 5 of the Commission Order stated that the test period ended December 31, 1981, should be adjusted solely for the annual effect of any rate increases going into effect during said test year.

With respect to Central Telephone Company, Public Staff witness Toms made adjustments to remove the annualization effect of the Company's adjustments to rate base, operating revenues, and expenses. Witness Toms testified further that after the effect of his adjustments the results showed that the Company would have earned a return of 16.78% on average common equity before the toll increase and would have earned an 18.42% return if the toll increase granted in this docket had been in effect during the test year 1981.

With respect to Concord Telephone Company, Public Staff witness Toms made several adjustments to the Company's proposed capital structure and rate base. In regard to the capital structure, witness Toms utilized average balances for the various components, whereas the Company used end-of-period balances. Witness Toms also made adjustments to include cost-free capital and the job development investment tax credit in the capital structure. He testified that these adjustments were in accordance with the Commission's findings in the Company's last general rate case, Docket Nc. P-16, Sub 130.

In regard to the average original cost rate base, witness Toms made adjustments to remove construction work in progress, property held for future use, and cost-free capital from the rate base. As justification for his adjustments, witness Toms testified that the Company had not filed for a rate increase, wherein these items had been included as components of the original cost rate base. Finally, witness Toms testified that the Company had filed an end-of-period rate base, whereas he had used average balances for each of his rate base components.

The Company took exception to Public Staff witness Toms' adjustment to exclude construction work in progress from rate base on the grounds that the General Statutes now permit the inclusion of construction as a component of the original cost rate base. However, Public Staff witness Toms maintained that this adjustment was in complete accordance with Paragraph No. 5 of the Commission Order in this docket, and since construction work in progress had not been included as a component of the original cost rate base in the Company's last general rate case.

Through his summary testimony and exhibit, Company witness Widenhouse testified that if he had utilized the same components of the capital structure as Public Staff witness Toms and had included construction work in progress in rate base on an end-of-period basis, his resulting returns would have shown that the Company was still not earning a return in excess of the 13.97% return allowed by the Commission in Docket No. P-16, Sub 130. Under cross-examination Public Staff witness Toms would not accept such an argument, however, noting that the Company would not be in compliance with Ordering Paragraph No. 5 which stated:

"The calculation of the actual (average) return on common equity should be calculated in a manner consistent with the findings of the Commission in said last general rate case."

Public Staff witness Toms found the actual return on equity after the toll rate increase for the companies involved in this proceeding to be as follows:

Company	Increase in Toll Revenues	Actual Return on Equity After Toll Increase
General Telephone Company of the Southeast	$1,188,012	18.05%
Central Telephone Company	$1,745,871	18.57%
Concord Telephone Company	$ 381,315	14.33%

In contrast, the respective Company witnesses presented the following actual returns after the toll rate increase:

Company	Increase in Toll Revenues	Actual Return on Equity After Toll Increase
General Telephone Company of the Southeast	$1,188,012	14.79%
Central Telephone Company	$1,709,377	15.80%
Concord Telephone Company	$ 381,315	13.62%

After carefully considering all of the evidence presented by the witnesses and the entire record in this docket, the Commission now makes the following

FINDINGS OF FACT

1. Concord Telephone Company and Central Telephone Company have general rate cases pending before this Commission.

2. The toll revenues from Docket No. P-100, Sub 57, assigned to Concord Telephone Company and Central Telephone Company should be considered in their pending respective general rate case proceedings.

3. 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 57) will allow General Telephone Company of the Southeast 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 General's last general rate case, such revenues should be flowed through to General's customers as a reduction in local service rates.

4. General 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 found reasonable herein.

5. General's annual toll revenues are increased by $1,188,012 due to the Commission's decision in Docket No. P-100, Sub 57, dated February 5, 1982.

6. General Telephone Company of the Southeast should flow through to its customers the amount of $548,382, as a reduction in local service rates.

7. General should be required to refund to each of its customers the additional intrastate toll revenues, as spoken to below, arising from the increase in intrastate toll rates approved in Docket No. P-100, Sub 57, previously being collected under bond pursuant to G.S. 62-135, plus interest at the statutory rate. Since General is required to flow through less than 100% of said revenues, then General should be required to refund such revenues on a pro rata basis. Pro rata refunds of revenues collected under bond 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 Order of February 5, 1982. General 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.

CONCLUSIONS

Consistent with the Commission's treatment of all other telephone companies with general rate case proceedings pending since February 5, 1982, and the date of this Order, the Commission concludes that the matter of flow through of the increased toll revenues, associated with the Commission Order in Docket No. P-100, Sub 57, dated February 5, 1982, and related to Central Telephone Company and Concord Telephone Company, should be properly considered in the pending general rate proceedings for these two telephone companies.

As to the increased toll revenues associated with General Telephone Company of the Southeast, this Commission has carefully analyzed the testimony and exhibits filed by General and the Public Staff and concludes that the methodology followed by Public Staff witness Toms is generally more appropriate. However, the Commission further concludes that the methodology adopted by Public Staff witness Toms should be adjusted to reflect the impact of the annualization of the remaining life depreciation rates effective October 1, 1981, the annualization of the expensing of inside wiring effective September 1, 1981, and to reflect normalization of capitalized benefits. These two adjustments should be made to more appropriately measure the earnings of General within the parameters of Paragraph No. 5 of the Commission Order in this docket.

Based on the above conclusions and the entire record in this matter, the Commission concludes that General's actual average annual earnings after the toll increase should be reduced by $548,382 in order that the Company be allowed to achieve the level of return on equity imputed from the Company's last general rate case and agreed to at the hearing by the parties.

IT IS, THEREFORE, ORDERED as follows:

1. That General Telephone Company of the Southeast shall flow through to its customers as a reduction in local service rates additional intrastate toll revenues realized from the approved increase in toll rates in this docket (Docket No. P-100, Sub 57) in the amount of $548,382.

2. That General 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 57, previously being collected under bond pursuant to G.S. 62-135, plus interest at the statutory rate. Pro rata refunds of revenues collected under bond 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 A of the Commission Order of February 5, 1982. General 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 General 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.

4. That the matter of toll flow through associated with the Commission Order in this docket of February 5, 1982, and related to Central and General Telephone companies shall be decided in their respective general rate case proceedings, now pending before the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of December 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

ELECTRICITY

DOCKET NO. E-2, SUB 421

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Mr. and Mrs. James Garland Barefoot, Complainants	)	
vs.	)	FINAL ORDER OVERRULING EXCEPTIONS AND AFFIRMING
Carolina Power & Light Company, Respondent	)	RECOMMENDED ORDER

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, February 8, 1982, at 2:00 p.m.

BEFORE: Chairman Robert K. Koger, Presiding, and Commissioners Leigh H. Hammond, Sarah Lindsay Tate, John W. Winters, Edward B. Hipp, A. Hartwell Campbell, and Douglas P. Leary

APPEARANCES:

For the Respondent:

Fred D. Poisson, Associate General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

For the Complainants:

Gisele L. Rankin, 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 14, 1981, Hearing Examiner Robert H. Bennink, Jr., entered a "Recommended Order Denying Complaint" in this docket. On December 29, 1981, the Public Staff, on behalf of the Complainants, filed certain exceptions to the Recommended Order and requested oral argument thereon before the full Commission. Oral argument on the exceptions was subsequently heard by the Commission on February 8, 1982. Counsel for both the Applicant and the Public Staff were present and presented oral argument on the exceptions.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds, and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated December 14, 1981, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the exceptions to the Recommended Order filed herein on December 29, 1981, by the Public Staff be, and each is hereby, overruled and denied.

2. That the Recommended Order in this docket dated December 14, 1981, be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of February 1982.

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

DOCKET NO. E-2, SUB 447

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carroll R. Childress, Complainant) RECOMMENDED ORDER
vs.) DENYING COMPLAINT
Carolina Power & Light Company, Respondent)

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, April 23, 1982, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Complainant:

Paul L. Lassiter, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Dobbs Building, Raleigh, North Carolina 27602

For the Respondent:

Fred D. Poisson, Associate General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

BENNINK, HEARING EXAMINER: On January 26, 1982, Carroll R. Childress ("Complainant") filed a complaint with the North Carolina Utilities Commission against Carolina Power & Light Company ("CP&L" or "Respondent"). In accordance with Commission Rule R1-9, a copy of the complaint was susequently served upon CP&L pursuant to a Commission Order dated January 29, 1982. CP&L filed its "Answer" to the complaint on February 18, 1982. On February 26, 1982, the Commission issued a "Notice to Complainant of Answer Filed by Respondent." On March 2, 1982, the Commission entered an Order in this docket entitled "Reissued Notice to Complainant of Answer filed by Respondent."

On March 5, 1982, the Complainant filed his response to CP&L's "Answer" requesting a public hearing in this matter. The Commission then issued an Order on March 30, 1982, scheduling a hearing for Friday, April 23, 1982, at 9:30 a.m. in Raleigh, North Carolina.

On April 20, 1982, the Public Staff filed a "Notice of Intervention" in this proceeding on behalf of the using and consuming public.

Upon call of the matter for hearing at the appointed time and place, the Complainant was present and assisted in his representation by counsel for the Public Staff. The Respondent was also present and represented by counsel. The Complainant testified in his own behalf. He also offered the testimony of his 13 year old son, Timothy Allen Sealey. The Respondent offered testimony by the following individuals: Ronald G. Brown, Supervisor of Rate Administration for CP&L; Thomas H. Rhodes, Senior Meterman; Lanny Mitchell, Senior Meterman; Ronnie Driver, First Class Serviceman for CP&L; and Graham G. Guy, Senior Meterman.

Based upon a careful consideration of the entire record in this proceeding, including the testimony and exhibits presented at the hearing, the Hearing makes the following

FINDINGS OF FACT

1. CP&L is a "public utility" as defined by G.S. 62-3(23)a.1. and, as such, is subject to the jurisdiction of this Commission.

2. In July 1981, the Complainant received an electric bill from CP&L in the amount of $167.04 for service rendered during the 33 day period of time extending between June 11, 1981, and July 14, 1981. The bill further reflected a kilowatt-hour usage of 3120 for the above-referenced period of time.

3. Upon receipt of the electric bill in question, the Complainant began to contact CP&L about such bill, alleging that it was too high. In support of his allegations, Complainant maintains that he and his family were out of town and, therefore, not at home for approximately one week during the period of time in question and, further, that he and his family had only used their air conditioner very little during such period of time.

4. On July 23, 1982, CP&L sent two of its senior metermen to Complainant's home to test the electric meter located on such premises. The CP&L employees who conducted the meter test in question were Thomas H. Rhodes and Lanny Mitchell. Results of this meter test indicated that Complainant's meter was then operating properly, registering an overall accuracy of 100.5%. Meterman Rhodes removed the register from Complainant's meter to test its gearing ratio. Results of such test indicated the register ratio to have been correct. Complainant's meter was also calibrated by meterman Rhodes in order to ensure that it would then be registering within a certain error range established by CP&L as acceptable for meter performance. As they were replacing the cover on Complainant's meter, CP&L's metermen noticed that such cover had a small hole on the right side of it which appeared to be the result of a BB pellet. The servicemen did not then have a replacement cover with them. Therefore, they left Complainant's premises and subsequently returned after lunch with a replacement cover which was then installed on Complainant's meter. At no time did metermen Rhodes and Mitchell remove the meter in question from Complainant's premises.

5. On August 5, 1981, CP&L serviceman Ronnie Driver was dispatched to install a comparison test meter at Complainant's residence to check the meter in question. Results of this test showed that from August 5, 1981, through August 11, 1981, the meter at Complainant's residence was registering properly.

6. On September 21, 1981, CP&L meterman Graham G. Guy conducted a further test of Complainant's meter, the results of which indicated that the meter in question was then operating in a proper manner.

7. There is no basis in this record upon which to find and conclude that the Complainant's meter malfunctioned in any way during the billing period in question so as to incorrectly register usage of electricity at Complainant's residence which was not actually used.

8. Complainant is liable to pay to CP&L the outstanding portion of the electric bill referred to in finding of fact number 2 above in the amount of $78.42, which amount has not yet been paid by the Complainant pending a ruling on this complaint.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

Pursuant to G. S. 62-75, the burden of proof in this proceeding must be carried by the Complainant. A careful consideration of the entire record in this case and the foregoing FINDINGS OF FACT leads the Hearing Examiner to conclude that the Complainant has failed to carry the requisite burden of proof and that the complaint at issue herein must be denied, primarily for the following reasons:

1. There is no evidence in this case which would support a finding that the Complainant's meter could have malfunctioned in any way during the billing period in question so as to incorrectly register usage of electricity at Complainant's residence which was not actually used. CP&L's witnesses testified that based upon their tests of the meter in question and the results of such tests, the Complainant's meter could not have malfunctioned in a manner so as to mis-register usage, such as by skipping 1000 kilowatt-hours as hypothesized by the Complainant.

2. Results of 3 separate and independent tests of Complainant's meter by CP&L on July 23, 1981, August 5, 1981, and September 21, 1981, respectively, indicated that the Complainant's meter was in fact functioning properly.

3. The billing period in question covers 33 days. Therefore, even if the Complainant and his family were on vacation for approximately one week during such period, the family was actually living in the house for at least 26 days during such billing period. Furthermore, Childress Exhibit No. 1 indicates that for the 32 day billing period ending July 28, 1980, the Complainant used 3050 kilowatt-hours and that for the 29 day billing period ending August 26, 1980, the Complainant used 2750 kilowatt-hours. Thus, Complainant's usage of electricity for the billing period in question would appear to be consistent with comparable 1980 usage periods, even considering his absence from the home while on vacation. Childress Exhibit No. 1 also indicates that Complainant's July 1981 bill was based upon a cooling degree days value of 526, while his July 1980 bill involved a cooling degree days value of only 447, which is a significant difference.

4. The top of Complainant's air conditioning unit is covered with a screen and three rocks to protect it from roosting chickens. During those times that the Complainant actually used his air conditioner between June 11, 1981, and July 14, 1981, on extremely hot days, the unit was operated without removing the above-mentioned screen and rocks. This certainly raises the distinct possibility that Complainant's air conditioning unit may have operated less efficiently and thus may have used more electricity on those occasions when it was used during the billing period in question.

5. There is no convincing evidence in the record that any parts on the Complainant's meter, other than the glass cover, were replaced or changed in any way or that the meter in question was removed from the Complainant's premises by CP&L employees. Both CP&L servicemen Rhodes and Mitchell testified that they did not remove the meter in question from Complainant's premises, since to do so would have been dangerous in that the terminals of the test jack would have been left exposed to 240 volts. The Hearing Examiner theorizes that Complainant's sons must have noticed the replacement glass cover brought back by servicemen Rhodes and Mitchell and thought that it was the meter in question.

Accordingly, for all of the above-stated reasons, the Hearing Examiner concludes that the complaint filed herein on January 26, 1982, by Carroll R. Childress should be denied.

IT IS, THEREFORE, ORDERED as follows:

1. That the complaint filed by Carroll R. Childress against Carolina Power & Light Company on January 26, 1982, be, and the same is hereby, denied.

2. That Complainant shall pay to CP&L the amount of $78.42, which is the amount still in dispute in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of May 1982.

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

DOCKET NO. E-7, SUB 329

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Harold T. Fergus, Complainant	)	RECOMMENDED ORDER
vs.	)	GRANTING COMPLAINT
Duke Power Company, Respondent	)	

HEARD IN: Commission Hearing Room No. 213, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Tuesday, January 19, 1982, at 9:30 a.m.

ELECTRICITY

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Complainant:

Karen E. Long, Staff Attorney, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

For the Respondent:

Shannon D. Freeman, Attorney, and W. Edward Poe, Jr., Assistant General Counsel, Duke Power Company, Post Office Box 33189, Charlotte, North Carolina 28242

BENNINK, HEARING EXAMINER: On October 2, 1981, Harold Thomas Fergus (Complainant) filed a complaint with the North Carolina Utilities Commission against Duke Power Company (Duke, Company, or Respondent). In accordance with Commission Rule R1-9, a copy of the complaint was subsequently served upon Respondent by Order dated October 2, 1981. Respondent filed its Answer on October 23, 1981.

On November 4, 1981, the Commmission issued a Notice to the Complainant of Respondent's Answer. On December 1, 1981, Complainant filed his response to the Answer requesting a public hearing in this matter. The Commission issued an Order on December 22, 1981, scheduling a public hearing for January 19, 1982, at 9:30 a.m. in Raleigh, North Carolina.

On January 18, 1982, the Public Staff filed a Notice of Intervention in this proceeding.

Upon call of the matter for hearing at the appointed time and place, Complainant was present and represented by counsel from the Public Staff. The Respondent was also present and represented by counsel. The Complainant testified in his own behalf. The Respondent offered the testimony of Guy H. Lanning, Manager of Office Administration in Respondent's Winston-Salem District Office; Linda Smith, one of Respondent's Customer Representatives in its Winston-Salem District Office; and Joe Smith, Supervisor of Customer Accounts at Respondent's Winston-Salem office.

Based upon a careful consideration of the complaint, the testimony and exhibits and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Respondent is a public utility as defined by G.S. 62-3(23)(a)(1) and, as such, is subject to the jurisdiction of this Commission.

2. The Complainant has been a customer of Respondent's at 1500 Chesterfield Road, Clemmons, North Carolina, since July 11, 1980, the date when the new house at that address was finished and Complainant moved in.

3. The Complainant, after noticing that the bills for electric service at his address were too low, made repeated attempts from October 31, 1980, through March 1981 to alert Respondent to this problem to no avail. Complainant finally caught Respondent's attention sometime in March or April 1981.

4. The underbilling at issue herein was a result of a mistake on the part of the Respondent.

5. During the entire interval that the undercharge occurred, the Complainant was underbilled by $1,005.08. Complainant was underbilled by $623.78 during the 150 day period covered by Rule R8-44(4)(a). However, with proper credits applied to Complainant's account, the amount in dispute is $401.89.

6. The provisions of Commission Rule R8-44(4)(a) govern this action.

7. Complainant owes no money to Respondent. The amount in dispute cannot be written off as a bad debt expense, but must be deducted from earnings available for shareholders' dividends.

8. Respondent's internal recordkeeping and computerization procedures in its Winston-Salem office need revision to prevent further happenings of this sort in the future.

9. Respondent's Winston-Salem office improperly attempts to force payment of bills in contested cases in a manner not condusive to adequate customer relations.

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

Evidence supporting these findings of fact is found in the files and records of the Commission, the complaint and answer in this record, and in uncontested testimony at the hearing.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 3

Evidence supporting this finding of fact is based on the testimony of Complainant. Complainant testified that he first suspected his subcontractor was paying the power bills. When he discovered this was not the case, he met and asked his meter reader, on October 31, 1980, to check his meter because his bills were too low. The meter reader looked at the meter, checked records from previous readings, and told him there was nothing wrong with the meter.

Respondent contends it has no record of this contact. However, Company witness Joe Smith did state he could not find out who read Complainant's meter in October 1980 and so could not check the veracity of Complainant's statements.

In December 1980, the Complainant, still worried, made a personal visit to Respondent's Winston-Salem office to straighten out his problem. He was given a copy of his rate schedule, but he testified this was not helpful in explaining why his power bills were so low. Respondent contends it has no record of this visit. Again, Respondent witness Joe Smith testified he investigated; however, his testimony indicates his investigation took less

than a day to check with two customer service representatives and "a bunch of men in the marketing department." Mr. Smith also indicated that he took no notes of at least one conversation with Complainant; nor was he sure he kept copies of things he mailed Complainant.

In both January and February 1981 Complainant mailed $100 over the amount of each bill along with a note in January 1981 calling the Company's attention to his problem. A copy of the note was submitted as part of Complainant's Exhibit No. 1. The Company did not respond to the note and merely credited his account with the extra $200. Complainant thought he had written a note on his February 1981 bill stub, but had not kept a copy of the stub and so could not produce it.

The parties are in dispute as to the first time Complainant finally captured Respondent's attention. Respondent contends that it first contacted Complainant in April 1981 after Respondent had mailed in a bill stub marked "Please send new rate schedule. I still believe bill is wrong." (Emphasis added). Complainant asserts the Respondent first contacted him by a telephone call in March 1981.

Company witness Linda Smith testified she contacted Respondent in April 1981 but did not mark the date on her calendar; nor did she take notes of the conversation. Apparently, the only written record of Respondent's investigation of Complainant's problem was made some six (6) months after this initial contact.

From the foregoing evidence, the Hearing Examiner concludes that Complainant made repeaed attempts to alert the Company to his problem without success until sometime in March or April 1981.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Evidence supporting this finding of fact is found in the testimony of Company witness Lanning who testified that the underbilling was the result of a mistake made by Respondent at the time Complainant's account was first set up for the residence at 1500 Chesterfield Road, Clemmons, North Carolina.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Evidence for this finding of fact is found in the testimony and exhibits of Company witness Lanning and the Complainant. There is no question that during the entire interval that the undercharge in question occurred, the Complainant was underbilled by $1,005.08 and further that the Complainant was underbilled by $623.78 during the 150 day period covered by Rule R8-44(4)(a). However, in view of the fact that the Complainant's account should have been credited for amounts which he paid to Duke during the months of January, February, and September 1981 in excess of the amounts which he was originally billed, the maximum amount in dispute in this proceeding is $401.89.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 AND 7

Evidence for these findings of fact is found in the direct testimony and exhibits of Complainant and in cross-examination of Complainant, in the Company's testimony and exhibits, and in the record as a whole.

Both parties agree that the provisions of Commission Rule of Practice and Procedure R8-44(4)(a) govern this proceeding. That rule provides, in pertinent part, as follows:

> "a. If the interval during which a consumer having a demand of less than 50 KW was undercharged can be determined, then the utility may collect the deficient amount incurred during that entire interval up to a maximum priod of 150 days. For a consumer having a demand of 50 KW or greater, the maximum period shall be 12 months." (Emphasis added).

Because Complainant has stipulated his demand is less than 50 KW, the only question is whether the words of the rule are permissive or mandatory. Complainant asserts that the rule is permissive; Respondent contends otherwise.

It has long been established in this State that when a statute employs the word "may," its provisions will be contrued as permissive and not mandatory. Felton v. Felton, 213 N.C. 194, 195 S.E. 533 (1938). There is no reason for this Commission to depart from this rule of construction when dealing with its own regulations.

Nor is any language in the prefacing paragraph to Commission Rule R8-44, which uses the word "shall," controlling. Again it has long been the rule of construction in this jurisdiction that where two provisions exist in a regulation or statute, one of which is special or particular, and one of which is general and would conflict with the particular provision if it stood alone, the special provision controls. State ex rel. Utilities Commission v. Lumbee River Electric Membership Corp., 275 N.C. 250, 166 S.E. 2d 663 (1969), and authority cited therein. Rule R8-44(4)(a) is a special provision whose permissive terms control and override any mandatory terminology generally stated in the opening paragraphs of Rule R8-44. Rule R8-44(4)(a) is clearly permissive, not mandatory.

It, therefore, becomes a matter of Commission discretion whether Complainant should pay all or any portion of the amount Respondent has underbilled him. Under most circumstances where a utility has underbilled a customer for services rendered, the Hearing Examiner would certainly be inclined to find that the customer who received the benefit of the services in question should pay for same in conformity with the provisions of Rule R8-44. However, the circumstances of this particular case clearly call for a different result for the reason that the Complainant herein made diligent and frequent attempts to no avail over a period of many months to alert Respondent to its own mistake. To compel Complainant to pay for the underbilled amounts during the period of time that he so diligently attempted to get the mistake corrected would reward Respondent for its own errors and lack of diligence and would discourage this Complainant and other complainants from correcting Company-made mistakes which result in underbilled power bills. Such a result would be antithetical to sound ratemaking, which should attempt to encourage good business practices and fair rates to both ratepayers and the utility.

Accordingly, the Hearing Examiner concludes Complainant owes no further money to Respondent.

The Hearing Examiner also concludes that it would be improper to permit any amounts in dispute not paid by Complainant to be treated as a bad debt expense by the Company.

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

Evidence for these findings of fact is found in the testimony of Company witnesses Lanning, L. Smith, and J. Smith.

Company witness Lanning testified that the mistake which produced the underbilling on Complainant's account was due to a computer program which automatically generates a multiplier of "1" in an information field when a clerk fails to fill that information field with a number. As the Company does have meters which properly have a multiplier in of "1," as well as meters such as Complainant's which do not, it is impossible to tell whether the "1" which appears as output from the billing program is the result of a proper input into the billing program or whether that "1" is a number generated by the computer program when it encounters an empty information field for the meter multiplier. On cross-examination, witness Lanning testified that while he didn't know how the billing program multiplied, his common sense answer would be that if the program generated an "0" instead of a "1" in the meter multiplier field when it encountered a blank field, the KWH consumed on the bill would appear as zero. Witness Lanning also testified that this would not result in a bill of zero, of course, as the Company's schedules provide for minimum rates.

It is the conclusion of the Hearing Examiner that the billing program's automatic generation of a "1" has produced the error at issue in this proceeding and may be producing errors in other accounts. It is the further conclusion of the Hearing Examiner that the Respondent has shown no cost justification for automatically generating a "1" in the meter multiplier field when that field is blank. Indeed, witness Lanning's cross-examination tends to suggest that another number, a "0," automatically generated could make it readily apparent to the Company that a usage of zero KWH indicates a billing anomaly that needs to be investigated. Accordingly, the Hearing Examiner concludes that the Respondent should check on the feasibility of such a change in its computer programming and report that feasibility to this Commission.

Testimony of witnesses L. Smith and J. Smith further indicates that the Respondent's Winston-Salem office does not appear to keep careful notes of contacts with complaining customers; nor does it contemporaneously document its dealings with complaining customers. Further, there appear to be no records kept of, nor do employees remember, which Company employee read meters in certain areas on certain dates. As Complainant has herein raised the problem of at least five (5) contacts with Respondent which went unnoticed, the Hearing Examiner concludes that Respondent's recordkeeping in its Winston-Salem office could be kept in better order.

Company witness Lanning also testified that it is his policy to mail out disconnect notices for unpaid bills even when those bills are the subject of formal complaint proceedings. He testified that although he knew in his own mind that he would not disconnect the service, he still sent the notice as a way of prodding payment. Such was the procedure followed in this case.

The Hearing Examiner is aware of the recent United States Supreme Court Case of Memphis Light, Gas and Water v. Craft, 436 U.S. 1, 98 S. Ct. 1554, 56 L. Ed. 2030 (1978), which held that certain procedural rights must be afforded utility customers when their service is cut off for nonpayment of bills. The Hearing Examiner is also fully aware that the utility in question in Memphis was not a privately owned, for-profit body such as Respondent, but rather was a municipal utility. However, since this Commission approves Respondent's tariffs and rate schedules, it may be exposed to liability as the State Agency whose action results in some alleged procedural unfairness. Furthermore, the Commission's own rules and regulations provide for the orderly conduct of cut-off procedures which, when followed, are procedurally fair to all parties. The Hearing Examiner concludes that the practice of Respondent's Winston-Salem office in threatening cut-off of service when a customer is in the midst of formally pursuing his remedies under the Commission's regulations amounts to a little more than harassment. This practice could chill complaining customers from pursuing the remedies provided for them and does little to promote good customer relations with Respondent's ratepayers.

IT IS, THEREFORE, ORDERED:

1. That Complainant owes no money to Respondent for service underbilled because of Respondent's mistake.

2. That Respondent shall assign the amount of $401.89 which is still in dispute in this case below the line. Thus, this amount shall not be considered an operating expense to be subsidized by other ratepayers.

3. That Respondent shall investigate the feasibility of changing its computerized billing program or whatever computer program it uses which automatically generates a meter multiplier of "1" when the program encounters a blank space in the meter multiplier information field. The Company shall report back to this Commission within 90 days from the final date of this Order on the results of its study and shall report on the plans it has to prevent the kind of mistake which occurred in this proceeding from happening again.

4. That Respondent shall make every good faith effort to keep adequate contemporaneous records in its Winston-Salem office of customer complaints and shall cease the practice of sending cut-off notices to customers who have already instigated formal complaint procedures before this Commission for contesting amounts Respondent has billed them.

ISSUED BY ORDER OF THE COMMISSION.
This the 15th day of April 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sharon Credle Miller, Deputy Clerk

(SEAL)

ELECTRICITY

DOCKET NO. E-7, SUB 329

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Harold T. Fergus, Complainant	)	FINAL ORDER RULING
v.	)	ON EXCEPTIONS
Duke Power Company, Respondent	)	

BY THE COMMISSION: On April 15, 1982, Robert H. Bennink, Jr., issued in this docket a "Recommended Order Granting Complaint." Both Duke Power Company (Duke), the Respondent and Harold T. Fergus, the Complainant, represented herein by the Public Staff, filed exceptions to the Recommended Order. The Complainant also filed a motion requesting that his Duke Power credit rating be upgraded from a "2" to a "1."

The Commission heard oral argument on these exceptions and the aforesaid motion on June 28, 1982. After considering the exceptions, the motion, and oral arguments of the parties, the Commission concludes that the Examiner's Recommended Order should be affirmed insofar as it orders and decrees that Complainant owes no money to Respondent for service rendered because of Respondent's mistake (Decretal Paragraph No. 1) and insofar as it orders Duke to correct its computer program and "cut-off" practices. (Decretal Paragraph Nos. 3 and 4.) The Order is reversed insofar as it orders Duke to assign the disputed amount below the line.

The Commission is affirming the Examiner's Order because it concludes that under the facts of this case, it would be unfair to penalize the Complainant, Mr. Fergus, who made diligent and frequent attempts to correct Duke's mistake. The Commission believes that through Mr. Fergus' diligence a problem with Duke's computer program has been discovered which is worth more than the $401.89 Duke claims of Mr. Fergus. The Commission further concludes that Mr. Fergus' former credit rating should be restored.

The Commission is, however, satisfied that Duke's billing mistake was made in good faith and that the Company is making every effort to correct the problems in its computer program and billing procedures. For this reason, the Commission concludes that the $401.89 may be assigned "above the line."

IT IS, THEREFORE, ORDERED as follows:

1. That the Recommended Order is affirmed and all exceptions overruled for the reasons stated herein except for Decretal Paragraph No. 2 thereof, which is hereby rescinded.

2. That Mr. Fergus' credit rating with Duke Power Company be restored to a "1."

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sharon Credle Miller, Deputy Clerk

(SEAL)

Commissioner Tate dissents.

DOCKET NO. E-22, SUB 272

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Town of Tarboro, Complainant	) ORDER ON MOTION TO DISMISS AND
v.	) MOTION TO RECONSIDER OR STAY, OR IN
Virginia Electric and Power Company, Respondent	) THE ALTERNATIVE TO MODIFY, ORDER OF NOVEMBER 24, 1982

BY THE COMMISSION: On November 8, 1982, the Town of Tarboro filed a complaint with this Commission seeking injunctive relief against Virginia Electric and Power Company. By Order issued on November 18, 1982, the Complaint was served upon Vepco and the Town of Tarboro's request for a preliminary injunction was scheduled for hearing on November 22, 1982, at 10:30 a.m. before the full Commission. The matter came on for hearing as scheduled. At the hearing Vepco filed with the Commission a Motion to Dismiss seeking to dismiss the action pursuant to Rule 12(b)(1) and 12(b)(6) of the North Carolina Rules of Civil Procedure. The Commission deferred ruling on this motion until a further hearing could be held.

On November 24, 1982, the Commission issued an Order Scheduling Hearing and Granting Preliminary Injunction. This Order scheduled a hearing for December 16, 1982, for the Commission to consider both Vepco's Motion to Dismiss and Trial on the Merits. The Order further provided that "pending hearing and the issuance of a final order in this matter, but no later than March 15, 1983, Vepco is restrained from providing service to Polylok Corporation or its subsidiary, Polylok Finishing Corporation, and from constructing its distribution lines and other plant or doing any other acts or things designed to enable it to serve Polylok Corporation or its subsidiary, Polylok Finishing Corporation."

On November 29, 1982, Vepco filed a motion with the Commission entitled Motion to Reconsider or Stay, or in the Alternative to Modify Order of November 24, 1982. By this motion, Vepco asked the Commission to reconsider the preliminary injunction of November 24, 1982, and to dissolve or stay or modify its terms. On December 1, 1982, the Commission issued an order in which it concluded that the Town of Tarboro should be afforded an opportunity to be heard in response to Vepco's motion for relief from the preliminary injunction and, further, that Vepco's motion to dismiss should be heard in conjunction with the motion to reconsider, stay, or modify the preliminary injunction. The hearing was scheduled for December 6, 1982, for the Commission to consider both the motion to dismiss and the motion to reconsider the preliminary injunction.

On December 3, 1982, petitions to intervene were filed by ElectriCities of North Carolina and Polylok Corporation. A hearing was convened as scheduled on December 6, 1982. The Commission at that time allowed the two petitions to intervene. Oral argument was presented by the parties and the intervenors.

Upon consideration of the matter, the Commission concludes that the two motions considered at the hearing of December 6, 1982, should be decided as follows:

ELECTRICITY

MOTION TO DISMISS

Vepco moved to dismiss the Complaint pursuant to G.S. 1A-1, Rule 12(b)(1) for lack of subject matter jurisdiction. G.S. 62-30 grants to the Utilities Commission "such general power and authority to supervise and control the public utilities of the State as may be necessary to carry out the laws providing for their regulation, and all such other powers and duties as may be necessary or incident to the proper discharge of its duties." Vepco is a public utility of this State. The present action involves a law providing for the regulation of public utilities, specifically the right of Vepco to serve Polylok pursuant to G.S. 62-110.2. We, therefore, conclude that the Commission has jurisdiction over the subject matter of the present complaint and that Vepco's motion to dismiss pursuant to G.S. 1A-1, Rule 12(b)(1) should be denied.

Vepco also moved to dismiss the complaint pursuant to G.S. 1A-1, Rule 12(b)(6) for failure to state a claim upon which relief can be granted. Such a motion should not be allowed unless the complaint is "clearly without any merit; and this want of merit may consist in an absence of law to support a claim of the sort made, or a fact sufficient to make a good claim, or in the disclosure of some fact which will necessarily defeat the claim." Sutton v. Duke, 277 NC 94, 102-03 (1970). By the complaint, the Town of Tarboro seeks to enjoin Vepco from providing electric power service to the premises of Polylok and its subsidiary, which are presently customers of the Town located outside its municipal boundaries. Vepco contends that it has the right to serve these customers pursuant to G.S. 62-110.2(b)(5) and, therefore, that there is a lack of law to support a claim of the sort made. G.S. 62-110.2(b)(5) provides:

> "Any premises initially requiring electric service after April 20, 1965, which are not located wholly within 300 feet of the lines of any electric supplier and are not located partially within 300 feet of the lines of two or more electric suppliers may be served by any electric supplier which the customers chooses, unless such premises are located wholly or partially within an area assigned to an electric supplier pursuant to subsection (c) hereof, and any electric supplier not so chosen by the consumer shall not thereafter furnish service to such premises."

The parties agree that the issue turns upon an interpretation of G.S. 62-110.2(b)(5). The parties agree that the premises involved are not located within an area assigned to an electric supplier and are not located wholly or partially within 300 feet of the lines of any electric supplier, but the parties disagree as to the interpretation and application of the remaining language of the subdivision.

The subdivision deals with "premises initially requiring electric service after April 20, 1965," i.e., new customers coming into existence after that date. The subdivision allows such customers a choice, but it is unclear as to the time at which the choice must be made. We believe that the subdivision should be interpreted as applying to the choice made by the customer when it initially requires electric service.

The subject statute was enacted as a part of Chapter 287 of the Session Laws of 1965. This chapter was enacted to avoid or reduce litigation between

electric suppliers growing out of their competition for territories and to avoid or reduce the uneconomical duplication of transmission and distribution systems that was resulting from that competition. Electric Service v. City of Rocky Mount, 285 NC 135, 141 (1974). Considering the purpose for which the statute was enacted, we conclude that the choice provided by the statute applies to all premises initially requiring electric service after April 20, 1965, at the time that they initially require the service. To interpret the statute otherwise would allow a customer coming into existence after April 20, 1965, to receive electric power service from a municipally and, thereafter, to choose to change over to an electric supplier, thus resulting in the very duplication of transmission and distribution systems that the statute was designed to avoid or reduce. Since the subdivision applies to the choice made at the time the new customer initially requires electric service and since Polylok and its subsidiary did not choose Vepco when they initially required electric service in the early 1970s, Vepco comes within the final provision of the subdivision, which provides that "any electric suppliers not so chosen by the customer shall not thereafter furnish service to such premises."

Vepco relys upon Utilities Commission v. Lumbee River Electric Membership Corporation, 275 NC 250 (1969), in support of its position. That case is not applicable to the present situation since it deals with a dispute between two electric suppliers, not between an electric supplier and a municipality. The Lumbee River case is further distinguishable in that it concerned service to a new customer who had never before received electric service. Thus, it in no way stands for the proposition argued by Vepco. We have found no case directly on point, but we believe that the language of the subdivision, the context in which it was enacted, and the present facts justify the interpretation that we take.

We, therefore, conclude that there is law to support a claim of the sort made by the Town of Tarboro, and that Vepco's motion to dismiss for failure to state a claim should be denied, and the preliminary injunction dissolved.

The Commission further concludes that there may be factual circumstances affecting the rights of the parties and the obligation of the Commission in administering the Act, bearing upon the equities between the parties and other customers in the area, to assist in the statutory construction of the statute involved and to consider the public interest and the public convenience and necessity within the purview of the rule of statutory construction to be governed by the legislative intent of the entire Public Utilities Act, and particularly Chapter 287 of the Session Laws of 1965 in its entirety.

MOTION TO RECONSIDER, STAY, OR MODIFY PRELIMINARY INJUNCTION OF NOVEMBER 24, 1982

In order to justify issuance of a preliminary injunction, the Town of Tarboro must show (1) that there is probable cause to believe that it will ultimately prevail on the merits, and (2) that there is a reasonable apprehension of irreparable loss unless injunctive relief is granted. The burden of proof is upon the Town.

We have just ruled that the Town has stated a claim for relief. In light of this ruling and upon consideration of the facts which are not in dispute (as stated in this Order and in the preliminary injunction of November 24,

1982), we now find and conclude that there is probable cause to believe that the Town will prevail on the merits.

Vepco concedes that the Town may arguably be harmed by commencement of service to Polylok by Vepco. However, it denies that its construction of distribution lines to the vicinity of Polylok (which is also enjoined by our Order of November 24, 1982) will cause any irreparable harm. It asserts that "the construction of the lines will not change . . . the legal position of Tarboro." Vepco asks that the preliminary injunction be modified to allow it to continue its construction activities. We will so modify the injunction.

G.S. 62-110.2(b)(3) and (4) deal with rights arising upon the construction of new electric lines after April 20, 1965. Both subdivisions condition the rights granted therein upon the requirement that the new lines be constructed "to serve customers that the supplier has the right to serve." Thus, Vepco must have the right to serve Polylok and its subsidiary pursuant to G.S. 62-110.2(b)(5) before it will acquire any new rights by virtue of the construction of its lines to the vicinity of Polylok. See Utilities Comm. v. Electric Membership Corp., 275 NC 250, 259 (1969). Upon annexation of the area on which Polylok is located into the Town of Tarboro on June 30, 1983, the provisions of G.S. 62-110.2 will cease to be applicable. See G.S. 62-110.2(e). G.S. 160A-331 et. seq. will take effect. Vepco might attempt to claim rights as a "secondary supplier" as defined in G.S. 160A-331(5) However, no argument or evidence has been presented to show that the construction of electric lines to the vicinity of Polylok will enable Vepco to claim rights as a secondary supplier after annexation. We, therefore, conclude that the Town has failed to carry the burden of showing irreparable harm in the construction of electric lines by Vepco.

Furthermore, in asking this Commission to modify the preliminary injunction already issued, Vepco has taken the position that the construction of its lines to the vicinity of Polylok will not change the legal positions of the parties. We will modify the injunction in reliance upon this statement, and we, therefore, believe that Vepco is esstopped from later changing its mind and claiming new rights contrary to the position it now takes.

The attachment of Vepco facilities to the premises of Polylok or its subsidiary or the furnishing of electric service to Polylok or its subsidiary by Vepco would alter the legal positions of the parties and would result in irreparable harm to the Town. Vepco will continue to be enjoined from such activity.

IT IS, THEREFORE, ORDERED that:

1. Vepco's motion to dismiss filed on November 22, 1982, is denied.

2. The preliminary injunction of November 24, 1982, is modified to provide as follows:

Pending hearing and the issuance of a final order in this matter, but no later than March 15, 1983, Vepco is restrained from providing electric service to Polylok Corporation or its subsidiary, Polylok Finishing Corporation, and

is further restrained from attaching any of its facilities to the premises of Polylok Corporation or its subsidiary, Polylok Finishing Corporation.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of December 1982.

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

Commissioners Hammond and Hipp dissent as to the modification of the preliminary injunction. Commissioner Hammond would not allow any further construction. Commissioner Hipp would allow construction by Vepco to proceed to within 300 feet of Polylok.

Commissioners Tate, Winters, and Campbell dissent as to denial of motion to dismiss for reasons stated in attached dissent.

COMMISSIONERS TATE, WINTERS, AND CAMPBELL, DISSENTING: We respectfully dissent from the majority's ruling as to Vepco's motion to dismiss for failure to state a claim. For the following reasons, we believe that this motion should be allowed at this time.

G.S. 62-110.2(b)(5) gives Polylok and its subsidiary the right to "be served by any electric supplier which the customer chooses." The term "electric supplier" includes any public utility furnishing electric service or any electric membership corporation. The term does not include municipalities. See G.S. 62-110.2(a)(3); Domestic Electric Service v. Rocky Mount, 285 NC 142. Municipalities chose not to be bound by the provisions of G.S. 62-110.2 when it was enacted by the Legislature. Thus, the statute confers no rights upon them and provides no limitations to protect them. The statute gives customers such as Polylok and its subsidiary the choice of service by an electric supplier, and, absent a contractual limitation (of which there is no evidence in this case), they may make this choice even though they are presently being served by Tarboro.

Tarboro argues that the choice of service by an electric supplier which is granted in this subsection only applies to the initial service to the customer. We find nothing in the language of the subsection to warrant such an interpretation. Where the language of a statute is clear and unambigious, we must apply it as written. The term "initially" is used in the subsection to describe the premises which are subject to it. These are premises "initially requiring electric service after April 20, 1965," i.e., new customers who come into existence after the given date. The term "initially" modifies requirement of electric service. It cannot be read to modify choice. Thus, the choice granted by the subsection is not limited to initial service.

Since it is undisputed that Polylok and its subsidiary came into existence and "initially required electric service" in the early 1970s, they are premises subject to this subsection. They chose Tarboro for their electric service in the early 1970s, but Tarboro is not an "electric supplier" as defined in the statute. Polylok and its subsidiary have now chosen Vepco, which is an "electric supplier," and Vepco has the right to serve them. The last language of the subsection ("any electric supplier not so chosen by the customer shall not thereafter furnish service to such premises") can only mean that once a customer has chosen an electric supplier, no other electric

supplier can take that customer away. This does not apply to the present situation. The fact that Polylok previously chose service from a municipality does not alter its right to chose service from an electric supplier.

It is true, as argued by Tarboro, that the present interpretation allows some duplication of service lines in the area of Polylok. However, our desire to avoid duplication of lines does not justify our reading language into the statute that is simply not there. As stated in Utilities Commission v. Lumbee River Electric Membership Corporation, "[E]ven if duplication should exist, it would not deprive the customer of its statutory right to choose its electrical supplier or deprive CP&L of its statutory right to serve." 275 NC 250, 254-55. If the Legislature had intended to control duplication of service lines more closely, it could have done so by including municipalities within the provisions of G.S. 62-110.2. It did not do so, and the present duplication of lines is unavoidable under the language of the statute.

We, therefore, believe that Vepco has the right to serve Polylok and its subsidiary pursuant to G.S. 62-110.2(b)(5) and this Commission "may not, by its rules or order, forbid the exercise of a right expressly conferred by statute." Id. at 257. Thus, we believe that there is clearly an absence of law to support a claim of the sort made by Tarboro, and that Tarboro has failed to state a claim upon which relief can be granted. We vote to allow Vepco's motion to dismiss.

DOCKET NO. E-22, SUB 272

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Town of Tarboro, Complainant	)	
v.	)	ERRATA ORDER
Virginia Electric and Power Company, Respondent	)	

BY THE COMMISSION: It has come to the attention of the Commission that in preparing the Order of December 9, 1982, in this docket, certain language was inadvertently misplaced. The phrase "and the preliminary injunction dissolved" at the end of the fourth paragraph on page 3 of the Order does not reflect the majority ruling on Vepco's motion to dismiss. This language reflects the opinion of the dissenters Tate, Winters, and Campbell; and it should be included in their dissent.

IT IS, THEREFORE, ORDERED that the phrase "and the preliminary injunction dissolved" at the conclusion of the fourth paragraph on page 3 of the Order be stricken, that the phrase "and to dissolve the preliminary injunction" be inserted at the conclusion of the paragraph on page 7 of the Order, and that the punctuation of the two sentences involved be corrected to reflect this change.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of December 1982.

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

ELECTRICITY

DOCKET NO. E-22, SUB 272

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Town of Tarboro, Complainant	)	
v.	)	SUMMARY JUDGMENT
Virginia Electric and Power Company, Respondent	)	

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, December 16, 1982, at 9:30 a.m.

BEFORE: Chairman Robert K. Koger and Commissioners Leigh H. Hammond, Sarah Lindsay Tate, John W. Winters, Edward B. Hipp, A. Hartwell Campbell, and Douglas P. Leary, Presiding

APPEARANCES:

For the Complainant:

Herbert H. Taylor, Jr., and Z. Creighton Brinson of Taylor, Brinson & Marrow, Attorneys at Law, 210 East Saint James Street, Tarboro, North Carolina 27886

For the Respondent:

Edward S. Finley, Jr., and Edgar M. Roach, Jr., of Hunton & Williams, Post Office Box 109, Raleigh, North Carolina 27602

For the Intervenors:

Charles C. Meeker and Nancy H. Hemphill of Sanford, Adams, McCullough & Beard, 414 Fayetteville Street Mall, Raleigh, North Carolina 27602
Appearing for: Polylok Corporation

Dewitt C. McCotter and Ernie K. Murray of Spruill, Lane, McCotter & Jolly, Attorneys at Law, Post Office Drawer 353, Rocky Mount, North Carolina 27801
Appearing for: ElectriCities of North Carolina

BY THE COMMISSION: This matter came on for hearing on December 16, 1982, on motions for summary judgment filed on that date by the Town of Tarboro and Virginia Electric and Power Company (hereinafter Vepco). The two movants and intervenors Polylok Corporation and ElectriCities of North Carolina were present and participating. No party raised any objection as to inadequate advance notice of the hearing.

The four parties filed certain stipulations of fact with the Commission at the hearing. The Town of Tarboro presented an affidavit at the hearing to which objection was raised. Polylok presented certain affidavits and oral testimony at the hearing to which objections were raised. These objections were overruled; however, the Commission now determines that the motions for summary judgment can be determined on the basis of the pleadings, the

affidavits filed prior to the hearing, and the stipulations of fact submitted by the parties.

Among other facts not in dispute, the Commission notes the following facts as significant to its decision:

1. The Town of Tarboro, Edgecombe County, North Carolina, is a municipal corporation created and existing under and by authority of the laws of the State of North Carolina, and its post office address is Post Office Box 220, Tarboro, North Carolina 27886.

2. Virginia Electric and Power Company is a Virginia corporation entitled to conduct business in the State of North Carolina and is a public utility for providing electric power, its registered agent in North Carolina being Randolph McIver, whose address is Vepco Street, Roanoke Rapids, North Carolina 27870.

3. Polylok Corporation is an intervenor in this docket and has post office address at Anaconda Road, Post Office Box 249, Tarboro, North Carolina 27886.

4. ElectriCities of North Carolina is a voluntary, non-profit association having as its members 67 municipalities in the State of North Carolina and Virginia. ElectriCities has a mailing address of Post Office Box 95162, Raleigh, North Carolina 27625 and is an intervenor in this proceeding.

5. Polylok Corporation initially required electric service in 1970, and Polylok Finishing Corporation initially required electric service in 1973. Polylok Corporation and Polylok Finishing Corporation (hereinafter Polylok) have received all of their electric service to date from the Town of Tarboro.

6. The premises of Polylok Corporation are not located wholly or partially within any area assigned to any electric supplier pursuant to G.S. 62-110.2(c).

7. The premises of Polylok Corporation are not located wholly within 300 feet of the lines of any electric supplier and not located partially within 300 feet of the lines of two or more electric suppliers.

8. Polylok Corporation has chosen to receive electric service from Vepco effective January 1, 1983, and has a contract with Vepco so stating. The Town of Tarboro was notified of this choice by letter dated August 12, 1982.

9. The General Assembly has enacted a bill annexing the Polylok Corporation premises as part of the Town of Tarboro effective June 30, 1983.

The Commission takes judicial notice of its own proceedings in Docket No. ES 23, which dealt with the assignment of territory in the area involved. From these proceedings we note the following:

10. Vepco and Edgecombe-Martin County Electric Membership Corporation filed a joint application with the Commission for the assignment of territory in Edgecombe County pursuant to G.S. 62-110.2(c) on July 5, 1968. The applicants asked that certain areas, including the area on which the premises of Polylok Corporation are located, be left unassigned and asserted in their application that "the designation of certain areas as unassigned, as herein requested, is

in accordance with and will serve the public convenience and necessity." On August 16, 1968, the Town of Tarboro addressed a letter to the Commission asserting that its Town Council had considered the joint application and did not wish to intervene or protest the assignment of areas as requested, but noting that "if any area other than that which is being requested to be assigned to the petitioners as shown on the map hereinbefore referred to in the vicinity of Tarboro's electric distribution system is considered for assignment to anyone other than the Town of Tarboro, we request to be notified and given an opportunity to intervene and protest such assignment at that time." The Commission subsequently entered an Order on October 25, 1968, assigning the territory as requested in the joint application.

The Commission also notes the following facts which are established by allegations and admissions in the pleadings:

11. The Town of Tarboro is now a member of North Carolina Eastern Municipal Power Agency and as a member of that agency has contracted to "take or pay" for its proportion of the project power of the Power Agency, which proportion was based upon the load demand of the Tarboro system at that time, which included the load demand for Polylok and its subsidiary.

12. In order for the Power Agency to become the all-requirements supplier of electric power for the municipalities that are members of that agency and located in the Vepco service area, it was necessary to enter into a contract with Vepco to obtain releases from those municipalities' contracts with Vepco and to pay Vepco the sum of approximately $15,000,000 for said releases, which sum has been paid.

Based upon the above and other undisputed facts, the majority of the Commission concludes that the motion for summary judgment by the Town of Tarboro should be allowed. The parties agree that the issue turns upon an interpretation of G.S. 62-110.2(b)(5). The parties agree that the premises involved are not located within an area assigned to an electric supplier and are not located wholly or partially within 300 feet of the lines of any electric supplier, but the parties disagree as to the interpretation and application of the remaining language of the subdivision. The subdivision deals with "premises initially requiring electric service after April 20, 1965," i.e., new customers coming into existence after that date. The subdivision allows such customers a choice, but it is unclear as to the time at which the choice must be made. We believe that the subdivision should be interpreted as applying to the choice made by the customer when it initially requires electric service.

The subject statute was enacted as a part of Chapter 287 of the Session Laws of 1965. This chapter was enacted to avoid or reduce litigation between electric suppliers growing out of their competition for territories and to avoid or reduce the uneconomical duplication of transmission and distribution systems that was resulting from that competition. Electric Service v. City of Rocky Mount, 285 NC 135, 141 (1974). Considering the purpose for which the statute was enacted, we conclude that the choice provided by the statute applies to all premises initially requiring electric service after April 20, 1965, at the time that they initially require the service. To interpret the statute otherwise would allow a customer coming into existence after April 20, 1965, to receive electric power service from a municipality and, thereafter, to choose to change over to an electric supplier, thus resulting

in the very duplication of transmission and distribution systems that the statute was designed to avoid or reduce. Since the subdivision applies to the choice made at the time the new customer initially requires electric service and since Polylok and its subsidiary did not choose Vepco when they initially required electric service in the early 1970s, Vepco comes within the final provision of the subdivision, which provides that "any electric suppliers not so chosen by the customer shall not thereafter furnish service to such premises."

Vepco relies upon Utilities Commission v. Lumbee River Electric Membership Corporation, 275 NC 250 (1969), in support of its position. That case is not applicable to the present situation since it deals with a dispute between two electric suppliers, not between an electric supplier and a municipality. The Lumbee River case is further distinguishable in that it concerned service to a new customer who had never before received electric service. Thus, it in no way stands for the proposition argued by Vepco. We have found no case directly on point, but we believe that the language of the subdivision, the context in which it was enacted, and the present facts justify the interpretation that we take.

Although the municipalities were not defined as electric suppliers under G.S. 62-110.2, they are suppliers of electricity under G.S. 160A-331, et seq.; and, as such, they are given certain rights to their service area by these statutes. To adopt the interpretation proposed by Vepco in this matter would open the door to the present situation arising again and again in the future. There are many unassigned areas around municipalities in our State. These areas often include industrial parks that have many very desirable customers for electric companies. In the present case, the area around Tarboro was purposely left unassigned because the parties considered such a designation to serve the public convenience and necessity. Vepco's position in this case would allow electric suppliers to go into this area and all such areas to look for new customers, even though the customers are now being adequately served by municipalities. Vepco's position would allow the electric suppliers to build distribution lines into these areas to take customers, resulting in unnecessary duplication of service lines. Further, Vepco's position would allow the customers who choose to switch over to an electric supplier to thereafter change and go back to receiving service from the municipalities, thus resulting in chaos in the electric supply systems in these areas. Such an interpretation would not serve the public convenience and necessity.

Furthermore, we cannot take lightly the fact that the Town has contracted to buy certain power from the Power Agency based upon the load demand of Polylok which it had every reason to expect to continue as its customer. The Power Agency would be exposed to substantial risks should Vepco be allowed to prevail in this case.

Based upon the above reasoning, the Commission concludes that there is no genuine issue of material fact, that the motion for summary judgment filed by the Town of Tarboro should be allowed, that the motion for summary judgment filed by Vepco should be denied, and that Vepco should be permanently enjoined from providing electric service to Polylok and its subsidiary.

The area of Polylok will be annexed by the Town of Tarboro effective June 30, 1983. At that time the statute cited will cease to be applicable and

the legal position of the parties will change. It is for this reason that we have expedited hearings in this case with the consent and cooperation of the parties. We believe that the present case involves a major issue of widespread significance, that the issue is ripe for decision in this case, and that the issue should not be decided by the mere passage of time. At one point the Town of Tarboro offered to stipulate that if final determination was in favor of Vepco but did not come until after the effective date of annexation, the Town would voluntarily relinquish to Vepco the right to serve Polylok. We urge the Town to renew this offer. We further urge the appellate courts to which this case may be presented to do all in their power to maintain the status quo or to decide the dispute before the effective date of annexation.

IT IS, THEREFORE, ORDERED:

1. That the motion for summary judgment filed by the Town of Tarboro is allowed.

2. That the motion for summary judgment filed by Vepco is denied.

3. That Vepco is hereby permanently enjoined from providing electric power service to the premises of Polylok and its subsidiary Polylok Finishing Corporation.

ISSUED BY ORDER OF THE COMMISION.
This the 21st day of December 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

COMMISSIONERS TATE, WINTERS, AND CAMPBELL DISSENT

COMMISSIONERS TATE, WINTERS, AND CAMPBELL, DISSENTING: We believe that the sole matter before the Commission in this case is an interpretation of the language of G.S. 62-110.2(b)(5). Equitable considerations, appealing as they may be, simply do not enter into the case as we view it. We now reaffirm our interpretation of the statute and the reasons therefor that we set forth in our dissent to the Commission's Order of December 9, 1982. We will repeat it here.

G.S. 62-110.2(b)(5) gives Polylok and its subsidiary the right to "be served by any electric supplier which the customer chooses." The term "electric supplier" includes any public utility furnishing electric service or any electric membership corporation. The term does not include municipalities. See G.S. 62-110.2(a)(3); Domestic Electric Service v. Rocky Mount, 285 NC 142. Municipalities chose not to be bound by the provisions of G.S. 62-110.2 when it was enacted by the Legislature. Thus, the statute confers no rights upon them and provides no limitations to protect them. The statute gives customers such as Polylok and its subsidiary the choice of service by an electric supplier, and, absent a contractual limitation (of which there is no evidence in this case), they may make this choice even though they are presently being served by Tarboro.

Tarboro argues that the choice of service by an electric supplier which is granted in this subsection only applies to the initial service to the customer. We find nothing in the language of the subsection to warrant such

an interpretation. Where the language of a statute is clear and unambigious, we must apply it as written. The term "initially" is used in the subsection to describe the premises which are subject to it. These are premises "initially requiring electric service after April 20, 1965," i.e., new customers who come into existence after the given date. The term "initially" modifies requirement of electric service. It cannot be read to modify choice. Thus, the choice granted by the subsection is not limited to initial service.

Since it is undisputed that Polylok and its subsidiary came into existence and "initially required electric service" in the early 1970s, they are premises subject to this subsection. They chose Tarboro for their electric service in the early 1970s, but Tarboro is not an "electric supplier" as defined in the statute. Polylok and its subsidiary have now chosen Vepco, which is an "electric supplier," and Vepco has the right to serve them. The last language of the subsection ("any electric supplier not so chosen by the customer shall not thereafter furnish service to such premises") can only mean that once a customer has chosen an electric supplier, no other electric supplier can take that customer away. This does not apply to the present situation. The fact that Polylok previously chose service from a municipality does not alter its right to chose service from an electric supplier.

It is true, as argued by Tarboro, that the present interpretation allows some duplication of service lines in the area of Polylok. However, our desire to avoid duplication of lines does not justify our reading language into the statute that is simply not there. As stated in Utilities Commission v. Lumbee River Electric Membership Corporation, "[E]ven if duplication should exist, it would not deprive the customer of its statutory right to choose its electrical supplier or deprive CP&L of its statutory right to serve." 275 NC 250, 254-55. If the Legislature had intended to control duplication of service lines more closely, it could have done so by including municipalities within the provisions of G.S. 62-110.2. It did not do so, and the present duplication of lines is unavoidable under the language of the statute.

COMMISSIONER WINTERS, DISSENTING: I believe the law is as set forth above and that it is controlling. However, in addition to the views expressed in the preceding dissent, I wish to note the following concerns about the position of the intervenor Polylok. I not only believe that Polylok has a right to choose electric power from Vepco, but I believe that the choice is a quite understandable one under the circumstances. By the Order of December 9, 1982, the majority of the Commission asked the parties to address the equities. I believe that the equities presented weigh heavily in favor of Polylok. Affidavits and testimony were presented at this hearing tending to show that Polylok is located approximately one mile outside the current corporate limits of the Town, that the land in between is agricultural in use and nature, that the area including Polylok was annexed into the Town by legislative decree over Polylok's objection, and that the annexation proceeding was rushed through the General Assembly in a few weeks' time despite Polylok's request that the matter be postponed to the January 1983 session. Furthermore, Polylok believes that it was overcharged for electric service for the period of October 1981 through May 1982, and the Town has refused to refund the alleged overcharges or otherwise satisfy Polylok on this matter. Vepco, on the other hand, is a regulated utility under the jurisdiction of this Commission as to its rates and quality of service. Polylok sees this as a sound business reason for choosing Vepco over the Town, and I firmly believe that it should be allowed that choice.

ELECTRICITY

DOCKET NO. ES-81, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition of Larry C. Eaves, et al., for Reassignment of Electric Service Area in Johnston County	) ORDER DENYING PETITION AND) MOTIONS FOR ASSIGNMENT AND) CONFIRMING PRESENT SERVICE

HEARD IN: Town Hall, Clayton, North Carolina, on July 12, 1979, and The Commission Hearing Room, Dobbs Bulding, 430 North Salisbury Street, Raleigh, North Carolina, on Tuesday, October 14, 1980, and

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, December 7, 1981, and Tuesday, December 8, 1981

BEFORE: Hearing Examiner Wilson B. Partin, Jr., and Commissioner Edward B. Hipp, Presiding, and Chairman Robert K. Koger and Commissioner Hartwell Campbell

APPEARANCES:

For the Respondents:

W. Kenneth Hinton, Daughtry, Hinton, Woodard and Lawrence, P.A., Attorneys at Law, P. O. Box 1960, Smithfield, North Carolina 27577
For: Town of Clayton

Fred D. Poisson, Attorney at Law, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

For the Public Staff:

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

BY THE COMMISSION: On March 22, 1979, a petition was filed with the Commission by Mr. Larry C. Eaves and approximately 90 other persons who are served with electricity by the Town of Clayton ("Town") but who live outside the municipal limits of the Town. The Petitioners alleged that they had been receiving inadequate electric service from the Town and requested that the Commission assign to Carolina Power & Light Company ("CP&L") the area outside of the municipal limits which is presently designated as unassigned.

The Commission issued an Order Setting Hearing and Requiring Public Notice on April 10, 1979, having concluded that a public hearing should be held for the purpose of determining, pursuant to G.S. 62-110.2(c)(2) and Commission Rule R8-32, whether or not public convenience and necessity requires assignment of the above described area to CP&L. CP&L and the Town were made parties in the proceeding.

The Public Staff filed an intervention on behalf of the using and consuming public on June 8, 1979. No other interventions were received by the Commission.

The hearing was held on July 12, 1979, at the time and place specified in the Commission's Order; public notice was published as required. Eleven customers who received electric service from the Town of Clayton testified regarding service problems they had encountered. The Public Staff presented the testimony of Mr. J. Reed Bumgarner, Jr., an engineer with the Electric Division of the Public Staff. Six witnesses testified on behalf of the Town of Clayton.

Based upon the testimony at the July 12, 1979, hearing, the Commission issued an Order on October 24, 1979, finding as facts as follows: (1) Meter tests conducted at various homes served by the Town of Clayton outside the corporate limits indicate voltage levels ranging outside the Commission's tolerance levels; (2) these voltage fluctuations may have caused damage to the Petitioners, including, but not limited to, burned out light bulbs and destroyed appliances and air conditioning compressors; (3) although the Town of Clayton has made some improvements to its electric distribution system, these improvements have not benefitted the customers who reside outside the municipal limits; (4) the Town of Clayton knew that certain of its customers outside the town limits were experiencing voltage fluctuation problems as early as 1973; (5) the Town has retained consulting engineers who indicate that the voltage problems can be corrected within six months by upgrading of feeder lines and the replacement of transformers; and (6) the Town has budgeted funds for the 1979-1980 fiscal year to implement the recommendation of the consulting engineers.

The Commission concluded that the Petitioners had experienced wide fluctuations in voltage which should not be allowed to continue and that the response by the Town of Clayton to the Petitioners' complaints had been less than satisfactory. Nevertheless, the Commission's Order gave the Town of Clayton until April 30, 1980, to upgrade the facilities serving the Petitioners and to file a report on the steps taken.

On March 10, 1980, Booth and Associates, Inc., an engineering consulting firm for the Town, filed a letter describing the current status of the Town's efforts to correct the problems complained of.

On May 9, 1980, the Public Staff filed a Motion requesting that the Petition of Larry Eaves for reassignment be granted immediately, or in the alternative, that the Town of Clayton be required to show cause why they failed to comply with the Commission's Recommended Order of October 24, 1979.

On May 19, 1980, the Commission received a letter from Booth and Associates, engineering consultants for the Town of Clayton, requesting a 30-day extension of time to file its report. The request was granted by Commission Order of May 20, 1980.

On May 30, 1980, Booth and Associates, Inc., submitted on behalf of the Town of Clayton the Final Report of the Town. On June 3, 1980, the Mayor of the Town of Clayton addressed a letter to the Examiner requesting that, upon consideration of the Final Report, this docket be dismissed.

On June 12, 1980, Larry C. Eaves, one of the Petitioners herein, wrote the Commission a letter strongly critical of the report of the Town. Mr. Eaves stated that the Petitioners were still experiencing problems with their electric service.

On June 30, 1980, the Public Staff filed a Motion for Assignment of Service Area, requesting that the Commission assign the Petitioners' electric service area to Carolina Power & Light Company immediately. Attached to the Motion was the Public Staff's response to the Report of the Town of Clayton. The Public Staff was critical of the Report of the Town of Clayton and concluded that service to the Petitioners was still very poor.

Upon consideration of the above described reports, responses, and motions of the Town of Clayton, the Public Staff, and the Petitioners, the Commission set the matter for further hearing before a Panel of the Commission on Tuesday, October 14, 1980.

The hearing was held on October 14, 1980, and seventeen witnesses testified for the petitioners concerning the problems they had experienced with the electrical service provided by the Town of Clayton. Most of the testimony concerned problems with low voltage and damage to electrical appliances. There was some testimony concerning high voltage. There was other testimony from the petitioners that the Town did not adequately provide them with a forum for complaints and that when a complaint was made, the town officials had been rude to them.

The Town offered testimony from its Mayor, Herman E. Jones; Commissioner Charles Stewart; Town Administrator, Bill Brewer; and the Town's electrical engineer, Gregory L. Booth of Booth and Associates, Inc. The Town's testimony showed that the conversion work had been completed on Rural 70 West and that the Town had already contracted for the conversion on Rural 70 East and Highway 42. This work was to be completed within six months. The tests for Rural 70 West showed that the voltage was well within Commission standards. The Town further offered evidence that when the conversion was made on Rural 70 East and Highway 42, the voltage of all the outside lines served by the Town of Clayton would be well within Commission standards.

The Commission, after all the evidence was presented and all the briefs filed, issued an Order on April 1, 1981, deferring its decision to allow completion of the upgrading work. The Commission recognized that a problem existed between the Town of Clayton and its out-of-town residents, but concluded that the Town should be given an opportunity to upgrade its system then under contract. The Commission listed in its Order of April 1, 1981, the following requirements:

(1) That the Town file a further report on or before July 1, 1981, giving an updated account of all improvements which the Town had made to the electrical service being provided to the Petitioners in this docket. The Town was also to provide the Commission with adequate testing information and the position of the Town on the creation of an electric utility grievance board which would include out-of-town electric customers as members.

(2) That the Petitioners and Public Staff shall have thirty days after the filing of the Town's report to file their responses and comments to the Report of the Town.

(3) That on or before April 20, 1981, the parties were to submit to the Commission a description of the tests which they deemed adequate for determining if the electrical service being provided to the Petitioners by the Town was within Commission standards.

(4) That a further hearing to consider the further report of the Town and responses of the Petitioners was scheduled for September 15, 1981.

The Town of Clayton filed its Statement of Proposed Testing Methods and Procedures on April 17, 1981. The Public Staff informed the Commission of its agreement to the proposed test by letter to the Commission dated April 21, 1981.

The Town of Clayton filed its Further Report with the Commission on June 30, 1981, indicating in its report what improvement had been made to its electrical system and also outlining the electric utility grievance board that had been established by the Town.

The Public Staff filed a motion with the Commission requesting that Carolina Power & Light Company be required to respond to the Further Report of the Town and to estimate the cost it would incur by serving the Petitioners. The Commission entered an Order on July 28, 1981, granting the motion.

The Public Staff filed its report and response to the Town's Further Report on July 30, 1981.

Carolina Power & Light Company filed its report and response to the Town's Further Report and its estimated cost of providing electricity to the Petitioners on August 28, 1981.

The Commission, by Order dated September 4, 1981, rescheduled the September 15, 1981, hearing until November 5 and 6, 1981. The Town filed a Motion on September 10, 1981, asking that the hearing be rescheduled to December.

The matter came on for hearing on December 7 and 8, 1981. The following witnesses testified for the Town of Clayton: Ralph Clark, Town Manager; Charles Stewart, Mayor of the Town; Edward Park, Electrical Superintendent of the Town; and Gregory L. Booth, Executive Vice President, Booth and Associates.

The Public Staff presented the testimony of Thomas S. Lam, Utilities Engineer with the Public Staff. The Public Staff also presented the testimony of the following public witnesses, who are customers of the Town: Edith Parrish, Kenneth Weaver, and Larry Eaves.

Upon consideration of the testimony and exhibits presented at the hearing, the reports, motions and affidavits of the parties, the briefs and proposed orders of counsel, the previous Orders in this docket, the Order of June 23, 1970, in Docket No. ES-81 (of which the Commission takes judicial notice), and the entire record as a whole, the Commission makes the following

ELECTRICITY

FINDINGS OF FACT

1. The Town of Clayton is a duly constituted municipal corporation of the State of North Carolina. The Town of Clayton owns and operates an electrical distribution system and sells electricity to approximately 2,000 in-town customers and 255 out-of-town customers, including the Petitioners. The system being operated by the Town was in existence prior to April 20, 1965, and the construction of the lines outside the corporate limits was completed at least several years prior to April 20, 1965, and in some instances forty years earlier. The Town of Clayton is not a public utility as defined by G.S. 62-3 and is not an electric supplier as defined by G.S. 62-110.2.

2. Carolina Power & Light Company is engaged in the generation, transmission, and distribution of electric power to the general public for compensation in North Carolina. It is a public utility as defined by G.S. 62-3 and is an electric supplier as defined by G.S. 62-110.2.

3. The Town of Clayton is a wholesale customer of Carolina Power & Light Company.

4. This proceeding is before the Commission on petition of certain out-of-town customers of the Town for assignment of the area in which they live to CP&L for electric service, pursuant to G.S. 62-110.2. This area includes Rural 70 West, Rural 70 East, and Highway 42.

5. In Docket No. ES-81 the Commission, by Order issued June 23, 1970, approved the application of Carolina Power & Light Company and three electric membership corporations for assignment of electric service areas in Johnston County pursuant to G. S. 62-110.2(c). The area served by the Town of Clayton outside the Town, which is the subject of this proceeding, was sought to be designated as an unassigned area by the Applicants, and the Commission's Order designated this area as unassigned.

6. The Order of April 1, 1981, deferring decision to allow the Town to complete upgrading work found that the Town had completely converted the distribution line along Rural 70 West to 22.9/13.2 KV and that the voltage as tested on this line was within Commission standards. The Order further found, however, that the Petitioners were still experiencing fluctuations in voltage that ranged outside the Commission standards. The Order required the Town of Clayton to file a report by July 1, 1981, to show what improvements had been made and set a further hearing for September 15, 1981 (later scheduled to December 7, 1981).

7. Pursuant to Orders in this proceeding the Town has now completely converted the 4.16/2.4 KV distribution lines on Rural 70 West, Rural 70 East, and Highway 42 to 22.9/13.2 KV. This distribution line serves the out-of-town customers, including the Petitioners. The completion of this project has resulted in a major loop around the Town of a 23 KV distribution system that provides adequate service to the Town's out-of-town customers. This improved distribution system is designed to eliminate the problem of low voltage. The Town has spent in excess of $200,000 on the conversion. The Town has also purchased a new multi-circuit switching structure together with three additional regulators; the cost of this project was in excess of $60,000.

8. Testing conducted by the Town shows that the voltage on all of the Town's lines are now within Commission standards. [These standards are that voltage fluctuations should not be beyond the tolerance of plus or minus five percent (5%) or from 114 to 126 volts on a nominal 120 volt service. Commission Rule R8-17.]

9. Only three customers testified on behalf of the Petitioners at the December 1981 hearing. One witness, Mrs. Edith Parrish, is not presently dissatisfied with her service, but she would like a utility pole moved from its present location. The other two witnesses still complained of poor service, but they would like to be reassigned to Carolina Power & Light Company regardless of the quality of service they receive from the Town of Clayton.

10. The Town has set up an electric utility review board to handle customer complaints about service and billing problems with the Town's electrical system. The membership of this board consists of five members, three of whom are residents of the Town and two of whom are non-residents. The board can adjust any incorrect charges and can recommend that the Town correct service complaints.

11. The Town has employed a qualified superintendent of the electrical system and a qualified staff. They attend educational courses to remain up-to-date on the operations of an electrical system.

12. The Town has expended large sums of money in the last two years to upgrade its electrical system and has made efforts to maintain a better relationship with its out-of-town customers.

13. The first hearing in this proceeding was held on July 12, 1979, before a Hearing Examiner of the Commission. In its Proposed Order submitted to the Examiner on August 29, 1979, the Public Staff recommended to the Examiner that a "reassignment of the subject territory should be undertaken only as a last resort." The proposed order further recommended that the Town of Clayton be allowed six months to bring its service to the out-of-town customers within the standards of the Commission. A subsequent Order of the Commission, issued April 1, 1981, gave the Town additional time to complete its upgrading work.

14. Carolina Power & Light Company does not have facilities to serve the out-of-town customers of the Town of Clayton and would have to spend considerable sums of money to serve the out-of-town customers of the Town of Clayton. The cost would be substantially in excess of the $60,000 estimated by CP&L. The Town has spent in excess of $250,000 pursuant to Orders in this proceeding to upgrade the facilities located outside the city limits. There would be a duplication of electric line facilities if Carolina Power & Light Company provided service to the out-of-town customers of the Town of Clayton.

CONCLUSIONS

1. The Commission concludes that the service now provided by the Town of Clayton to its out-of-town customers is within Commission standards and is, therefore, adequate.

Commission Rule R8-17 provides that voltage fluctuations should not be beyond the tolerance of plus or minus five percent (5%) or from 114 to 126 volts on a nominal 120 volt service. In the Recommended Order of October 24, 1979, the Examiner found that various homes served by the Town outside its corporate limits were experiencing voltage levels ranging outside the Commission's tolerance levels established in Rule R8-17. The Order further found that these voltage fluctuations may have caused damage to the Petitioners, including, but not limited to, burned out light bulbs and destroyed appliances and air conditioning compressors.

In the Order of April 1, 1981, the Commission found that the Town had completely converted the 4.16/2.4 KV distribution line along Rural 70 West to 22.9/13.2 KV and that the voltage on this line was within Commission standards. With respect to the uncompleted conversion of the 4.16 KV line along Highway 42 and Rural 70 West, tests of the voltage fluctuations conducted by the Town and the Public Staff were inconclusive. The Order noted, however, that customers who appeared at the October 14, 1980, hearing testified that they were still receiving improper voltage from the Town's electric service. The Commission deferred a decision following the October 14, 1980, hearing until the Town could complete all of the upgrading work contracted by it.

At the December 7 and 8, 1981, hearings, the Town testified that the upgrading work on its system had been completed, which included the substantial improvements to the distribution lines outside the Town serving the Petitioners. The improvements also included the purchase of a new multi-circuit switching structure and three additional regulators.

The Town and the Public Staff presented evidence of tests conducted by them during the summer at the residences of some out-of-town customers. Only the residences of three customers were not within the tolerance of the Commission standards. Two of the customers experienced high voltage problems. The Town, through its engineer, Mr. Booth, explained that two regulators were malfunctioning at the time the testing was done. This caused a 'spike' in the unregulated electricity at the delivery point. The Town has purchased a new multi-circuit switching structure with three additional regulators. This structure relieved the problems of high voltage shown on the testing of the two customers. The Town is also working with Carolina Power & Light Company to eliminate the 'spikes' at the delivery point and this should be completed within the next six months.

Only one customer, Mr. Sheares, was experiencing a low voltage problem. When the Town learned of this problem, it immediately corrected it. The low voltage problem was not in the system, but was an isolated case regarding a transformer at the customer's residence. The problem has been corrected, and after retesting the Town has concluded that this residence is well within the tolerance of the Commission standards.

The Report of the Public Staff filed July 30, 1981, stated, as a result of Staff testing and evaluation, that "poor service is still a way of life and low-voltage problems still remain . ." At the December 1981 hearing the following exchange took place between counsel for the Town and Public Staff Engineer Lam:

"Q. Mr Lam, when you were saying that it is a way of life for the Town of Clayton to still have low voltage on its system, you are merely referring to Mr. Sheares; aren't you?

"A. Yes, that's what we had found at that one residence. That was in reference to the Town's reports that there was no low voltage at all on the system."

Only three petitioners testified at the December 7, 1981, hearing. One of the Petitioners, Mrs. Edith Parrish, testified that she has no complaints about service after the conversion had been made, but she would like a utility pole moved to a different location. The other two Petitioners testified that they were receiving inadequate service, although the testing done by the Town and the Public Staff showed the voltage to be well within the Commission standards. The other Petitioners were notified about the hearing through direct mailing by the Town of Clayton. The Town, through its officials and staff, has contacted several Petitioners to determine if they are in fact getting adequate service after the completion of the upgrading and it plans to contact all of the Petitioners to discuss the service they are now receiving.

Mr. Booth, the engineer for the Town, testified as follows:

"It is my opinion that the Town of Clayton for the customers both inside and outside the city limits is providing service and voltage well within the standards of this Commission at a satisfactory level to those customers and have installed plant and facilities capable of sustaining service to additional customers, most particularly outside the city limits, the subject of discussion in this hearing, for increased load within the standards of this Commission.

The Commission concludes that the Town is presently supplying electricity to all of its out-of-town customers with a voltage that is well within the Commission standards and that the Town has the capabilities to provide, now and in the future, adequate service to its existing and prospective customers.

2. The Commission concludes that the petition and motions of the Petitioners and the Public Staff to assign the electric service area in which the Petitioners live to Carolina Power & Light Company should be denied.

In so deciding the Commission notes the following: This proceeding was instituted on March 22, 1979, when the Petitioners filed a petition requesting that the area in which they live, which is outside the municipal limits of the Town of Clayton, be assigned for purposes of electric service to Carolina Power & Light Company. A hearing was subsequently held on the petition in the Town of Clayton before an Examiner of the Commission. The Petitioners, the Public Staff, and the Town were present and offered testimony and exhibits in support of their respective positions. At the conclusion of this hearing, the Public Staff and the Town submitted Proposed Orders and Briefs for consideration by the Examiner in reaching his decision. The Orders proposed by the Town of Clayton recommended that the petition for reassignment be denied and that the Town retain the lines now servicing the Petitioners in order that the plans of the Town for upgrading its service can be completed. The Proposed Order submitted by the Public Staff proposed the following language for the Examiner's consideration:

> "The Hearing Examiner believes that a reassignment of the subject territory should be undertaken only as a last resort. Accordingly, the Hearing Examiner concludes that the Town of Clayton should be given six months from the date of this Order to upgrade the lines and replace the transformers necessary to bring the quality of service being received by the Petitioners up to an acceptable level, including voltage fluctuations that are within the Commission tolerances of plus or minus 5 percent of 114 to 126 volts on a nominal 120 volt service."

On October 24, 1979, the Hearing Examiner issued his Recommended Order. This Order recognized that the Petitioners had experienced wide fluctuations in voltage in the electric service they were receiving from the Town and that the response of the Town to the Petitioners' complaints had been less than satisfactory. The Examiner concluded that reassignment of the subject territory should be undertaken only as a last resort and that the Town should be given at least six months to bring its service up to an acceptable level.

A subsequent Order of this Panel, issued April 1, 1981, gave the Town additional time to complete its upgrading work. This Order found that the Town had completely converted the distribution line along Rural 70 West to 22.9/13.2 KV and that tests conducted on this reconverted line showed that the voltage was within Commission standards. The Order further found that the Town had awarded contracts to upgrade the lines along Rural 70 East and Highway 42 at an approximate cost of $100,000, but that the upgrading had not been completed.

The evidence presented at the December 7 and 8, 1981, hearings shows that the Town has made major strides in the improvement of its electrical system serving the out-of-town customers, including the Petitioners. The distribution lines serving these customers have been converted to the higher 22.9/13.2 KV distribution voltage. This conversion, together with the associated maintenance performed during this conversion, has eliminated the low-voltage problems complained of by the Petitioners. The service has also been improved by the construction of the new regulator switching stations. The testimony is clear that the Town has spent in excess of $250,000 to upgrade its out-of-town electric facilities in order to provide improved service to the Petitioners. Only a small amount of this money benefitted those customers living within the town limits.

The Commission has found in this Order that the electric service provided to the Petitioners is now within the standards of Commission Rule R8-17. The Petitioners have greatly benefitted from the substantial and costly improvements made by the Town to the distribution facilities serving them. They will continue to receive benefits in the form of adequate and reliable electric service. Fairness demands that, in the absence of some compelling reason, the Town should not be deprived of those customers for whose benefit it has undertaken improvements at great cost.

The Commission is not faced in this proceeding with the demands of new customers for electrical service. Nor is the Commission faced with the active claims of competing electric suppliers for the opportunity to serve new customers.* The electrical system being operated by the Town has been in existence for many years; the construction of the lines outside the corporate limits was completed at least several years prior to April 20, 1965, and in

some instances forty years earlier. [See G.S. 62-110.2(b)]. The Petitioners have chosen the Town to provide them with electric service, either as original customers or as subscribers to an already existing system. An examination of the history surrounding the construction of the out-of-town lines discloses that the Town of Clayton was the only source of electricity for people living in the rural areas adjacent to the Town. William L. Brewer, the former administrator of the Town, testified at the October 14, 1980, hearing as follows:

> ". . . the Town of Clayton undertook the electrical distribution to the citizens at the time when private utilities would not or could not expand to sparsely populated areas. The electrical system of Clayton was expanded in the 1920s to the area commonly referred to as rural west. This extention (sic) was prompted by a request from Mr. Charles Ellis, a large cotton farmer in the process of living about two miles from the corporate limits. This service had been requested from Carolina Power & Light prior to the utility in Clayton, however, they had declined service due to a lack of demand. In the early 1930s the Civilian Conservation Corp. now part of the Forestry Service after also being declined service from CP&L requested that the Town of Clayton extend lines to now what is known as Clemmons State Forest and the State Forestry Warehouse. This work was performed by the town crews headed by Mr. Eugene Cannon. The State of North Carolina reimbursed the town for materials only. The town absorbed the cost of all labor. The rural east line was built in 1960s at the request of Mr. Guy White who was at that time developing the W. R. Peele Subdivision. He, too, had requested service from CP&L and they did not have a line in the area and declined service."

Carolina Power & Light Company today does not have the facilities in place to serve the out-of-town customers of the Town and would have to spend considerable sums of money to serve them. The Commission is of the opinion that, for the reasons set forth in this Order, the area under consideration in this proceeding should not be assigned to Carolina Power & Light Company.

Nor is this case similar to the National Spinning case cited by the Petitioners. In that case the municipality in question, the City of Washington, voluntarily relinquished the right to serve its out-of-town customer and consented that the customer could be served by CP&L. (Docket No. E-2, Sub 388, In the Matter of National Spinning Company, Inc., for Electric Power Service from Carolina Power & Light Company, Order of September 29, 1980.)

The Commission also notes with approval the other improvements undertaken by the Town in this proceeding. Particular attention is called to the creation of the Utilities Review Board, to be composed of resident and nonresident members. The board will have the authority to adjust incorrect billings for electric service and to recommend service improvements to the City Council. Out-of-town customers will thus have a voice with respect to billing and service problems. The Town has also improved the quality of the personnel operating the electrical system. The Electrical Superintendent for the Town has had many years of experience in electrical utility work. He and his staff of four employees attend training courses to remain up-to-date in the operations of an electrical system. The Town has also improved its billing operations.

The Order of October 24, 1979, in this docket adopted the recommendation of the Town and the Public Staff that the Town be given the opportunity to improve the electrical service to its out-of-town customers, which included the Petitioners. The Town, acting in good faith and in reliance upon this Order, embarked upon a costly and substantial program to upgrade the distribution facilities serving the out-of-town customers, including the Petitioners. The distribution lines serving these customers have been upgraded to 22.9/13.2 KV voltage. Testing results show that these improvements have been successful. Consequently, the Commission concludes that the petition and motions for assignment of territory to CP&L should be denied.

IT IS, THEREFORE, ORDERED that the petition and the motions for assignment of territory to Carolina Power & Light Company be, and the same are hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of February 1982.

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

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* CP&L has characterized its position in this proceeding "as a nominal party" which is willing to "have the Town and the Petitioners settle their dispute between themselves." CP&L has further stated that it " . . . does not have actual knowledge of the Town of Clayton's electrical system sufficient to offer any statement concerning the adequacy of the electric service, the alleged problems suffered by its customers or possible solutions to these problems." CP&L would serve the Petitioners if ordered to do so by the Commission. (Report and Response of CP&L, filed August 28, 1981.)

ELECTRICITY

DOCKET NO. E-2, SUB 416

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

HEARD IN: The Commissioner's Board Room, Room 204, Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on October 12, 1981

The Assembly Room, County Administration Building, 320 Chestnut Street, Wilmington, North Carolina, on October 19, 1981

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on October 14-16, October 20-23, October 27-30, and November 3-5, 1981

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Leigh H. Hammond and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

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For the Intervenors:

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For: The North Carolina Textile Manufacturers Association, Inc.

Daniel V. Besse, Attorney at Law, 401-C Holt Avenue, Greensboro, North Carolina 27405
For: The Conservation Council of North Carolina

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. ,ox 2246, Raleigh, North Carolina 27602
For: Union Carbide Corporation, Federal Paper Board Company, Ideal Basic Industries, Monsanto of North Carolina, Inc., and Weyerhaeuser Company

David A. McCormick, Attorney, Regulatory Law Office, U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, Virginia 22041
For: Consumer Interest of U.S. Department of Defense

For the Public Staff:

Theodore C. Brown, Jr., Thomas K. Austin, and Karen E. Long, 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 May 15, 1981, Carolina Power & Light Company (Applicant, the Company, or CP&L) filed an Application with the Commission seeking to adjust and increase electric rates and charges for its retail customers in North Carolina. The requested increase in retail rates and charges was designed to produce approximately $151,432,000 of additional annual revenues from the Company's North Carolina retail operations when applied to a test period consisting of the 12 months ended December 31, 1980, or approximately a 16.37% increase in total North Carolina rates and charges. The Company requested that such increased rates be allowed to take effect for service rendered on and after June 14, 1981. The Company's Application alleged that the $151,432,000 of additional annual revenues was necessary because present rates would be insufficient to produce either an overall rate of return or a rate of return on common equity which would be just and reasonable so as to enable the Company to continue to attract capital on reasonable terms and to finance its operations and construction programs. Included among the reasons set forth in the Application as necessitating the rate relief requested were: the effects of inflation, the addition of new plant and equipment, and demand for a higher return by the investment community attributable to the impact of inflation.

The Commission, being of the opinion that the increase in rates and charges proposed by CP&L were matters affecting the public interest, by Order issued on June 12, 1981, declared the Application to be a general rate case pursuant to G.S. 62-137, suspended the proposed rate increase for a period of up to 270 days pursuant to G.S. 62-134, set the matter for hearing before the Commission beginning on October 12, 1981, required CP&L to give notice of such hearing by newspaper publication and by appropriate bill inserts, established the test period to be used by all parties in the proceeding, and required protests or interventions to be filed in accordance with Rules R1-6, R1-17, and R1-19 of the Commission Rules and Regulations.

Notice of Intervention in this docket was given by the Public Staff on behalf of the Using and Consuming Public on May 18, 1981. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

On May 13, 1981, the Kudzu Alliance filed a Petition to Intervene and on June 4, 1981, the Commission issued an Order allowing the intervention.

By petition filed on July 8, 1981, the United States of America, the Department of Defense, petitioned to intervene and on July 10, 1981, the Commission allowed the intervention.

The North Carolina Textile Manufacturers Association, Inc. (NCTMA), filed a Petition to Intervene on July 23, 1981, and on July 27, 1981, the Commission allowed the intervention.

On September 17, 1981, the Conservation Council of North Carolina, Inc. (CCNC), petitioned to intervene, and on September 23, 1981, the Commission allowed the intervention.

On August 21, 1981, CP&L filed supplemental or updating testimony to reflect known changes in the Company's operations through the period ended May 31, 1981. On August 31, 1981, the Public Staff filed a motion moving that data which CP&L filed on August 21, 1981, be dismissed and stricken from the Record or in the subordinate alternative that the hearing be deferred. On September 4, 1981, CP&L filed its Reply and the matter was heard on Oral Argument on September 8, 1981. An Order was issued by the Commission on September 10, 1981, denying the motion of the Public Staff. In the Order, the Commission stated that the test period consisting of the 12 months ended December 31, 1980, which was originally stated in the June 12, 1981, Order of the Commission setting the matter for hearing as a general rate case, remained in full force and effect.

NCTMA filed a motion on September 29, 1981, moving that the Commission consolidate CP&L's fuel clause (Docket No. E-2, Sub 434) with this docket. On October 1, 1981, CP&L filed its Reply to the motion and on October 2, 1981, the Public Staff filed a motion joining with NCTMA in its Motion for Consolidation. In a ruling from the bench after oral argument on October 9 and in a written Order issued on October 13, 1981, the Commission directed that the record in Docket No. E-2, Sub 434, be incorporated into the record in this proceeding, without prejudice to the right of any party not a party in Docket No. E-2, Sub 434, to be heard on the record and to cross-examine any witness in that docket. In all other respects the motions of NCTMA and the Public Staff were denied.

Federal Paper Board Company, Inc., Ideal Basic Industries, Monsanto of North Carolina, Inc., Union Carbide Corporation, and Weyerhaeuser Company filed petition to intervene on October 2, 1981, and, by Order of October 8, 1981, the Commission allowed the Petition.

On October 12, 1981, NCTMA filed "Motion for Request for Expedited Ruling on Panel's Denial to Consolidate Dockets," and on October 16, 1981, the Public Staff and the Conservation Council filed a motion to "Reconsider or in the Alternative to Require Applicant to Produce Direct Testimony in Docket No. E-2, Sub 416." Both motions were denied by the Commission on October 20, 1981.

The proceeding came on for public hearings in the territory served by CP&L as noted herewith. Public night hearings were scheduled and held by the Commission for the specific purpose of receiving testimony from public witnesses in Asheville, on Monday, October 12, 1981; in Raleigh, on Wednesday, October 14, 1981; and in Wilmington, on Monday, October 19, 1981. The following persons appeared and testified at these hearings:

Asheville - Fred Sealey, Helen T. Reed, Charles Brookshire, Reginald Teague, Bruce Taggart, Bob Warren, Robert Hanafin, Keith Thompson, and Bruce Hart.

Wilmington - Jesse L. Batson, Coley Goodwin, L.H. Waters, George E. Hughes, Sr., Lilly English, Dale Harmon, Issac B. Lang, W.B. Brown, Niel Bender, Linda Bedo, Rick Shiver, Ed Pickett, W.W. Ward, Ronald Shachelford,

Robert Hendrick, W.N. Jordan, Len Anderson, Alma Peterson, Anne Branch, Harold Eugene Thompson, Tom Haughton, Bill Haughton, Mary Lee Lock, Marvin Congleton, and Jane Warren.

Raleigh - Robert Eidus, Mary Odom, Charles Green, James Garrett, Daisy Brown, Marceline Hinton, Augustus S. Anderson, Jr., Slater E. Newman, Diana Koenning, John Fitts, W.B. Lewis, Stuart Hutchson, F.K. Yarborough, Lizzie Strickland, Betsy Pace, Stephen M. Buffkin, Lavon Page, and Joe Whitfield.

The case in chief came on for hearing as ordered on October 14, 1981, at 2:00 p.m., for the purpose of presenting the Applicant's evidence. The Applicant presented the testimony and exhibits of the following witnesses :

1. Sherwood H. Smith, Jr., President and Chief Executive Officer of CP&L (direct and supplemental testimony);

2. Dr. Willard T. Carleton, Professor School of Business Administration, UNC, Chapel Hill, North Carolina (direct and supplemental testimony);

3. Thomas S. Laguardia, Engineer, General Manager of Waste Management Services of Nuclear Energy Services, Inc., Shelter Rock Road, Danbury, Connecticut;

4. John S. Ferguson, Manager, Deloitte, Haskins & Sells, Dallas, Texas;

5. Edward G. Lilly, Jr., Senior Vice President and Chief Financial Officer of CP&L (direct and supplemental testimony);

6. Paul S. Bradshaw, Vice President and Controller of CP&L (direct, supplemental, and rebuttal testimony);

7. David R. Nevil, Manager-Rate Development and Administration in the Rates and Service Practices Department of CP&L (direct and supplemental testimony);

8. Joe A. Chapman, Supervisor of Rate Support, CP&L;

9. Norris L. Edge, Vice President - Rates and Service Practices, CP&L;

10. Archie W. Futrell, Jr., Director of Energy & Economic Forecasting and Special Studies for CP&L (direct and rebuttal testimony);

11. R.A. Watson, Vice President of Fuel in the Fuel and Material Management Group of CP&L;

12. Lynn W. Eury, Senior Vice President of Power Supply for CP&L; and

13. Benny J. Furr, Vice President of Nuclear Operations, CP&L.

The Public Staff offered the testimony and exhibits of the following witnesses:

1. Thomas S. Lam, Utilities Engineer with the Electric Division of the Public Staff;

2. Timothy Carrere, Utilities Engineer with the Electric Division of the Public Staff;

3. David F. Creasy, Utilities Engineer with the Electric Division of the Public Staff;

4. George E. Dennis, Staff Accountant with the Accounting Division of the Public Staff;

5. William E. Carter, Jr., Assistant Director of Accounting of the Public Staff (direct and supplemental testimony);

6. Dr. Richard G. Stevie, Economist with the Economic Research Division of the Public Staff (direct and supplemental testimony);

7. William W. Winters, Supervisor of the Electric Section of the Public Staff Accounting Division (direct and supplemental testimony); and

8. James G. Hoard, Jr., Staff Accountant with the Public Staff Accounting Division (direct and supplemental testimony).

The Intervenor Kudzu Alliance offered the testimony and exhibits of Wells Eddleman. The Intervenor United States of America, Department of Defense, offered the testimony and exhibits of John William McCabe, III, of the consulting firm McCabe Stevens, Reston, Virginia.

The Intervenor NCTMA offered the testimony and exhibits of H. Randolph Currin, President of Currin and Associates, Inc., a group of utility economic, financial, and rate service consultants. Also, NCTMA offered the testimony and exhibits of John A. Floyd, II, Harriet and Henderson Yarns, Incorporated; Robert A. Harden, Jr., Fieldcrest Mills, Inc.; James M. Middleton, Jr., Allied Corporation; and John A. Hoyle, Burlington Industries.

On April 3, 1981, Theodore T. Prichard, President, Bladen Farmers Exchange, Inc., filed a complaint against CP&L, alleging generally that CP&L's Small General Service Schedule SGS-25B was unconstitutional, arbitrary, and unjust and unreasonable. On April 24, 1981, CP&L filed its Answer to the complaint. In its Answer the Company alleged that it had properly applied the provisions of the rate schedule as approved by the Commission. The complaint proceeding was designated as Docket No. E-2, Sub 417. After a hearing on the complaint, the Commission issued an Order on May 29, 1981, directing that the complaint be heard and considered in this rate proceeding. Mr. Prichard appeared as a witness and offered testimony in this proceeding, and the Public Staff offered the testimony of David F. Creasy concerning Mr. Prichard's complaint.

On December 15, 1981, the Commission issued a Notice of Decision and Order in this docket which stated that CP&L should be allowed an opportunity to earn a rate of return of 12.15% on its investment used and useful in providing electric utility service in North Carolina. In order to have an opportunity to earn a fair rate of return, CP&L was authorized to adjust its electric rates and charges to produce an increase in gross revenues of $119,197,000 on an annual basis. CP&L was also required to file proposed rates and charges necessary to implement the allowed rate increase in accordance with rate design guidelines established by the Commission.

On December 18, 1981, CP&L filed its proposed rates and charges as required by the Commission. On December 21, 1981, the Commission issued an Order Approving Rates and Charges.

Based upon the verified Application, the testimony and exhibits received into evidence at the hearings, and the record as a whole of these proceedings, the Commission, having duly reviewed such briefs and proposed orders as were filed by the parties to these proceedings, now makes the following

FINDINGS OF FACT

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

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

3. The overall quality of electric service provided by CP&L to its North Carolina retail customers is satisfactory.

4. It is appropriate to continue to use the "summer peak and average" method for making cost-of-service allocations in this proceeding as adopted in Docket No. E-2, Sub 391. This continuation was proposed by the Company and concurred with by the Public Staff for use in this case. Consequently, each finding of fact appearing in this Order which deals with the proper level of rate base, revenues, and expenses has been determined based upon the "summer peak and average" allocation method. It is appropriate to continue to examine the use of the various methods of cost allocation.

5. CP&L by its application here is seeking an increase in its basic rates and charges to North Carolina retail customers of approximately $151,432,000.

6. The test period for purposes of this proceeding is the 12-month period ended December 31, 1980, adjusted for all changes in rate base, revenues, and expenses through May 31, 1981, and for certain other changes based on circumstances and events occurring up to the time of the close of the hearings in this docket.

7. The North Carolina retail jurisdictional allocations of operating revenues, operating revenue deductions, and rate base amounts should reflect the pro forma effect of the additional 95 MW load on CP&L's system related to the Power Agency Number 3 members served by Virginia Electric and Power Company prior to December 30, 1981.

8. CP&L's original cost of net investment in electric plant is $1,714,277,000, consisting of electric plant in service of $1,933,213,000, net nuclear fuel of $43,762,000, and construction work in progress of $392,199,000, reduced by accumulated depreciation of $459,857,000; and accumulated deferred income taxes of $195,040,000.

9. The reasonable original cost of investment in plant under construction (construction work in progress) to be included in rate base is $392,199,000 comprised of $275,203,000 related to Harris #1, $34,544,000 to Harris #2, and $82,452,000 to Mayo #1.

10. The reasonable allowance for working capital and deferred debits and credits is $117,743,000.

11. CP&L's original cost rate base is $1,832,020,000. This consists of net original cost of electric plant of $1,714,277,000, plus a reasonable allowance for working capital and deferred debits and credits of $117,743,000.

12. CP&L's appropriate gross revenues for the test year, under present rates and after accounting and pro forma adjustments are $910,690,000.

13. Approximately 23% of the dwelling places in CP&L's service area are rental units, occupied by tenants who do not qualify for the benefits and incentives offered to homeowners in CP&L's conservation programs. This omission is a deterrent to the success of the programs, both for the tenants and CP&L - and, to a certain degree, also the landlord. Many of these tenants throughout CP&L's service area live in houses or apartments that have little or no insulation, are energy inefficient, and are generally unaffected by the Company's present conservation programs. It is appropriate for CP&L to undertake a limited experimental program using sample rental housing premises to develop a conservation program which specifically applies to customers in rental housing.

14. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of National Association of Regulatory Utility Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of Federal funding. It is reasonable and appropriate for CP&L to contribute to the funding of the Institute.

15. CP&L's reasonable level of test year operating revenue deductions, after normalization and pro forma adjustments, is $744,914,000.

16. The fuel cost component which should be included in the rates approved in this proceeding is the base fuel cost approved in Docket No. E-2, Sub 434, the most recent proceeding under G.S. 62-134(e).

17. The performance of CP&L's nuclear generating units during the test year and until the close of the hearing was below average. The total nuclear capacity factors for the 12 months ended August 31, 1981, and the 12 months ended May 31, 1981, were 47.08% and 36.37%, respectively. Such low capacity factors have resulted in increased costs of providing electric service.

18. The reasonable capital structure to be employed as a basis for setting rates in this proceeding is composed as follows:

Debt	49.86%
Preferred	13.96%
Equity	36.18%
Total	100.00%

19. The Company's proper embedded costs of debt and preferred stock are 10.27% and 8.91%, respectively. The reasonable rate of return for CP&L to be allowed to earn on its common equity is 16.0%. The 16.0% return on common equity found fair by this Commission, while remaining within a range of reasonableness, is properly determined to be at the lower end of such a range due to the below average performance of CP&L's nuclear generating units during the test year and up until the close of the hearing. Using a weighted average for the Company's cost of debt, preferred stock, and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall fair rate of return of 12.15% to be applied to the Company's original cost rate base. Such rate of return will enable CP&L, by sound management, to produce a fair return for its shareholders, 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 terms which are reasonable and fair to the customers and to existing investors.

20. CP&L should be allowed an increase in annual gross revenues of $119,197,000. Based on the foregoing, the annual revenue requirement approved herein is $1,029,887,000. This increase is required in order for the Company to have a reasonable opportunity to earn the 12.15% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

ELECTRICITY

SCHEDULE I
CAROLINA POWER & LIGHT COMPANY
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF OPERATING INCOME
TWELVE MONTHS ENDED DECEMBER 31, 1980
UPDATED THROUGH MAY 31, 1981

(000's Omitted)

Item	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Net operating revenues	$910,690	$119,197	$1,029,887
Operating Revenue Deductions			
Operation and maintenance expenses	515,393		515,393
Depreciation	77,306		77,306
Taxes - other than income	73,878	7,152	81,030
Income taxes - State and Federal	55,427	55,171	110,598
Investment tax credit - net	1,202		1,202
Provision for deferred income taxes - net	21,324		21,324
Interest on customer deposits	384		384
Total operating revenue deductions	744,914	62,323	807,237
Net operating income	$165,776	$ 56,874	$222,650

SCHEDULE II
CAROLINA POWER & LIGHT COMPANY
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF RATE BASE AND RATE OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1980
UPDATED THROUGH MAY 31, 1981

(000's Omitted)

	Present Rates	After Approved Rates
Investment in Electric Plant		
Electric plant in service	$1,933,213	$1,933,213
Net nuclear fuel	43,762	43,762
Construction work in progress	392,199	392,199
Less: Accumulated provision for depreciation	(459,857)	(459,857)
Accumulated deferred income taxes	(195,040)	(195,040)
Net investment in electric plant	1,714,277	1,714,277
Allowance for Working Capital and Deferred Debits and Credits		
Cash	3,013	3,013
Materials and supplies	91,966	91,966
Prepayments	4,940	4,940
Investor funds advanced for operations	13,572	13,572
Other additions	14,438	14,438
Other deductions	(5,382)	(5,382)
Customer deposits	(4,804)	(4,804)
Total	117,743	117,743
Original cost rate base	$1,832,020	$1,832,020
Rate of Return	9.05%	12.15%

SCHEDULE III
CAROLINA POWER & LIGHT COMPANY
NORTH CAROLINA RETAIL OPERATIONS
STATEMENT OF CAPITALIZATION AND RELATED COSTS
TWELVE MONTHS ENDED DECEMBER 31, 1980
UPDATED THROUGH MAY 31, 1981

(000's Omitted)

	Original Cost Rate Base	Ratio %	Embedded Cost %	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	$ 913,445	49.86%	10.27%	$ 93,811
Preferred stock	255,750	13.96%	8.91%	22,787
Common equity	662,825	36.18%	7.42%	49,178
Total	$1,832,020	100.00%	-	$165,776
	Approved Rates - Original Cost Rate Base			
Long-term debt	$ 913,445	49.86%	10.27%	$ 93,811
Preferred stock	255,750	13.96%	8.91%	22,787
Common equity	662,825	36.18%	16.00%	106,052
Total	$1,832,020	100.00%	-	$222,650

21. The rate designs proposed by CP&L are reasonable and appropriate as modified in the Notice of Decision and Order issued by the Commission on December 15, 1981.

22. Small General Service Schedule SGS-25B, as approved by the Commission in Docket No. E-2, Sub 391, is a legal and valid rate and was properly applied by the Company in its bills to The Bladen Farmers Exchange, Inc. The present design of the minimum bill calculation for that schedule only includes the customer charge and a minimum demand charge per KW of billing demand; no minimum charge is made for each kilowatt-hour of electricity consumed. It is appropriate to study methods of redesigning the minimum charge portion of all rates.

23. That beginning with the date of this Order, the costs associated with CP&L's general rate cases should be amortized over a period of two years.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED THAT:

1. The Applicant Carolina Power & Light Company be, and hereby is, authorized to adjust its electric rates and charges to produce an increase in gross revenues of $119,197,000 on an annual basis.

2. The Order Approving Rates and Charges issued December 18, 1981, and the Notice of Decision and Order of December 15, 1981, are hereby affirmed.

3. CP&L is hereby authorized to undertake an experimental program and to expend no more than $100,000 on the premises of sample rental housing for the purpose of determining how rental housing can participate in, and benefit from, the Company's various conservation programs. The Company shall report to the Commission every six months on the progress of the program, the first report to be due July 1, 1982.

4. Upon approval by the full Commission, CP&L shall be authorized to contribute no more than $25,000 annually to the National Regulatory Research Institute.

5. CP&L shall study the matter of the design of minimum charges for its nonresidential rate schedules and shall, at the time of the filing of its next general rate case, file proposals for redesign of such charges to appropriately reflect the following three components of cost: customer, demand, and energy.

6. CP&L shall study the matter of ratcheted demand billings, including but not limited to the possibility of elimination of same or the possibility of ratcheting current peak month demand billings on past peak month demands and ratcheting current off-peak month demand billings on past off-peak month demands, with appropriate charging differentials, if any, and shall file a report on same at the time of its next general rate case filing.

7. CP&L shall calculate and accrue Allowance for Funds Used During Construction (AFUDC) contra or credit amount related to Construction Work in Progress included in the rate base, based upon the specific projects of CWIP as designated by the Company and included in the rate base by the Commission in prior general rate proceedings and as specified in Finding of Fact No. 9 herein. With regard to those amounts of CWIP included in rate base in prior proceedings such retroactive adjustments shall be limited to those projects still under construction.

8. CP&L shall study methods of limiting migration of nonresidential customers between schedules and make proposals for effective changes in its next general rate case.

9. CP&L shall amend its subsequent tariff sheets to add the information included in Appendix A.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

APPENDIX A

EXAMPLE OF NEW PROCEDURE FOR SHOWING HISTORY OF CHANGES IN FUEL COSTS ON TARIFFS BETWEEN GENERAL RATE CASES

After the first fuel clause hearing under G.S. 62-134(e) each affected tariff would reflect the following:

Fuel charge per kWh included in base rates in Docket No. E-2, Sub 416, and effective for bills rendered during the billing months of December 1981 through March 1982	1.55¢
Fuel charge increment or (decrement) per kWh established in Docket No. E-2, Sub XXA, under G.S. 62-134(e)	(.070)¢
New base fuel charge per kWh included in base rates effective for bills rendered during the billing months of April through July 1982	1.485¢

After the second fuel clause hearing under G.S. 62-134(e)

Fuel charge per kWh included in base rates in Docket No. E-2, Sub 416, and effective for bills rendered during the billing months of December 1981 through March 1982	1.555¢
Fuel charge increment or (decrement) per kWh established in Docket No. E-2, Sub XXA, under G.S. 62-134(e)	(.070)¢
Base fuel charge effective for bills rendered during the billing months of April through July 1982	1.485¢
Fuel charge increment or (decrement) per kWh established in Docket No. E-2, Sub XXB, under G.S. 62-134(e) (.050)¢	(.050)
New base fuel charge per kWh included in base rates effective for bills rendered during the billing months of August through November 1982	1.435¢

DOCKET NO. E-2, SUB 444

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	) ORDER ASSESSING RATE
Application of Carolina Power & Light Company for an	) OF RETURN PENALTY AND
Adjustment in Its Rates and Charges Applicable to	) GRANTING PARTIAL
Electric Service in North Carolina	) INCREASE IN RATES

HEARD IN: The Auditorium, Enka High School, Ashbury Road, Enka, North Carolina, on July 12, 1982

The Wayne Center, Corner of George and Chestnut Streets, Goldsboro, North Carolina, on July 14, 1982

Superior Courtroom, New Hanover County Courthouse, Third and Princess Streets, Wilmington, North Carolina, on July 15, 1982

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on July 20-23, July 27-30, August 3-6, August 10-13, and August 16, 1982

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Edward B. Hipp and Douglas P. Leary

APPEARANCES:

For the Applicant:

R. C. Howison, Jr., Hunton & Williams, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602

Richard E. Jones, Vice-President and Senior Counsel; Robert W. Kaylor, Associate General Counsel; and Margaret S. Glass, Associate General Counsel, Carolina Power & Light Company, P.O. Box 1551, Raleigh, North Carolina 27602
For: Carolina Power & Light Company

For the Intervenors:

Jerry B. Fruitt, Eller & Fruitt, Attorneys at Law, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

David A. McCormick, Attorney, Regulatory Law Office (JALS-RL 3062), U.S. Army Legal Services Agency, 5611 Columbia Pike, Falls Church, Virginia 22041
For: Department of Defense of the United States

Thomas S. Erwin, Attorney at Law, P.O. Box 928, Raleigh, North Carolina 27602
For: Conservation Council of North Carolina, Inc.

M. Travis Payne, Edelstein & Payne, Attorneys at Law, P.O. Box 12643, Raleigh, North Carolina 27605
For: Kudzu Alliance

Ralph McDonald and Carson Carmichael, III, Baily, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Carolina Industrial Group for Fair Utility Rates: Weyerhauser Company; Federal Paper Board Company, Inc., Riegelwood Operations; Monsanto North Carolina, Inc.; Union Carbide Corporation; Corning Glass Works, Inc.; PPG Industries, Inc.; Clark Equipment Company; Huron Chemicals of America, Inc.; Ideal Basic Industries, Inc.; International Telephone and Telegraph Corporation; LCP Chemicals and Plastics, Inc.; Masonite Corporation; The Firestone Tire & Rubber Company; and Scovill, Inc.

For the Public Staff:

Karen E. Long, Thomas K. Austin, and Antoinette R. Wike, 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 February 19, 1982, Carolina Power & Light Company (Applicant, the Company, or CP&L) filed an application with the North Carolina Utilities Commission seeking authority to adjust and increase electric rates and charges for its retail customers in North Carolina. The requested increase in rates and charges was designed to produce approximately $128,500,000 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, 1981, or approximately a 12.8% increase in total North Carolina retail rates and charges. The Company requested that such increased rates be allowed to take effect for service rendered on and after March 21, 1982.

The Company alleged in the application that the $128,500,000 of additional revenues was necessary because the rates approved in Docket No. E-2, Sub 416, by Order dated December 21, 1981, did not allow the Company to earn a fair rate of return. The principal reasons set forth in the application as necessitating the requested increase in rates were: the effects of inflation; the addition to the rate base of new plant and equipment, as well as construction work in progress; the cancellation of Shearon Harris Nuclear Power Plant Units 3 and 4; and the demand for a higher return by the investment community.

The Public Staff filed a Motion to Dismiss Without Prejudice on March 10, 1982, and a Motion for Suspension of Rates Until Ruling on Motion to Dismiss on March 15, 1982. On March 17, 1982, CP&L filed its reply to the Public Staff's Motion to Dismiss Without Prejudice.

On March 15, 1982, the Kudzu Alliance filed a Petition to Intervene, including a request for certain documents previously filed in the proceeding, and a Motion to Dismiss. By Order issued March 18, 1982, the Commission granted the Petition to Intervene and granted the request for documents in part. On March 23, 1982, the Public Staff filed a Motion for Clarification of the Commission Order of March 19, 1982, granting in part the Kudzu Alliance's request for documents.

On March 18, 1982, the Commission issued an Order suspending the proposed rates pursuant to G.S. 62-134 for a period of up to 270 days from the proposed effective date and an Order scheduling oral argument for March 29, 1982, on the Public Staff's Motion to Dismiss.

Further, on March 18, 1982, the Commission ordered the Applicant to file a pro forma calculation of fuel costs based upon the adjusted test year (12 months ended September 30, 1981) level of operations assuming a fully normalized level of generation mix; i.e., nuclear, fossil, and purchased power.

On March 22, 1982, the North Carolina Textile Manufacturers Association, Inc. (NCTMA), filed a Petition to Intervene and Protest and a Motion to

Dismiss the Application and Suspend the Effectiveness of the Proposed Rates Pending Oral Argument.

On March 23, 1982, CP&L filed its response to the separate motions of Kudzu Alliance and the NCTMA to dismiss the application.

On March 24, 1982, the Commission issued an Order allowing the protest and intervention of the NCTMA. Also on March 24, 1982, the Commission issued an Order consolidating the Motion to Dismiss filed by the NCTMA for oral argument on March 29, 1982, with the Motion to Dismiss filed by the Public Staff and providing further that the Kudzu Alliance would be afforded an opportunity to be heard on its Motion to Dismiss at the same time and place.

By Order issued on March 31, 1982, the Commission: denied the motions to dismiss filed by the Public Staff, the Kudzu Alliance, and the NCTMA; declared the test period to be the 12 months ended September 30, 1981; permitted CP&L to update its application pursuant to G.S. 672-133(c) for all known changes in costs, revenues, and rate base only through December 31, 1981, and to file appropriate testimony and exhibits with respect to such changes not later than April 20, 1982; required testimony of the Public Staff and other Intervenors based upon the application and amendments reflecting actual changes through December 31, 1981, to be filed not later than July 1, 1982; and provided that further testimony and exhibits reflecting other actual changes in costs, revenues, and rate base of material significance based on circumstances and events occurring up to the time the hearing is closed be filed in conformity with Commission Rules R1-17(b) and (c). On April 6, 1982, CP&L filed an Objection and Exception to that portion of the foregoing Order which permitted the Company to update its application through December 31, 1981, and required the Company to file testimony and exhibits not later than April 20, 1982.

The Commission thereafter issued an Order on April 7, 1982, declaring the application by CP&L to adjust and increase its charges for electric service to its North Carolina retail customers to be a general rate case pursuant to G.S. 62-137, scheduling the matter for public hearing before the Commission beginning on July 12, 1982, requiring CP&L to give notice of such hearing by newspaper publication and by appropriate bill inserts, establishing the test period to be used by all parties in the proceeding, and requiring protests or interventions to be filed in accordance with Rules R1-6, R1-7, and R1-19 of the Commission Rules and Regulations.

Notice of Intervention in the docket was given by the Public Staff on behalf of the Using and Consuming Public on June 16, 1982. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

By Petition filed on May 3, 1982, the Secretary of Defense, on behalf of the Department of Defense of the United States, requested leave to intervene, and on May 5, 1982, the Commission allowed the intervention.

A joint Petition to Intervene was filed on May 27, 1982, by Corning Glass Works, Inc., Federal Paper Board Company, Inc., Riegelwood Operations, Monsanto North Carolina, Inc., PPG Industries, Inc., Union Carbide Corporation, and Weyerhaeuser Company, an ad hoc group known as the Carolina Industrial Group for Fair Utility Rates (CIGFUR-II). The interventions were allowed by Orders issued June 1, and June 28, 1982. On June 24, 1982, a joint

Petition to Intervene was filed by Clark Equipment Company, Huron Chemicals of America, Inc., Ideal Basic Industries, Inc., International Telephone and Telegraph Corporation, LCP Chemicals and Plastics, Inc., Masonite Corporation, The Firestone Tire and Rubber Company, and Scovill, Inc., also members of CIGFUR. On June 28, 1982, the Commission allowed the interventions.

On June 10, 1982, CP&L filed a Motion for Prehearing Conference. By Order issued June 15, 1982, the Commission scheduled a prehearing conference for July 9, 1982.

The Conservation Council of North Carolina, Inc., filed a Petition to Intervene and a Motion for Extension of Time within which to file expert testimony on June 30, 1982. CP&L filed its response to the motion on July 1, 1982. By Order issued July 2, 1982, the Commission allowed the intervention and an extension of time to and including July 8, 1982.

On June 28, 1982, Intervenor Kudzu Alliance filed a Motion for Discovery, which was allowed by Order of July 13, 1982. Kudzu filed a motion for an extension of time in which to prefile testimony, and CP&L filed its response to the motion on June 30, 1982. The Commission, by Order issued July 2, 1982, granted Kudzu an extension to July 8, 1982, to file draft testimony and to July 15, 1982, to make minor revisions and to file testimony in final form.

On June 16, 1982, the General Assembly of North Carolina ratified House Bill 1594 which substantially changed the treatment of construction work in progress and certain fuel costs in general rate cases pursuant to G.S. 62-133.

On July 1, 1982, the Public Staff moved for an extension of time to file exhibits to the testimony of A. Ronald Jacobstein until July 9, 1982. By Order issued July 2, 1982, the Commission granted the Public Staff's motion.

On July 6, 1982, the Commission issued an Order requesting data from the Public Staff within five working days. Upon oral motion at the prehearing conference on July 9, 1982, the Public Staff was granted an extension until July 20, 1982, later extended to July 27, 1982, to comply with the Commission Order. On July 15, 1982, the Commission issued its Pretrial Order setting forth the procedures to be followed in the hearings.

The proceeding came on for public hearings in the territory served by CP&L as noted herewith. Public night hearings were scheduled and held by the Commission for the specific purpose of receiving testimony from public witnesses in Enka, on Monday, July 12, 1982; in Goldsboro, on Wednesday, July 14, 1982; in Wilmington, on Thursday, July 15, 1982; and in Raleigh, on Tuesday, July 20, 1982. The following persons appeared and testified at these hearings:

Enka - David Spicer, Gene Blazer, Charles Brookshire, Joseph Jennison, Catherine Hiltz, Don Meale, J. C. Clark, Bob Cameron, J. H. Clark, Roy Burchfield, W. Carter Lipe, Herbert Gibson, Jr., Ed Ledford, Eleanor H. Lloyd, T. C. Silver, Tish Robbins, Ron Mitchell, Joe R. Wells, Bruce McTaggard, Helen Reed, and T. Woodrow Dillard.

Goldsboro - Claxton M. Sutton, Edwin H. Allen, David G. Smith, Sylvester Lane, James Peacock, James E. Honeycutt, Wesley T. Townsend, Richard Grady, Rosemary Sugg, Steve L. Herring, Russell Spence, Gladys Thornton, Andrew McKnight, Charles D. Woodard, Harry Boyd, and Rob Robinson.

Wilmington - Susie Bordeaux, Kent Raphael, Fred Sternberger, Voncille Randolph, Janie Shaw, Elmer Higgins, N. R. Spencer, Eula Lee Regan, Larry Vestal, Ron Shackelford, John Fitzpatrick, Rex Sharp, Thomas Schmid, Jane Ward, Tunis Bryant, George Hughes, C. C. Goodwin, Neal Bender, Sandra Barone, William Goodwin, Ray Kourady, William Conner, Llewellyn Vestal, Tom Wilson, Forbis Raynor, and John Linder.

Raleigh - Joseph Reinckens, Jane Sharp, Elisha Wolper, and Jane R. Montgomery (daytime hearing); C. W. Feemster, Sam Watkins, Jr., Steven Buffkin, Carolyn Moore, Jan Chapman Lewis, Henry W. Hight, Jr., Scotti Smith, Essie McLean, J. J. Butler, Katie Lee Barbour, Daisy Brown, Ruth Lee, Jerry Folden, W. T. Fuller, Ron Wallers, T. B. Buchanan, Gary Sanders, Donald Beal, Jerry Stevens, and David Collins.

The case in chief came on for hearing as ordered on July 20, 1982, at 9:30 a.m., for the purpose of presenting the Applicant's evidence. The Applicant presented the testimony and exhibits of the following witnesses:

1. Sherwood H. Smith, Jr., Chairman, President, and Chief Executive Officer of CP&L (direct, supplemental, and additional supplemental testimony);

2. Edward G. Lilly, Executive Vice President and Chief Financial Officer (direct, supplemental, and additional supplemental testimony);

3. Dr. Willard T. Carleton, Professor, School of Business Administration, University of North Carolina, Chapel Hill (direct, supplemental, and additional supplemental testimony);

4. R. A. Watson, Vice President - Fuel, in the Fuel and Material Management Group of CP&L (direct and supplemental testimony);

5. Paul S. Bradshaw, Vice President and Controller of CP&L (direct, supplemental, and additional supplemental testimony);

6. William A. Abrams, Vice President, Duff and Phelps, Inc., Chicago, Illinois (direct testimony);

7. David R. Nevil, Manager - Rate Development and Administration in the Rates and Service Practices Department of CP&L (direct, supplemental, and additional supplemental testimony);

8. Joe A. Chapman, Supervisor - Rate Support in the Rates and Service Practices Department of CP&L (direct, supplemental, and additional supplemental testimony);

9. Panel: Benny J. Furr, Vice President - Nuclear Operations of CP&L; Lynn W. Eury, Senior Vice President - Power Supply Group of CP&L; M. A. McDuffie, Senior Vice President, Engineering and Construction of CP&L (direct and supplemental testimony);

10. Norris L. Edge, Vice President - Rates and Service Practices of CP&L (direct, supplemental, and additional supplemental testimony);

11. Ronnie M. Coats, Assistant to the Group Executive for the Power Supply Group of CP&L (rebuttal testimony); and

12. Wilson W. Morgan, Senior Vice President and Group Executive for the Corporate Services Group of CP&L (rebuttal testimony).

The Public Staff offered the testimony and exhibits of the following witnesses:

1. Dr. Caroline M. Smith, Senior Consultant, J. W. Wilson and Associates, Inc., Washington, D.C.;

2. A. Ronald Jacobstein, Consultant, Washington, D.C.;

3. Richard N. Smith, Jr., Engineer with the Electric Division of the Public Staff;

4. Thomas S. Lam, Engineer with the Electric Division of the Public Staff;

5. Timothy J. Carrere, Engineer with the Electric Division of the Public Staff;

6. Dennis J. Nightingale, Director - Electric Division of the Public Staff;

7. Benjamin R. Turner, Jr., Engineer with the Electric Division of the Public Staff;

8. Karyl J. Lam, Staff Accountant with the Accounting Division of the Public Staff (direct and supplemental testimony);

9. Dr. Richard G. Stevie, Director - Economic Research Division of the Public Staff; and

10. James G. Hoard, Jr., Staff Accountant with the Accounting Division of the Public Staff (direct and supplemental testimony).

The Intervenor Department of Defense offered the testimony and exhibits of John William McCabe, III, of the consulting firm of McCabe Associates, Inc., Reston, Virginia.

The Intervenor Kudzu Alliance offered the testimony and exhibits of Wells Eddleman.

The Intervenor Conservation Council of North Carolina, Inc., offered the testimony and exhibits of Wells Eddleman, David H. Martin, and Dr. Lavon B. Page.

The Intervenor Carolina Industrial Group for Fair Utility Rates offered the testimony and exhibits of Maurice Brubaker, Vice President, and Nicholas Phillips, Jr., Consultant, Drazen - Brubaker and Associates, Inc., St. Louis, Missouri.

The Intervenor NCTMA offered no evidence.

On August 12, 1982, the NCTMA filed a motion for further hearings on North Carolina eastern municipal power agency sale. The motion was denied by ruling from the bench on August 16, 1982.

On August 20, 1982, the Public Staff filed Objection and Motion to Abandon Procedure or to Schedule Further Meeting.

Based upon the verified application, the testimony and exhibits received into evidence at the hearings, and the record as a whole of these proceedings, the Commission now makes the following

FINDINGS OF FACT

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

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

3. The test period for purposes of this proceeding is the 12-month period ended September 30, 1981, adjusted for certain known changes based upon circumstances and events occurring up to the time of the close of hearings in this docket.

4. CP&L, by its application, is seeking an increase in its basic rates and charges to its North Carolina retail customers of $128,473,000. However, in June 1982 the North Carolina Legislature ratified House Bill 1594 requiring that base fuel costs be set in a general rate case, thus, the Company proposed to include an additional increase of $45,232,000 for fuel expenses which results in a total increase requested by the Company of $173,705,000.

5. The overall quality of electric service provided by CP&L to its North Carolina retail customers is adequate.

6. Seventy-eight days of an outage at CP&L's Brunswich Unit I in the summer of 1981 were avoidable and resulted from the imprudence of CP&L's management. CP&L's nuclear performance has been declining since 1978 and the Company's Brunswick nuclear units have not been available to meet the system load at periods of peak summer usage for the past four summers. Such nuclear performance is clearly unsatisfactory and is related to mismanagement with respect to outage planning, preventive maintenance, spare parts and inventory control, and quality control and assurance. Furthermore, CP&L's history of poor nuclear performance has served to significantly increase the Company's cost of service to its customers.

7. The "summer/winter peak and average" method as discussed herein is the most appropriate method for making jurisdictional allocations and for making fully distributed cost allocations between customer classes in this

proceeding. Consequently, each finding of fact appearing in this Order which deals with the overall level of rate base, revenues, and expenses for North Carolina retail service has been determined based upon the summer/winter peak and average allocation method.

8. The reallocation of total Company amounts of revenues, expenses, and rate base presented by the Company, which purports to reflect the first closing of sales of certain assets to Power Agency No. 3, is inappropriate for use in this proceeding.

9. The North Carolina retail jurisdictional allocations of operating revenues, operating revenue deductions, and rate base amounts should reflect the pro forma effect of an additional 90 mW load on CP&L's system related to Power Agency members served by Virginia Electric and Power Company prior to December 30, 1981.

10. It is not proper to reflect the Power Agency first closing gain in this proceeding; however, it is appropriate to deduct the net of tax gain from rate base as cost-free capital.

11. It is fair and reasonable to allow the Company to recover its investment in Shearon Harris Nuclear Generating Units 3 and 4 over a 10-year period and to include only the interest cost associated with the portion of the unamortized balance which is supported by the long-term debt holders of CP&L in the cost of service of the Company.

12. The use of a normalized test-period generation mix in determining a reasonable fuel cost is appropriate in this proceeding.

13. The base fuel component which is appropriate for use in this proceeding pursuant to G.S. 62-133.2 is 1.611¢ kWh excluding gross receipts tax. The fuel expense represented by said fuel component is $306,619,000 for North Carolina retail service.

14. The Augmented Off Gas (AOG) system at the Brunswick nuclear plant is not used and useful, and the cost of said AOG system should not be included in rate base.

15. The reasonable allowance for working capital and deferred debits and credits is $114,195,000.

16. CP&L's reasonable original cost rate base used and useful in providing service to the public within the State of North Carolina is $1,827,480,000; consisting of electric plant in service of $1,969,397,000, net nuclear fuel of $42,447,000 and construction work in progress of $392,199,000 (See Finding of Fact No. 21, infra.), allowance for working capital of $114,195,000 reduced by accumulated depreciation of $478,905,000, and accumulated deferred income taxes of $211,853,000.

17. Appropriate gross revenues for CP&L for the test year, under present rates and after accounting and pro forma adjustments, are $1,036,394,000.

18. The reasonable level of test year operating revenue deductions for the Company after normalized and pro forma adjustments is $829,234,000.

19. The reasonable capital structure to be employed as a basis for setting rates in this proceeding is composed as follows:

Item	Percent
Long-term debt	49.50%
Preferred stock	12.50%
Common equity	38.00%
Total	100.00%

20. The Company's embedded costs of debt and preferred stock are 9.97% and 8.96%, respectively. In view of the poor nuclear performance and imprudent management as described herein, the rate of return for CP&L to be allowed to earn on its common equity is 14.50%. Under sound and prudent management, CP&L would have been entitled to a 15.50% rate of return on common equity. Using a weighted average for the Company's costs of long-term debt, preferred stock, and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall fair rate of return of 11.57% to be applied to the Company's original cost rate base. Such rate of return will enable CP&L, by sound management, to produce a fair return for its shareholders, 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 terms which are reasonable and fair to the customers and to existing investors.

21. The proper amount of construction work in progress (CWIP) to allow in rate base pursuant to G.S. 62-133 is $392,199,000. Inclusion of this amount of CWIP in rate base is in the public interest and is necessary to assure the financial stability of CP&L.

22. Based upon the foregoing, CP&L should increase its annual level of gross revenues under present rates by $8,784,000. The annual revenue requirement approved herein is $1,045,178,000, which will allow CP&L a reasonable opportunity to earn the rate of return on its rate base which the Commission has found just and reasonable. This increase in the revenue requirement is based upon the original cost of CP&L's property used and useful in providing service to its customers and its reasonable test year operating revenues and expenses as previously set forth in these findings of fact.

23. The rate designs, rate schedules, and service rules proposed by the Company, and the modifications thereto as described herein, are appropriate and should be adopted.

24. The Company should be allowed to recover deferred fuel revenues by means of a rider in the amount of 0.273¢ per kWh including gross receipts tax; said rider shall terminate for bills rendered after the billing month of November 1982, but no later than November 30, 1982.

25. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of the National Association of Regulatory Utility Commissioners to establish regularized funding for the NRRI to ensure that this Institute can continue its work despite the certain loss of federal funding. It is reasonable and appropriate for CP&L to contribute to the funding of the Institute upon approval by the full Commission.

NOTE: The Evidence and Conclusions for Findings of Fact Nos. 1 through 25 which have been omitted due to lack of space can be found in the official files of the Chief Clerk's office.

IT IS, THEREFORE, ORDERED as follows:

1. That Carolina Power & Light Company shall adjust its electric rates and charges so as to produce an increase in gross annual revenues from its North Carolina retail operations of $8,784,000, said increase to be effective for service rendered on and after the date of this Order.

2. That within five (5) working days after the date of this Order, Carolina Power & Light Company shall file with this Commission rate schedules designed to produce the increase in revenues set forth in Decretal Paragraph No. 1 above in accordance with the guidelines set forth in Appendix A attached hereto.

3. That Carolina Power & Light Company shall prepare cost allocation studies for presentation with its next general rate application which allocate production plant based on the following methodologies: (1) summer/winter peak and average; (2) summer/winter peak and base; (3) summer/winter coincident peak; (4) 12-month coincident peak; and (5) 12-month peak and base. Both jurisdictional and fully distributed cost allocation studies shall be made using each method, and the studies shall be included in items 31 and 37, respectively, of Form E-1 of the minimum filing requirements for general rate applications.

4. That Carolina Power & Light Company shall prepare cost allocation studies for presentation with its next general rate application which show the demand, energy, and customer components assigned to each rate schedule based on the following methodologies: (1) summer/winter peak and average; (2) summer/winter peak and base; and (3) 12-month peak and base. Production plant (and production plant-related expenses) which are allocated by kWh energy shall be included with the energy-related component of each rate schedule in the studies, and the studies shall be included in item 37d of Form E-1 of the minimum filing requirements for general rate applications.

5. That Carolina Power & Light Company shall prepare a study for presentation with its next general rate application which will provide the information necessary to determine the energy-related portion of production plant (and related expenses). Such study should include the two variations of the "stacking" methodologies discussed herein.

6. That Carolina Power & Light Company shall file with the Commission, instead of the annual cost-of-service studies currently being filed, an annual cost-of-service study based on the summer/winter peak and average method as described herein. In consideration of the voluminous nature of said studies, the Company shall file six (6) complete copies of said studies instead of the 31 copies currently being filed.

7. That within 30 days after the date of this Order, Carolina Power & Light Company shall file with the Commission a rate schedule for an experimental residential time-of-day service utilizing an all-energy type rate design containing the features discussed herein.

8. That Carolina Power & Light Company shall continue listing the kWh usage per fixture on its lighting Schedules ALS and SLS, as discussed herein.

9. That the voluntary time-of-day comparative billing program for residential customers proposed by Carolina Power & Light Company in Docket No. E-2, Sub 454, is hereby approved as filed, in accordance with the discussion herein.

10. That Carolina Power & Light Company shall give appropriate notice of the rate increase approved herein by mailing a copy of the notice attached hereto as Appendix B by first-class mail to each of its North Carolina retail customers during the next normal billing cycle following the filing and acceptance of the rate schedules approved in Decretal Paragraph No. 2.

11. That any motions heretofore filed in this proceeding and not previously ruled upon are hereby denied.

12. That Carolina Power & Light Company is hereby authorized to implement its proposed Rider No. AFC-28 adding a $0.00273 per kWh surcharge for service rendered on and after the effective date of this Order. Said Rider shall terminate for bills rendered after the billing month of November 1982, but no later than November 30, 1982.

13. That at the time of its next general rate application, Carolina Power & Light Company shall file with the Commission the additional data described herein relating to the coal inventory needs of the Company.

14. That upon approval by the full Commission, Carolina Power & Light Company shall be authorized to contribute to the National Regulatory Research Institute in a manner and in an amount consistent with the funding formula of said Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of September 1982.

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

APPENDIX A

DOCKET NO. E-2, SUB 444
GUIDELINES FOR DESIGN OF RATE SCHEDULES

Step 1: Determine the amount of rate schedule revenues and other revenues, respectively, which are necessary to produce the overall revenue requirement established by the Commission in this proceeding.

Step 2: Increase the revenue requirement for each rate schedule to the level necessary to produce the total rate schedule revenues determined in Step 1, as follows:

(a) The revenue requirements to be increased shall be based on present rates as of the date of this Order.

(b) Increase the revenue requirement for each rate schedule by the same percentage, except as described below.

(c) Increase the revenue requirement for each of the five (5) "closed" rate Schedules RFS, AHS, CSG, CSE, and SGS by 5% as discussed herein.

(d) Hold the revenue requirement for traffic lighting Schedule TLS at the level of present rates as proposed by the Company.

Step 3: Increase the individual prices in a given rate schedule by the same percentage to reflect the increase in revenue requirement for the rate schedule as determined in Step 2, except as follows:

(a) Hold the basic customer charge for each residential rate schedule at the level of present rates.

(b) Hold the basic customer charge for each nonresidential rate schedule at the level proposed by the Company.

(c) Increase the 3rd energy block of rate Schedule SGS prior to increasing the other energy blocks in the Schedule, until such time as the differential between the 3rd energy block and the 2nd energy block reaches the level proposed by the Company.

(d) Increase prices in the TOD rate Schedules in such a manner that they will remain basically revenue neutral with comparable non-TOD rate schedules, considering projected peak demand savings for the TOD rates.

(e) Hold miscellaneous service charges and extra charges at the same level proposed by the Company.

Step 4: Round off individual prices to the extent necessary for administrative efficiency, provided said rounded off prices do not produce revenues which exceed the overall revenue requirement established by the Commission in this proceeding.

APPENDIX B

DOCKET NO. E-2, SUB 444

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Carolina Power & Light Company for)
an Adjustment in Its Rates and Charges Applicable) NOTICE TO CUSTOMERS
to Electric Service in North Carolina)

The North Carolina Utilities Commission today, after months of investigation and following five weeks of hearings held throughout the State, denied CP&L's request for an increase of $160,464,000 in current rates and approved an increase of only $8,784,000. If CP&L's full rate request had been granted, rates would have increased by 15.48% above current rates. Today's Order allows an increase of less than 1% above current rates (0.85%).

The Commission also authorized CP&L to collect a temporary rider of 0.273¢ per kWh or $2.73 per 1,000 kWh for bills rendered by the Company through its November billing month. This surcharge, which will terminate on November 30,

1982, relates to a deferred revenue increase which the Commission previously approved for CP&L on October 22, 1981, when a fuel adjustment increase was spread over a period of 12 months in order to lessen the impact of such increase on the Company's ratepayers.

The Commission estimates that the bill of a typical residential customer using 1,000 kWh per month and presently paying approximately $64.50 per month will increase to $67.78 per month for October and November and decrease to $65.05 beginning December 1, 1982.

In allowing the 0.85% increase, the Commission found that the approved rates would provide CP&L, under efficient management, an opportunity to earn an approximate 11.57% rate of return on the original cost of its property. In its application, CP&L had sought rates which would allow it to earn a 13.09% rate of return on its property based on a return to its stockholders of 18.5%. The Commission found that if CP&L were efficiently managed, it would have been allowed a return to its stockholders of 15.5%, but that CP&L has not been a reasonably or "soundly" managed Company in the area of nuclear plant performance, and, therefore, it should be allowed the opportunity to earn no more than a 14.5% rate of return on stockholders' equity. Thus, the allowed return to stockholders was cut from 18.5% to 14.5%, including a 1% rate of return penalty of $14.55 million.

In support of the rate of return penalty, the Commission concluded that 78 days of outage at CP&L's Brunswick Unit No. 1 nuclear plant during the summer of 1981, which cost the ratepayers at least $12,000,000, could have been avoided by sound management.

A recent legislative amendment to the utility laws gave the Commission power to consider generating efficiency in setting the portion of CP&L's rates which collect for fuel. In setting the fuel component of CP&L's rates, the Commission fixed a fuel component of 1.611¢ per kWh and stated that it expected the Company to operate its nuclear plants at 52% of their capacity. The Company had sought a fuel component of 1.785¢/kWh, based on a 48% nuclear capacity factor. The Commission thus applied its broadened regulatory powers to take account of reasonable operating efficiency and found that it was no longer bound to pass along poor operating efficiency to customers.

The Commission also addressed the level of salaries paid to CP&L's officers and concluded that recent salary increases have been excessive in light of severe economic conditions and management performance. The Commission ruled that the ratepayers should only be required to pay salaries at the level paid at the end of 1980 and that the salaries of the Chairman-President Smith and three other top officers on the Board of Directors should be shared 50/50 by the ratepayers and shareholders in order to make shareholders more cognizant of salaries paid to CP&L's officers.

Another significant issue addressed by the Commission was the level of construction work in progress to be included in rate base. The 1982 North Carolina General Assembly amended the rate-making statute to eliminate mandatory inclusion of CWIP in rate base. This amendment provided that CWIP "may be included (in rate base), to the extent the Commission considers such inclusion in the public interest and necessary to the financial stability of the utility in question." In this case, CP&L sought to include $659,133,000 of CWIP in rate base, but the Commission found that only $392,199,000, the

level approved in prior cases, was justified as being in the public interest and necessary to CP&L's financial stability. The Commission's decision resulted in the exclusion of $266,934,000 in CWIP from rate base and decreased the revenue requirement by $51,105,000.

Another significant and controversial issue addressed by the Commission was the treatment of the costs associated with CP&L's decision to construct and later to cancel Harris Units 3 and 4. The Commission allowed $59,740,000 in cancellation costs to be amortized over a period of 10 years, but denied any return to the shareholders during that period, and thereby denied to CP&L recovery of $7,478,000 per year of its proposed increase.

The Commission also directed that steps be taken to improve consumer participation in time-of-day rates. The demand ratchet was removed from the TOD rates for small general service customers. A voluntary comparative billing program was approved for residential customers in order to improve customer understanding of the current TOD rates and to expand participation. An experimental program was also established to determine the effectiveness of a residential TOD rate which excludes demand charges and reduces the number of on-peak hours.

DOCKET NO. E-2, SUB 444

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for an Adjustment in Its Rates and Charges Applicable to Electric Service in North Carolina	)) ERRATA ORDER)

BY THE COMMISSION: It has been made to appear that the Commission Order of Clarification issued on November 16, 1982, in the above-captioned matter referred to Ordering Paragraph No. 6 of the Commission Order of November 1, 1982, when it should have referred to Ordering Paragraph No. 6 of the Commission Order of September 24, 1982.

IT IS, THEREFORE, ORDERED as follows:

1. That Ordering Paragraph No. 6 of the Commission Order of September 24, 1982, in the above-captioned matter is hereby amended to read as follows:

6. That Carolina Power & Light Company shall file with the Commission, instead of any annual cost-of-service studies currently being filed, an annual cost-of-service study based on the summer/winter peak and average method as described herein; except that said annual study is not required for those years in which cost-of-service studies are also filed with the Commission as a part of general rate applications. In consideration of the voluminous nature of said studies, the Company shall file only six (6) complete copies of said annual studies.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of November 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 446

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Carolina Power & Light Company	)	ORDER APPROVING ADJUSTMENT
for Authority to Adjust Its Electric Rates	)	OF RATES AND CHARGES
and Charges Pursuant to G.S. 62-134(e)	)	PURSUANT TO G.S. 62-134(e)

HEARD IN: Commission Hearing Room 213, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on February 17, 18, and 19, 1982

BEFORE: Commissioner Leigh H. Hammond, Presiding; and Commissioners Douglas P. Leary and Sarah Lindsay Tate

APPEARANCES:

For the Applicant:

John T. Bode, Bode, Bode & Call, Attorneys at Law, P. O. Box 391, Raleigh, North Carolina 27602

Robert W. Kaylor, Associate General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

For the Intervenors:

Thomas R. Eller, Jr., and Jerry B. Fruitt, Eller & Fruitt, Attorneys at Law, P. O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

For the Using and Consuming Public:

Karen E. Long, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 28, 1982, Carolina Power & Light Company (CP&L) filed an application with the North Carolina Utilities Commission pursuant to G.S. 62-134(e) and Commission Rules R1-36 and R8-46 requesting authority to adjust its rates and charges based solely upon the cost of fuel used in the generation of electric power for the four-month period ended December 31, 1981, by increasing the amount included for fuel expenses in the base retail schedules by 0.232 cents per kilowatt-hour (including revenue-related taxes) for bills rendered beginning with the billing month of April 1982. These adjusted rates would be effective for the billing months of April, May, June, and July 1982 and result in new base fuel costs of $0.01787 per kilowatt-hour, including revenue-related taxes.

On January 29, 1982, the Commission issued an Order which suspended the tariff, set the matter for hearing beginning at 9:30 a.m., on February 17, 1982, and required public notice. On February 8, 1982, the North Carolina Textile Manufacturers Association, Inc. (NCTMA), filed its "Petition to Intervene and Protest; Motion to Dismiss." On February 10, 1982, the Public

Staff filed a "Notice of Intervention" and "Motion to Dismiss and in the Subordinate Alternative to Hold Hearing at Night." On that same date, the Kudzu Alliance filed a "Petition to Intervene" in this proceeding. By Order dated February 12, 1982, an evening hearing was scheduled for February 17, 1982, at 7:00 p.m.

The matter came on for hearing as scheduled on February 17, 1982. CP&L, NCTMA, and the Public Staff were present and represented by counsel. CP&L's application included a proposal to adjust certain rate schedules, including Cogeneration CSP, which contain on- and off-peak base fuel components. Pursuant to agreement between CP&L and NCTMA, the proposed adjustments to rate schedules were withdrawn from the application and will be addressed in CP&L's next general rate case. Prior to the introduction of testimony, the Commission heard oral argument on the motions to dismiss filed herein by NCTMA and the Public Staff. The NCTMA and Public Staff motions to dismiss and defer were denied by the Hearing Panel.

At the evidentiary hearing, and at the evening public hearing, testimony in opposition to the proposed increase was presented by five public witnesses, including representatives of the Kudzu Alliance and the Conservation Council of North Carolina.

CP&L presented the testimony of the following witnesses: David R. Nevil, Manager-Rate Development and Administration; R. A. Watson, Vice President - Fuels; and Benny J. Furr, Vice President - Nuclear Operations. Neither the Public Staff nor the North Carolina Textile Manufacturers Association, Inc., presented any witnesses.

Based upon a careful consideration of the verified application, the testimony and exhibits received into evidence at the hearing, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Carolina Power & Light Company is a public utility corporation, organized and existing under the laws of the State of North Carolina, and is subject to the jurisdiction of this Commission. CP&L is lawfully before this Commission based upon an application for adjustment in rates and charges pursuant to G.S. 62-134(e).

2. During the four-month period ending December 31, 1981, CP&L's fuel generating costs, including gross receipts taxes, were $0.01514 per kilowatt-hour. The delayed billing factor, approved in Docket No. E-2, Sub 434, for collection by CP&L during the period April 1982 through July 1982, is $0.00273 per kilowatt-hour. This results in a total base fuel cost including revenue-related taxes to be collected in the period April 1982 through July 1982 of $0.01787. The base fuel rates currently approved are $0.01555. In accordance with NCUC Rule R1-36 and the formula adopted pursuant thereto, the proposed increase in rates due solely to the cost of fuel and associated gross receipts taxes, including the deferred billing factor approved in Docket No. E-2, Sub 434, is therefore $0.00232 per kilowatt-hour for the billing months of April through July 1982.

3. CP&L's fuel purchasing practices during the four-month period were reasonable and prudent. The Company's purchases of coal were made in

accordance with coal purchasing practices found to be reasonable by this Commission in prior proceedings. The Company's purchases of coal from its affiliated companies were made in accordance with previous Orders of this Commission. The oil, gas, and nuclear fuel purchases of the Company were reasonable and prudent.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

The evidence supporting this finding of fact is contained in CP&L's verified application, in prior Commission Orders entered in fuel cost adjustment proceedings of which the Commission takes notice, and G.S. 62-134(e). This finding of fact is essentially informational, procedural, and jurisdictional in nature and the matters it involves are essentially uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 2

The evidence for this finding of fact is contained in CP&L's verified application and the testimony and exhibits of CP&L witness Nevil.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding of fact is contained in CP&L's verified application and in the testimony and exhibits of CP&L witness Watson.

Based upon the uncontroverted testimony of Mr. Watson, the Commission concludes that CP&L's purchasing practices during the four-month period ended December 31, 1981, were reasonable and prudent and that the Company's purchases of coal from its affiliated companies were made in accordance with previous Orders of this Commission. Nevertheless, the Commission further concludes that CP&L's purchasing practices with respect to purchases of coal from its affiliated companies should be investigated and reviewed in conjunction with CP&L's pending general rate case. To that end, CP&L is hereby ordered to file testimony concerning the reasonableness of its coal purchasing practices from affiliated companies in Docket No. E-2, Sub 444. In addition, the Public Staff is hereby requested to investigate the reasonableness of said coal purchasing practices and to incorporate the results of its investigation and any recommendations resulting therefrom into its testimony to be filed in conjunction with said general rate proceeding.

FURTHER CONCLUSIONS

The Hearing Panel wishes to conclude this Order by clearly stating that we are in fact concerned with all of the issues raised herein by NCTMA and the Public Staff with respect to G. S. 62-134(e) and the operation of our fuel adjustment procedures. Therefore, the Hearing Panel will recommend to the full Commission that a generic rule-making proceeding be expeditiously instituted in order to thoroughly consider recommendations from all interested parties concerning proposed changes in our rules and procedures governing fuel adjustment applications filed pursuant to G.S. 62-134(e). In this regard, the Hearing Panel believes that changes in fuel adjustment procedures must, by necessity, be made on a prospective basis after affording all interested parties an opportunity to offer their recommendations concerning to proposed rule revisions and changes in such procedures in order to ensure due process and to fully guard against making changes which may well be expedient as a

means of addressing difficult issues in a cosmetic fashion at a particular point in time without fully considering all of the potentially adverse ramifications which may ultimately occur as a consequence of hastily authorized procedural changes.

With this thought in mind, the Hearing Panel notes that it would certainly have been expeditious in this case and undoubtedly popular with the customers of Carolina Power & Light Company and the general public at large for the Commission to have summarily granted the motions to dismiss filed herein by NCTMA and the Public Staff, particularly during a time of reduced nuclear power generation, which necessarily results in increased levels of expenditures for fuel related to changes in generation mix, increased reliance on purchased power, and other such factors. As much as this Hearing Panel might have been tempted for reasons of expediency to dismiss the instant fuel adjustment application, we have rightly concluded that such course of action would not have been responsible and proper, either from a legal or an equitable point of view, since this Commission has, for many years, followed procedures which are either similar to or identical to those set forth in Rule R1-36 in deciding fuel adjustment cases filed pursuant to G. S. 62-134(e). It has only been since the North Carolina Court of Appeals rendered its decision in State of North Carolina ex rel. Utilities Commission v. Virginia Electric and Power Company, 48 N.C. App. 453, 269 S.E. 2d 657, cert. denied, 301 N.C. 531 (1980), that various parties, including NCTMA and the Public Staff, have found it necessary to challenge our existing procedures. As the Commission has previously stated in various Orders, we are ourselves frustrated with the restraints imposed upon us, both by the Vepco decision, supra, and also by the failure to date of the North Carolina General Assembly to enact legislation which would clearly restore our authority to examine the reasonableness of heat rates, generation mix, and capacity factors in fuel adjustment proceedings filed pursuant to G. S. 62-134(e).

Again, the Hearing Panel wishes to restate our concerns and frustrations with problems related to G.S. 62-134(e) proceedings and the Commission's current fuel adjustment procedures as affected by the Vepco decision, supra, and also to reiterate our belief that such matters should expeditiously be addressed by the full Commission in a generic rule-making proceeding. It should be made clear, however, that the mere fact that the Hearing Panel will recommend institution of the above-referenced generic rule-making proceeding should not lead anyone to mistakenly conclude that by taking such action we are in any way repudiating our past Orders in fuel clause proceedings, particularly Orders entered in those cases which are currently on appeal to the North Carolina Court of Appeals, or that by taking such action we are necessarily of the opinion that the Commission should cease to employ the fuel adjustment formula which we have consistently used for so many years. We simply think that the entire matter should be opened up for thorough discussion by all interested parties and that procedures affording due process should be observed.

IT IS, THEREFORE, ORDERED as follows:

1. That effective for bills rendered on and after April 1, 1982, and for service rendered on and after the effective date of this Order, CP&L shall adjust its base retail rates by the addition of an amount equal to $0.00232 per kilowatt-hour and shall roll this amount into each kilowatt-hour block of each rate schedule.

2. That CP&L shall file appropriate rate schedules with the Commission in conformity with this Order.

3. That CP&L is hereby required to file testimony with respect to the reasonableness of its coal purchasing practices from affiliated companies in Docket No. E-2, Sub 444, not later than April 1, 1982. The Public Staff is hereby requested to investigate the reasonableness of CP&L's coal purchasing practices from affiliated companies and to incorporate the results of such investigation and any recommendations resulting therefrom into its testimony to be filed in Docket No. E-2, Sub 444.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of February 1982.

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

DOCKET NO. E-2, SUB 446

HAMMOND, COMMISSIONER, Concurring.

I am convinced beyond a shadow of doubt that the concept of a fuel adjustment clause was originally sold to the North Carolina General Assembly by the electric utility companies in this State as a mechanism to protect those companies from the effects of drastic and frequent changes in the prices of coal, oil, natural gas and uranium, but particularly changes in the prices of fossil fuels.

It is also my belief that by enacting G. S. 62-134(e) the General Assembly intended to require the Commission to approve rate increases based solely on increased costs of fuel in order to ease the impact on electric utility companies of violent fluctuations in fossil fuel prices.

The language of the statute in question is sufficiently vague as to leave honest doubt about whether the fuel adjustment clause was intended to deal solely with changes in the prices of coal, oil, natural gas and uranium or with the total cost of fuel burned during a given period of time. The total cost of fuel burned during a given month is influenced both by the price of fuel used and by the relative mix of generation which is experienced during that particular month. If the utility is unable, for whatever reason, to keep its nuclear plants operating at a reasonably high capacity, then the toal cost of fuel will increase even though the prices of all fuels may have remained the same or may have been decreased.

The Commission's Rules and past interpretation of G. S. 62-134(e) make no distinction between changes in fuel cost as a result of increases in the price of fuel used in generating electricity and increases related to changes in the generation mix; that is, poor nuclear performance.

Intervenors in past fuel clause proceedings have made very little effort to sort out the causes for increases in total fuel costs during a particular time period. Furthermore, to my recollection, this is the first time that the Commission has been presented with competent evidence showing that there has been very little, if any, change in the basic price of fuel during a fuel clause test period. The evidence shows clearly that the Company is here seeking an increase in its fuel charges based almost totally on increases in

fuel costs that are a direct result of reduced capacity of nuclear plant operations. I am convinced the Legislature did not intend the fuel clause to operate in a manner that rewards poor performance, whether accidental or as a result of poor management.

I concur in this opinion because the law as written is not sufficiently clear in my mind as to permit the discretion of simply denying outright the fuel adjustment application at issue herein. It is for this reason that I support the recommendation made by the Hearing Panel to call upon the full Commission to expeditiously institute a generic rulemaking proceeding to consider prospective changes in our rules and procedures governing fuel adjustment applications filed pursuant to G. S. 62-134(e).

Leigh H. Hammond, Commissioner

DOCKET NO. E-7, SUB 314

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Duke Power Company for an Adjustment of Its Retail Electric Rates and Charges in Its Service Area Within North Carolina	) FINAL ORDER GRANTING) PARTIAL INCREASE IN) RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, and the Cities of Greensboro, Winston-Salem, Hendersonville, Charlotte, and Durham on July 28-29, 1981, August 26 - September 10, 1981, and November 23, 1981

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Sarah Lindsay Tate and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., Vice President and General Counsel; Duke Power Company; P.O. Box 33189, Charlotte, North Carolina 28242

William L. Porter, Assistant General Counsel; Duke Power Company; P.O. Box 33189, Charlotte, North Carolina 28242

John E. Lansche, Assistant General Counsel; Duke Power Company; 422 South Church Street, Charlotte, North Carolina 28242

W. Edward Poe, Staff Counsel; Duke Power Company; P.O. Box 33189, Charlotte, North Carolina 28242

Clarence W. Walker, Attorney at Law; Kennedy, Covington, Lobdell & Hickman; 3300 NCNB Plaza, Charlotte, North Carolina 28280

For the Intervenors:

Thomas R. Eller, Jr., Eller & Fruitt, Attorneys at Law; P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

Robert B. Byrd and Sam J. Ervin, IV; Byrd, Byrd, Ervin, Blanton & Whisnant, P.A., Attorneys at Law; One Northsquare, Drawer 1269, Morganton, North Carolina 28655
For: Great Lakes Carbon Corporation

M. Travis Payne, Attorney at Law; Route 1, Box 183, Durham, North Carolina 27705
For: Kudzu Alliance

Daniel V. Besse, Attorney at Law; P.O. Box 17691, Greensboro, North Carolina 27410
For: North Carolina Public Interest Research Group, Inc., and Conservation Council of North Carolina, Inc.

For the Using and Consuming Public:

Robert F. Page, Chief Counsel, and Paul L. Lassiter, Staff Attorney; Public Staff - North Carolina Utilities Commission; P.O. Box 991, Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding is before the Commission upon the application of Duke Power Company (Applicant, Company, or Duke) filed with the Commission on March 18, 1981, for authority to adjust and increase its electric rates and charges for retail customers in North Carolina. The proposed increase was designed to produce approximately $211,000,000 of additional revenues from the Company's North Carolina retail operations, when applied to a test period consisting of the 12 months ended December 31, 1980, or approximately a 19.7% increase in electric operating revenues.

The Commission, being of the opinion that the increase in rates and charges proposed by Duke was a matter affecting the public interest, by Order issued on April 10, 1981, declared the application to be a general rate case pursuant to G.S. 62-137, suspended the proposed rate increase for a period of up to 270 days, set the matter for hearing beginning on July 28, 1981, 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.

On May 21, 1981, the Public Staff, by and through its Executive Director, Dr. Robert Fischbach, filed Notice of Intervention on behalf of the Using and Consuming Public. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

Kudzu Alliance filed a Petition to Intervene on April 8, 1981, and on April 17, 1981, the Commission allowed the Intervention.

By Petition filed April 27, 1981, Great Lakes Carbon Corporation petitioned to intervene. On May 1, 1981, the Commission by Order allowed Great Lakes Carbon to intervene.

North Carolina Public Interest Research Group, Inc., petitioned to intervene on May 14, 1981, and its Intervention was allowed by Order entered May 18, 1981.

The People's Alliance filed a Petition to Intervene on July 13, 1981, and the Intervention was allowed by Order of July 17, 1981.

The North Carolina Textile Manufacturers Association, Inc. (NCTMA), filed a Petition to Intervene on July 23, 1981, and on July 27, 1981, the Commission allowed the Intervention.

Conservation Council of North Carolina, Inc., petitioned to intervene on August 13, 1981, and its Intervention was allowed on August 21, 1981.

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 increase. Such hearings were held in Greensboro, North Carolina, at 7:00 p.m., on July 28, 1981; in Hendersonville, North Carolina, at 2:00 p.m., on July 29, 1981; in Winston-Salem, North Carolina, at 2:00 p.m., on July 29, 1981; in Charlotte, North Carolina, at 7:00 p.m., on July 29, 1981; and in Durham, North Carolina, at 7:00 p.m., on August 31, 1981.

Public witnesses at these hearings included the following persons:

Greensboro- Doris Cruthis, Stella Calhoun, Eunice Terrell, Mildred Caldwell, Jim Harrison, Ann Nickerson, Eva Lewis, James Turner, Don Dixon, Don Gillespie, Randolph Hull, Michael Curtis, William F. Sherrill, and Bill Johnson.

Winston-Salem - J. Harmon Linville, Elizabeth Roberts, William H. Brown, Harley Graves, W. P. Steal, John D. Clark, Samuel M. Orr, Bill Crow, and Marshall Tyler.

Hendersonville - John Paden, Joe Orr, Frank L. Todd, G. Ray Cantrell, and Kenneth L. Tucker.

Charlotte - Ron Coleman, Katie Young, Sharon Duggan, Barbara Moore, Brenda Best, Mary Well, Robert Morgan, Sylvia Stinson, Richard Knie, William J. Veeder, James A. Story, Louise Kale, Wilma Argo, Florence White, John A. West, Toby Chapman, Harry Esterson, Shaw Brown, Virginia Stevens, Gwen Willis, Larry Weiner, Faison Fuester, Mike Fennell, Jesse Riley, and Bobby Lowery.

Durham - Sally Seay, Robert Booth, James Williams, Mary Gullage, H. L. Sherman, Allen Pollard, Lloyd Gurley, Sam Reed, Grace Beck, Jake Harris, Bob Giddings, Iris Jones, J. E. Irving, Beulah Miller, Al Norton, Sr., William N. Munn, Julia Brown, Linda Cline, Carver Peacock, Stuart Fisher, Bill Quick, Henry S. Cole, Frank Ward, Rob Balkin, Cynthia Hall, Dan Reed, Steve Schull, Elisa Wolper, and Gerald Mooneyham.

Raleigh - Frank L. Todd and Jim Overton.

In general terms, the testimony of these witnesses can be summarized as follows. Some of the customers were opposed to any further rate increase by

Duke, in view of the rate increases approved by the Commission in 1979 (Docket No. E-7, Sub 262) and 1980 (Docket No. E-7, Sub 289). Some customers were opposed to further construction of nuclear power plants and encouraged the development of other methods to meet energy needs in Duke's service area, such as conservation and power generated from nonnuclear sources. Several customers were disturbed about the law which became effective on July 1, 1979, that allows construction work in progress (CWIP) to be included in rate base. Other customers testified that Duke should assist customers in installing insulation. Finally, some customers supported Duke's request for increased rates.

The matter came on for hearing in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on August 26, 1981. Duke Power Company offered the testimony and exhibits of the following witnesses: William S. Lee, Duke's President and Chief Operating Officer, and William H. Grigg, Senior Vice President - Legal and Finance, both of whom testified as to the Company's need for the proposed rate increase, its construction program, its financial condition, and overall general corporate policy; Dr. Arthur T. Dietz, Professor of Banking, Finance and Business Administration, Emory University Graduate School of Business Administration, and Charles A. Benore, First Vice President of Paine Webber Mitchell Hutchins, Inc., a specialist in the analysis of utility securities for that firm, both of whom testified to the fair rate of return required by Duke Power; W.R. Stimart, Duke's Vice President - Regulatory Affairs, who testified as to the Company's rate base and the results of its operations in the historical test year after pro forma adjustments; Paul H. Earl, Economist and Vice President of Data Resources, Inc., who testified to a specific index reflecting the escalation in unit costs of Duke Power's operation and maintenance expenses; M.T. Hatley, Jr., Duke's Vice President - Rates, who testified with respect to the jurisdictional allocation, the proposed rates and rate design; Dr. Willard T. Carleton, Professor of Business Administration at the Graduate School of Business at the University of North Carolina at Chapel Hill, who presented an analysis of the real cost of electric power to Duke's North Carolina retail customers over the 25 years from 1955 through 1980; and Donald H. Denton, Jr., Duke's Vice President, Marketing, who testified concerning Duke's recently filed Residential Loan Assistance Program and generally concerning the Company's load management program.

The Public Staff offered the testimony and exhibits of the following witnesses: Thomas S. Lam, Utilities Engineer with the Electric Division of the Public Staff, who testified with respect to the Public Staff's review of the capital costs of McGuire Unit 1, the fuel saving from substituting nuclear for fossil generation when McGuire Unit 1 becomes operational, and a proposed adjustment to operation and maintenance expense related to purchased and interchanged power; Timothy J. Carrere, Utilities Engineer with the Electric Division of the Public Staff, who testified concerning the appropriate level of fuel investment for working capital purposes; Benjamin R. Turner, Jr., Utilities Engineer with the Public Staff, who testified with respect to Duke's probable future revenues and expenses applicable to electric plant in service at the end of the test period; David F. Creasy, Utilities Engineer with the Electric Division of the Public Staff, who testified as to the Company's proposed rate design and its cost-of-service and jurisdictional allocation studies; Mark D. Sherman, Staff Accountant with the Accounting Division of the Public Staff, who testified concerning the working capital allowance; William E. Carter, Jr., Assistant Director of Accounting of the Public Staff,

who testified concerning the fuel cost adjustment procedure; George E. Dennis, Accounting Supervisor with the Accounting Division of the Public Staff, who testified as to the Public Staff's investigation and analyses of the Company's original cost net investment, revenues, expenses, and rate of return under present and proposed rates; Dr. Robert Weiss, Staff Economist with the Economic Research Division of the Public Staff, who testified with respect to fair rate of return; and Richard N. Smith, Jr., Utilities Engineer with the Electric Division of the Public Staff, who testified with respect to Duke's Residential Loan Assistance Program and generally concerning the Company's load management program.

The Intervenor Kudzu Alliance offered the testimony and exhibits of Wells Eddleman related to his analysis and opposition to Duke's proposed rate increase and the Intervenor NCTMA offered the testimony and exhibits of H. Randolph Currin, Jr., President of Currin & Associates, concerning the impact of the proposed rate increase on certain textile manufacturing customers.

In rebuttal to the testimony on certain rate base and accounting adjustments proposed by Public Staff witnesses, Duke offered the testimony and exhibits of W.R. Stimart and the testimony of John F. Utley, National Director - Public Utilities for the accounting firm of Deloitte, Haskins & Sells. Duke also offered the testimony and exhibits of Donald M. Jenkins, Manager of Rate Research and Development for Duke, in rebuttal to certain of the testimony of NCTMA witness Currin. Duke witness Denton offered further testimony concerning Duke's residential load management program.

On September 18, 1981, and October 6, 1981, the Commission issued its Orders requiring the filing of certain supplemental calculations and studies by Duke Power and the Public Staff, scheduling further hearings on November 23, 1981, for the limited purposes of receiving evidence as to the commercial operation and in-service date of McGuire Unit 1 and to consider testimony concerning the additional calculations and studies to be filed, and requiring the filing of any briefs and proposed orders on or before December 7, 1981.

On October 5, 1981, Duke filed a notice with the Commission pursuant to G.S. 62-135 indicating that the Company proposed to increase the retail electric rates which it is presently charging in North Carolina by approximately nine percent (9%) for service rendered on and after October 18, 1981, along with a proposed customer notice entitled "Notice of Placing Partial 9% Rate Increase Into Effect Under Undertaking," a proposed undertaking and proposed revised rate schedules. By Order issued October 6, 1981, the Commission approved the customer notice and undertaking and approved as to form the rate schedules filed by Duke.

On November 13, 1981, Duke filed a notice with the Commission pursuant to G.S. 62-135 indicating that the Company proposed to place the remainder of the proposed 19.7% rate increase into effect, subject to refund, for bills rendered on and after December 1, 1981. This filing was accompanied by a proposed customer notice, the undertaking, and copies of the proposed revised rate schedules giving effect to said additional rate increase, subject to refund. By Order issued November 18, 1981, the Commission approved said notice and undertaking and approved as to form the rate schedules so filed by Duke.

As a result of the filings described in the previous two paragraphs, Duke has placed in effect, subject to refund, the entire amount of the rate increase applied for in this proceeding.

On November 23, 1981, the Commission heard additional testimony of Messers Lee and Stimart for the Company relating to the commercial operation and in-service date of McGuire Unit 1 and additional testimony of witness Jenkins for the Company relating to the schedules and studies which had been prepared pursuant to the Commission's Orders of September 18 and October 6, 1981.

On November 23, 1981, the Public Staff filed a motion opposing Duke's proposal to place temporary rates into effect on December 1, 1981, and this motion was joined in by Kudzu Alliance, N.C. Public Interest Research Group, Inc., and Great Lakes Carbon Corporation. By Commission Order dated November 25, 1981, the Commission denied the motion of the Public Staff but assured all parties that the question of whether Duke should be permitted to collect all or any portion of the temporary rates pursuant to G.S. 62-135 applicable to McGuire Unit 1 for service rendered prior to December 1, 1981, would be thoroughly considered by the Commission in its final Order, and invited all parties to address that issue in their briefs and proposed orders.

On December 17, 1981, the Commission issued a Notice of Decision and Order in this docket which stated that Duke should be allowed an opportunity to earn a rate of return of 11.92% on its investment used and useful in providing electric utility service in North Carolina. In order to have the opportunity to earn a fair return, Duke was authorized to adjust its electric rates and charges to produce an increase in gross revenues of $166,403,000 on an annual basis. Duke was also required to file proposed rates and charges necessary to implement the allowed rate increase in accordance with rate design guidelines established by the Commission.

On December 28, 1981, and January 5, 1982, Duke filed its proposed rates and charges as required by the Commission. On January 6, 1982, the Commission issued its Order Approving Rate Schedules.

Based on the foregoing, the verified Application, the testimony and exhibits received into evidence at the hearings, and the entire record with regard to this proceeding, the Commission, having duly reviewed the briefs and proposed orders filed herein by the parties, now makes the following

FINDINGS OF FACT

1. Duke is engaged in the business of developing, generating, transmitting, distributing, and selling electric power and energy to the general public within the Piedmont Crescent area of North Carolina, and Duke has its principal office and place of business in Charlotte, North Carolina.

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

3. The test period for purposes of this proceeding is the 12-month period ended December 31, 1980, adjusted for certain known changes based upon circumstances and events occurring up to the time of the close of the hearings in this docket. Duke by its application is seeking an increase in its basic rates and charges to North Carolina retail customers of approximately $211,000,000 based upon operations in said test period as adjusted.

4. The overall quality of electric service provided by Duke to its North Carolina retail customers is satisfactory.

5. The summer coincident peak method utilized by the Company and concurred with by the Public Staff in making jurisdictional cost-of-service allocations is the most appropriate method for use in this proceeding. Consequently, each finding of fact appearing in this Order which deals with the proper level of rate base, revenues, and expenses has been determined based upon said methodology.

6. Duke's McGuire Unit 1 nuclear generating unit is used and useful in providing electric utility service rendered to the public within this State, and was used and useful within a reasonable time after the end of the test period and prior to the time the hearings herein were closed. Since Duke shall cease to capitalize allowance for funds used during construction (AFUDC) on its McGuire Unit 1 effective December 1, 1981, the Company will be entitled to collect rates based upon the inclusion of McGuire in its rate base for service rendered on and after December 1, 1981.

7. The reasonable original cost of Duke's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, less that portion of the cost which has been consumed by previous use recovered by depreciation expense, plus the reasonable original cost of investment in plant under construction (construction work in progress or CWIP) less cost-free capital is $2,138,009,000.

8. The reasonable allowance for working capital and deferred debits and credits is $146,046,000.

9. Duke's reasonable rate base is $2,284,055,000. This amount consists of net utility plant in service and construction work in progress of $2,383,181,000, plus a reasonable allowance for working capital and deferred debits and credits of $146,046,000 less cost-free capital of $245,172,000.

10. Duke's gross revenues for the test year, under present rates and after accounting and pro forma adjustments, are $1,110,023,000. After giving effect to Duke's proposed rates, such gross revenues are $1,321,023,000. Under the revenue requirements approved herein, such revenues are $1,276,426,000.

11. Duke's reasonable level of test year operating revenue deductions, after accounting and pro forma adjustments, is $917,272,000. This amount includes $107,258,000 for investment currently consumed through reasonable actual depreciation on an annual basis.

12. The capital structure of Duke which is reasonable and proper for use in this proceeding is as follows:

Item	Percent
Long-term debt	49
Preferred stock	13
Common equity	38
Total	100

13. Duke's proper embedded costs of long-term debt and preferred stock are 9.34% and 8.22%, respectively. The reasonable rate of return for Duke to be allowed an opportunity to earn on its jurisdictional common equity is 16.50%. Said cost rates, when weighted by the capitalization ratios hereinabove found fair, yield an overall fair rate of return of 11.92% to be applied to the Company's rate base. Such rate of return will enable Duke, by sound management, to produce a fair return for its shareholders, considering changing economic conditions and other factors; to maintain its facilities and service in accordance with the reasonable requirements of its customers in the territory covered by its franchise; and to compete in the market for capital funds on terms which are reasonable and fair to its customers and to existing investors.

14. Based upon the foregoing, Duke should be allowed to increase its rates and charges in an amount not to exceed $166,403,000, in addition to the annual gross revenues which would be realized under its present base rates. Thus, the annual revenue requirement approved herein is $1,276,426,000. This increase is required in order for the Company to have a reasonable opportunity to earn the 11.92% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact. Of the $166,403,000 increase in revenues found reasonable in this proceeding, $98,828,000 is due to the rate base and operating effects of McGuire Unit 1. The remaining increase of $67,575,000 is the amount to which Duke is entitled without considering McGuire Unit 1 in this rate proceeding.

ELECTRICITY

SCHEDULE I

Duke Power Company
Docket No. E-7, Sub 314
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended December 31, 1980
(000's Omitted)

Line No.	Item	Amount
1.	Electric plant in service	$ 3,277,828
2.	Accumulated depreciation and amortization	(1,039,488)
3.	Net electric plant in service	2,238,340
4.	Construction work in progress	144,841
5.	Subtotal	2,383,181
6.	Allowance for working capital:	
7.	Cash	1,127
8.	Materials and supplies:	
9.	o Coal	75,292
10.	o Oil	4,643
11.	o O & M construction	41,091
12.	o Accounts payable applicable to O & M construction	(2,135)
13.	o Investor funds advanced for operations	29,911
14.	o Customer deposits	(3,883)
15.	Subtotal	146,045
16.	Deferred income taxes	(236,720)
17.	Operating reserves	(8,452)
18.	Subtotal	(245,172)
19.	Rate base	$ 2,284,055
20.	Rate of return:	
21.	o Present rates	8.44%
22.	o Approved rates	11.92%

ELECTRICITY

SCHEDULE II

Duke Power Company
Docket No. E-7, Sub 314
OPERATING INCOME FOR RETURN
For the Test Year Ended December 31, 1980
(000's Omitted)

Line No.	Item (a)	Present Rates (b)	Increase Approved (c)	After Approved Increase (d)
1.	Electric operating revenue	$1,110,023	$166,403	$1,276,426
2.	Electric operating revenue deductions:			
3.	Operation and maintenance:			
4.	o Fuel	374,720	-	374,720
5.	o Purchased power - net	(2,858)	-	(2,858)
6.	o Wages, benefits, materials, etc.	239,215	-	239,215
7.	Depreciation	107,258	-	107,258
8.	General taxes	97,731	9,984	107,715
9.	Interest on customer deposits	244	-	244
10.	Income taxes:			
11.	o Current liability	55,292	77,021	132,313
12.	o Deferred - net	24,137	-	24,137
13.	o Investment tax credit normalized	24,941	-	24,941
14.	o Investment tax credit amortized	(3,408)	-	(3,408)
15.	Total operating revenue deductions	917,272	87,005	1,004,277
16.	Operating income for return	$ 192,751	$ 79,398	$ 272,149

SCHEDULE III

Duke Power Company
Docket No. E-7, Sub 314
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended December 31, 1980
(000's Omitted)

Present Rates

Line No.	Item	Capitalization Ratio%	Rate Base	Embedded Cost/ Return (%)	Weighted Cost/ Return (%)	Operating Income
	(a)	(b)	(c)	(d)	(e)	(f)
1.	Long-term debt	49	$1,119,187	9.34	4.58	$104,532
2.	Preferred stock	13	296,927	8.22	1.07	24,407
3.	Common equity	38	867,941	7.35	2.79	63,812
4.	Total	100	$2,284,055	-	8.44	$192,751

Approved Rates

Line No.	Item	Capitalization Ratio%	Rate Base	Embedded Cost/ Return (%)	Weighted Cost/ Return (%)	Operating Income
	(a)	(b)	(c)	(d)	(e)	(f)
1.	Long-term debt	49	$1,119,187	9.34	4.58	$104,532
2.	Preferred stock	13	296,927	8.22	1.07	24,407
3.	Common equity	38	867,941	16.50	6.27	143,210
4.	Total	100	$2,284,055	-	11.92	$272,149

SCHEDULE IV

DUKE POWER COMPANY
Docket No. E-7, Sub 314
RECONCILIATION OF COMMISSION APPROVED GROSS REVENUE INCREASE TO COMPANY'S REQUESTED INCREASE
For the Test Year Ended December 31, 1980
(000's Omitted)

Line No.	Item (a)	Gross Revenue Impact McGuire (b)	Other (c)	Total (d)
1.	ADDITIONAL GROSS REVENUE REQUESTED BY COMPANY	$110,933	$100,067	$211,000
2.	COMMISSION ADJUSTMENTS TO CAPITALIZATION AND CAPITAL COST RATES:			
3.	- Reduced return on equity from 17.50% to 16.50%	(3,928)	(14,436)	(18,364)
4.	COMMISSION ADJUSTMENTS TO RATE BASE:			
5.	- Increased accumulated depreciation and amortization to reflect corollary adjustments arising from pro forma adjustments to depreciation expense and nuclear fuel expense including disposal costs:			
	o Other than McGuire	-	(316)	(316)
	o McGuire	(8,672)	-	(8,672)
6.	- Deducted injuries and damages insurance reserve	-	(221)	(221)
7.	- Deducted accounts payable applicable to materials and supplies	-	(432)	(432)
8.	- Lead-lag study differences	-	(6,251)	(6,251)
9.	COMMISSION ADJUSTMENTS TO REVENUE AND EXPENSE:			
10.	- Based customer growth adjustment on regression analysis	-	(1,342)	(1,342)
11.	- Priced out weather normalization adjustment excluding basic facilities charges and rate schedules not weather sensitive	-	(1,845)	(1,845)
12.	- Adjustments to revenue revenue related to fuel costs:			
	o To remove fuel expense from operations $382,916			

o To restore fuel cost at 1.3511¢ base	420,087	-	(37,171)	(37,171)
o To restore McGuire fuel savings	$ 49,216			
o To remove McGuire fuel savings	48,721	495	-	495
13. - Increased fuel expense to base level		-	37,171	37,171
14. - Decreased O & M expense to reflect Company revised adjustment with respect to contributions to EPRI		-	(228)	(228)
15. - Increased O & M expense to annualize wage expense based on the number of employees at the end of the test year including FICA tax effect		-	1,801	1,801
16. - Decreased nonfuel O & M expense to reflect use of different methodology in calculating expense side of weather and growth adjustments				
o Growth		-	(4,944)	(4,944)
o Weather		-	811	811
17. - Decreased O & M to reflect removal of residual of inflation adjustment		-	(5,085)	(5,085)
18. - Rounding differences		-	(4)	(4)
19. TOTAL GROSS REVENUE IMPACT OF COMMISSION ADJUSTMENTS		(12,105)	(32,492)	(44,597)
20. ADDITIONAL GROSS REVENUE APPROVED BY COMMISSION		$ 98,828	$ 67,575	$166,403

NOTE: (1) Assignment of gross revenue impact of Commission adjustments between McGuire and non-McGuire functions are estimates calculated from data currentl available.

(2) ( ) denotes decrease

15. Duke should be required to refund to its North Carolina retail customers all revenues collected under interim rates, pursuant to its undertakings to refund, to the extent that said rates produced revenue in excess of the level of rates prescribed herein, plus interest thereon calculated at the annual rate of ten percent (10%). In this regard, Duke was entitled to an increase of approximately 6.09% for service rendered during the period October 18 through November 30, 1981, as Duke was continuing to capitalize AFUDC on its McGuire Unit 1 until December 1, 1981. Further, Duke is entitled to the full 14.99% increase approved herein with respect to service rendered on and after December 1, 1981. The Commission finds that the interim rates charged by Duke beginning October 18, 1981, and on December 1, 1981, are unjust and unreasonable in that they exceed the amounts approved herein.

16. The appropriate base fuel cost to be included in rates is 1.3093¢ per kilowatt-hour, excluding revenue related taxes, consisting of the 1.4660¢ per kilowatt-hour approved in Docket No. E-7, Sub 328, less a .1567¢ per kilowatt-hour reduction for fuel savings related to the operation of McGuire Unit 1.

17. The rate designs proposed herein by Duke are reasonable and appropriate as modified by the Commission in Appendix A to its Notice of Decision and Order entered in this docket on December 17, 1981. It is appropriate for Duke to study methods of improving the efficiency of its rate designs.

18. It is appropriate for Duke to accelerate the schedule at which it is offering load control of residential water heaters and air conditioners.

19. Duke should be required to show, as a part of its future general rate applications, the portion of each accounting adjustment which is allocated to North Carolina retail service. The Company should also be required to make its jurisdictional allocations on a per book basis prior to applying said accounting adjustments.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That to the extent not altered or amended herein, the Ordering Paragraphs of the Notice of Decision and Order of December 17, 1981, and the Order Approving Rate Schedules of January 6, 1982, in this docket are hereby affirmed.

2. That Duke Power Company shall amend its subsequent tariff sheets to add the information included in Appendix A of this Order.

3. That Duke shall modify the rate at which it capitalizes allowance for funds used during construction (AFUDC), as required, so as to interface said cost rate with the findings and conclusions set forth herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of February 1982.

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

APPENDIX A

EXAMPLE OF NEW PROCEDURE FOR SHOWING HISTORY OF CHANGES IN FUEL COSTS ON TARIFFS BETWEEN GENERAL RATE CASES

After the first fuel clause hearing under G.S. 62-134(e) each affected tariff would reflect the following:

*Fuel charge per kWh included in base rates in Docket No. E-7, Sub 314, effective for service rendered beginning December 1, 1981 1.5596¢

Fuel charge increment (or decrement) per kWh established in Docket No. E-7, Sub XXA, under G.S. 62-134(e)	(.0710)¢
New base fuel charge per kWh icluded in base rates effective for bills rendered during the billing months of April through July 1982	1.4886¢
After the second fuel clause hearing under G.S. 62-134(e)	
*Fuel charge per kWh included in base rates in Docket No. E-7, Sub 314, effective for service rendered beginning December 1, 1981	1.5596¢
Fuel Charge increment (or decrement) per kWh established in Docket No. E-7, Sub XXA, under G.S. 62-134(e)	(.0710)¢
Base fuel charge effective for sevice rendered beginning December 1, 1981	1.4886¢
Fuel charge increment (or decrement) per kWh established in Docket No. E-7, Sub XXB, under G.S. 62-134(e)	(.0555)¢
New base fuel charge per kWh included in base rates effective for bills rendered during the billing months of August through November 1982	1.4331¢

Etc.

*NOTE: Because of the McGuire Unit 1 addition in Docket No. E-7, Sub 314, the charges shown resulting therefrom start for service rendered on December 1, 1981, instead of the normal bills rendered wording.

DOCKET NO. E-7, SUB 335

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Duke Power Company for Authority to Adjust Its Electric Rates and Charges Based Solely Upon Changes in Cost of Fuel	) ORDER APPROVING) ADJUSTMENT OF RATES) AND CHARGES PURSUANT) TO G.S. 62-134(e)

HEARD IN: Commission Hearing Room 213, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Wednesday, February 17, 1982, at 9:30 a.m.

BEFORE: Commissioner Leigh H. Hammond, Presiding; and Commissioners Sarah Lindsay Tate and Douglas P. Leary

APPEARANCES:

For the Applicant:

Steve C. Griffith, Jr., Vice President and General Counsel, and William L. Porter, Associate General Counsel, Duke Power Company, P. O. Box 33189, Charlotte, North Carolina 28242

For the Intervenors:

Thomas R. Eller, Jr., Eller & Fruitt, Attorneys at Law, P. O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

M. Travis Payne (Attorney of Record), Attorney at Law, 325 East Trinity Avenue, Durham, North Carolina 27701
For: Kudzu Alliance

For the Public Staff:

G. Clark Crampton, 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 January 25, 1982, Duke Power Company (Duke) filed an application with the North Carolina Utilities Commission pursuant to G. S. 62-134(e) and Commission Rules R1-36 and R8-46 requesting authority to adjust its rates and charges based solely upon the cost of fuel used in the generation of electric power for the four-month period ended December 31, 1981, by increasing the amount included for fuel expenses in the base retail schedules by 0.2495 cents per kilowatt-hour for bills rendered during the billing months of April 1982 through July 1982.

On January 28, 1982, the Commission issued an Order which suspended the tariff, set the matter for hearing, and required public notice.

On February 4, 1982, counsel for and on behalf of the Kudzu Alliance filed a "Petition to Intervene," which petition was allowed by Commission Order dated February 10, 1982.

On February 8, 1982, the North Carolina Textile Manufacturers Association, Inc. (NCTMA), filed a "Petition to Intervene and Protest; Motion to Dismiss." By Commission Order dated February 10, 1982, NCTMA was permitted to intervene herein as a formal party.

On February 10, 1982, the Public Staff filed a "Notice of Intervention" in this proceeding. On February 11, 1982, the Public Staff filed a "Motion to Dismiss Application."

On February 15 and 17, 1982, Duke filed its responses to the above-referenced motions to dismiss.

The matter came on for hearing as scheduled on February 17, 1982, and was completed on February 18, 1982. Duke, NCTMA and the Public Staff were present and represented by counsel. Oral arguments were presented on the motions to

dismiss as filed herein by NCTMA and the Public Staff and said motions were denied. However, the Hearing Panel indicated that it would bring before the full Commission in executive session the question of whether a generic rule-making proceeding should be set to consider questions related to the future application of the fuel adjustment clause.

Duke presented testimony of the following witnesses: W. R. Stimart, Vice President, Regulatory Affairs, and R. H. Hall, Jr., Vice President, Fuel Purchases, Mill-Power Supply Company. Wells Eddleman testified on behalf of the Kudzu Alliance. Testimony was also received from Carol Anderson, a Duke customer.

Based upon a careful consideration of the verified application, the testimony and exhibits received into evidence at the hearing, and the entire record in this proceeding, including pleadings, oral argument and Briefs, the Commission makes the following

FINDINGS OF FACT

1. Duke Power Company is a public utility corporation organized and existing under the laws of the State of North Carolina, and is subject to the jurisdiction of this Commission. Duke is lawfully before this Commission based upon an application for adjustment in its rates and charges pursuant to G.S. 62-134(e).

2. During the four-month period ended December 31, 1981, Duke's fuel generating costs were 1.5438 cents per kilowatt-hour. In accordance with NCUC Rule R1-36 and the formula adopted pursuant thereto, the proposed increase in rates due solely to the cost of fuel and associated gross receipts taxes would be 0.2495 cents per kilowatt-hour for the four billing months of April 1982 through July 1982.

3. Duke's fuel purchasing practices during the four-month period were reasonable and prudent. The Company's purchases of coal were made in accordance with coal purchasing practices found to be reasonable by this Commission in prior proceedings. The Company's purchases of coal from its affiliated companies were made in accordance with previous Orders of this Commission. The oil, gas, and nuclear fuel purchases of the Company were reasonable and prudent.

Whereupon, the Commission reaches the following

CONCLUSIONS

A careful consideration of the entire record in this proceeding leads the Commission to conclude that the current level of base fuel established as a result of Docket No. E-7, Sub 314, is 1.3093 cents per kilowatt-hour, consisting of the 1.4660 cents per kilowatt-hour approved in Docket No. E-7, Sub 328, less the 0.1567 cents per kilowatt-hour for the fuel savings related to the operation of McGuire Unit 1. Further, the Commission concludes that Duke should be allowed to adjust its base retail rates by the addition of an amount equal to 0.2495 cents per kilowatt-hour (which includes revenue-related taxes) effective for bills rendered during the billing months of April 1982 through July 1982, and for service rendered on and after the effective date of this Order. The authorized base fuel cost included in Duke's retail rates will then be 1.5438 cents per kilowatt-hour, excluding revenue-related taxes.

In conjunction with Finding of Fact No. 3 above, the Hearing Panel found that Duke's fuel purchasing practices during the test period were reasonable and that the Company's purchases of coal from its affiliated companies were made in accordance with previous Orders of this Commission. Nevertheless, the Hearing Panel further concludes that Duke's purchasing practices with respect to purchases of coal from its affiliated companies should be investigated and reviewed during the Company's next general rate case. To that end, Duke is hereby ordered to file testimony concerning the reasonableness of its coal purchasing practices from affiliated companies at the time it next institutes a general rate proceeding. In addition, the Public Staff is hereby requested to investigate the reasonableness of Duke's purchasing practices of coal from affiliated companies and to incorporate the results of such investigation and any recommendations resulting therefrom into its testimony to be filed in Duke's next general rate case.

The Hearing Panel wishes to conclude this Order by clearly stating that we are in fact concerned with all of the issues raised herein by NCTMA and the Public Staff with respect to G. S. 62-134(e) and the operation of our fuel adjustment procedures. Therefore, the Hearing Panel will recommend to the full Commission that a generic rule-making proceeding be expeditiously instituted in order to thoroughly consider recommendations from all interested parties concerning proposed changes in our rules and procedures governing fuel adjustment applications filed pursuant to G.S. 62-134(e). In this regard, the Hearing Panel believes that changes in fuel adjustment procedures must, by necessity, be made on a prospective basis after affording all interested parties an opportunity to offer their recommendations with respect to proposed rule revisions and changes in such procedures in order to ensure due process and to fully guard against making changes which may well be expedient as a means of addressing difficult issues in a cosmetic fashion at a particular point in time without fully considering all of the potentially adverse ramifications which may ultimately occur as a consequence of hastily authorized procedural changes.

With this thought in mind, the Hearing Panel notes that it would certainly have been expeditious in this case and undoubtedly popular with the customers of Duke Power Company and the general public at large for the Commission to have summarily granted the motions to dismiss filed herein by NCTMA and the Public Staff, particularly during a time of reduced nuclear power generation, which necessarily results in increased levels of expenditures for fuel related to changes in generation mix, increased reliance on purchased power, and other such factors. As much as this Hearing Panel might have been tempted for reasons of expediency to dismiss the instant fuel adjustment application, we have rightly concluded that such course of action would not have been responsible and proper, either from a legal or an equitable point of view, since this Commission has, for many years, followed procedures which are either similar to or identical to those set forth in Rule R1-36 in deciding fuel adjustment cases filed pursuant to G. S. 62-134(e). It has only been since the North Carolina Court of Appeals rendered its decision in State of North Carolina ex rel. Utilities Commission v. Virginia Electric and Power Company, 48 N.C. App. 453, 269 S.E. 2d 657, cert. denied, 301 N.C. 531 (1980), that various parties, including NCMTA and the Public Staff, have found it necessary to challenge our existing procedures. As the Commission has previously stated in various Orders, we are ourselves frustrated with the restraints imposed upon us, both by the Vepco decision, supra, and also by

the failure to date of the North Carolina General Assembly to enact legislation which would clearly restore our authority to examine the reasonableness of heat rates, generation mix, and capacity factors in fuel adjustment proceedings filed pursuant to G.S. 62-134(e).

With respect to the contention by the NCTMA and the Public Staff that the Commission should adjust the fuel clause test-period to reflect a full four month's generation by the McGuire nuclear unit, the Commission believes that such adjustment is inconsistent with the Commission's rate-making practices and procedures and, therefore, is improper. In Docket No. E-7, Sub 314, Duke's last general rate case, the Commission proformed as a reduction to the cost of service, the annual fuel savings attributable to McGuire. The McGuire unit was declared commercial on December 1, 1981. Therefore, since the fuel clause test period is composed of the four-month period ending December 31, 1981, fuel clause pro forma adjustments with respect to the actual in service date of McGuire are required in order to interface the Commission's fuel clause practices and procedures with its rate-making practices and procedures. However, the proper interfacing adjustment is that proposed by the Company. The Company's adjustment reflects pro forma operation of McGuire for the three-month period prior to the date of commencement of its commercial operation and actual operation for the one-month period subsequent to the date of commencement of commerci
Commission procedures as set forth in Commission Rule R1-36. The Commission, therefore, concludes that the Intervenors' position in this regard should be rejected.

Again, the Hearing Panel wishes to restate our concerns and frustrations with problems related to G.S. 62-134(e) proceedings and the Commission's current fuel adjustment procedures as affected by the Vepco decision, supra, and also to reiterate our belief that such matters should expeditiously be addressed by the full Commission in a generic rule-making proceeding. It should be made clear, however, that the mere fact that the Hearing Panel will recommend institution of the above-referenced generic rule-making proceeding should not lead anyone to mistakenly conclude that by taking such action we are in any way repudiating our past Orders in fuel clause proceedings, particularly Orders entered in those cases which are currently on appeal to the North Carolina Court of Appeals, or that by taking such action we are necessarily of the opinion that the Commission should cease to employ the fuel adjustment formula which we have consistently used for so many years. We simply think that the entire matter should be opened up for thorough discussion by all interested parties and that procedures affording due process should be observed.

IT IS, THEREFORE, ORDERED as follows:

1. That, effective for bills rendered during the billing months of April 1982 through July 1982 and for service rendered on and after the date of this Order, Duke shall adjust its base retail rates by the addition of an amount equal to 0.2495 cents per kilowatt-hour and shall roll this amount into each kilowatt-hour block of each rate schedule.

2. That Duke shall file appropriate rate schedules with the Commission in conformity with this Order.

3. That Duke is hereby required to file testimony with respect to the reasonableness of its coal purchasing practices from affiliated companies at the time it next institutes a general rate proceeding. In addition, the Public Staff is hereby requested to investigate the reasonableness of Duke's purchasing practices of coal from affiliated companies and to incorporate the results of such investigation and any recommendations resulting therefrom into its testimony to be filed in Duke's next general rate case.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of February 1982.

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

DOCKET NO. E-7, SUB 335

HAMMOND, COMMISSIONER, Concurring.

I am convinced beyond a shadow of doubt that the concept of a fuel adjustment clause was originally sold to the North Carolina General Assembly by the electric utility companies in this State as a mechanism to protect those companies from the effects of drastic and frequent changes in the prices of coal, oil, natural gas and uranium, but particularly changes in the prices of fossil fuels.

It is also my belief that by enacting G. S. 62-134(e) the General Assembly intended to require the Commission to approve rate increases based solely on increased costs of fuel in order to ease the impact on electric utility companies of violent fluctuations in fossil fuel prices.

The language of the statute in question is sufficiently vague as to leave honest doubt about whether the fuel adjustment clause was intended to deal solely with changes in the prices of coal, oil, natural gas and uranium or with the total cost of fuel burned during a given period of time. The total cost of fuel burned during a given month is influenced both by the price of fuel used and by the relative mix of generation which is experienced during that particular month. If the utility is unable, for whatever reason, to keep its nuclear plants operating at a reasonably high capacity, then the toal cost of fuel will increase even though the prices of all fuels may have remained the same or may have been decreased.

The Commission's Rules and past interpretation of G. S. 62-134(e) make no distinction between changes in fuel cost as a result of increases in the price of fuel used in generating electricity and increases related to changes in the generation mix; that is, poor nuclear performance.

Intervenors in past fuel clause proceedings have made very little effort to sort out the causes for increases in total fuel costs during a particular time period. Furthermore, to my recollection, this is the first time that the Commission has been presented with competent evidence showing that there has been very little, if any, change in the basic price of fuel during a fuel clause test period. The evidence shows clearly that the Company is here seeking an increase in its fuel charges based almost totally on increases in fuel costs that are a direct result of reduced capacity of nuclear plant operations. I am convinced the Legislature did not intend the fuel clause to operate in a manner that rewards poor performance, whether accidental or as a result of poor management.

I concur in this opinion because the law as written is not sufficiently clear in my mind as to permit the discretion of simply denying outright the fuel adjustment application at issue herein. It is for this reason that I support the recommendation made by the Hearing Panel to call upon the full Commission to expeditiously institute a generic rulemaking proceeding to consider prospective changes in our rules and procedures governing fuel adjustment applications filed pursuant to G. S. 62-134(e).

Leigh H. Hammond, Commissioner

DOCKET NO. E-7, SUB 338

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Duke Power Company for Authority to) ORDER GRANTING
Adjust and Increase Its Electric Rates and Charges) PARTIAL RATE INCREASE

HEARD IN: The Council Chambers, City Hall, 101 City Hall Plaza, Durham, North Carolina, on August 31, 1982

The Council Chambers, City Hall, 101 North Main Street, Winston-Salem, North Carolina, on September 1, 1982

Courtroom 2-A, Guilford County Courthouse, No. 2 Governmental Plaza, Greensboro, North Carolina, on September 1, 1982

Courtroom, City Hall, 145 5th Avenue East, Hendersonville, North Carolina, on September 2, 1982

The Commissioner's Board Room, Fourth Floor, County Office Building, 720 East Fourth Street, Charlotte, North Carolina, on September 2, 1982

The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 8 - 10, September 13 - 17, September 20 - 22 and 24, 1982

BEFORE: Commissioner Leigh H, Hammond, Presiding: and Commissioners John W. Winters and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

Steve C. Griffith, William L. Porter, and John E. Lansche, Attorneys at Law, Duke Power Company, 422 S. Church Street, Charlotte, North Carolina 28242

Clarence W. Walker, Attorney at Law, Kennedy, Covington, Lobdell & Hickman, 3300 NCNB Plaza, Charlotte, North Carolina 28280

For the Public Staff:

G. Clark Crampton and Vickie L. Moir, Staff Attorneys, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Intervenors:

Jerry B. Fruitt, Eller & Fruitt, Attorneys at Law, Post Office Drawer 27866, Raleigh, North Carolina 27612
For: The North Carolina Textile Manufacturers Association

Sam J. Ervin, IV, Byrd, Byrd, Ervin, Blanton, Whisnant and McMahon, P.A., Attorneys at Law, Post Office Drawer 1269, Morganton, North Carolina 28655
For: Great Lakes Carbon Corporation

Daniel V. Besse, Attorney at Law, 401-C Holt Avenue, Greensboro, North Carolina 27405
For: Conservation Council of North Carolina, Inc.

M. Travis Payne, Edelstein & Payne, Attorneys at law, Post Office Box 12643, Raleigh, North Carolina 27605
For: Kudzu Alliance

Richard M. Klein, Attorney at Law, Legal Services of North Carolina, Inc., Post Office Box 6505, Raleigh, North Carolina, and Douglas A. Scott, Attorney at Law, Central Carolina Legal Services, Inc., Post Office Box 3467, Greensboro, North Carolina 27402
For: Intervenors Lillia Brooks, et al.

BY THE COMMISSION: On March 31, 1982, Duke Power Company (Applicant, Company, or Duke) filed an application with the North Carolina Utilities Commission seeking authority to adjust and increase electric rates and charges for its retail customers in North Carolina. Said application seeks rates that produce approximately $165,277,000 of additional revenues from the Company's North Carolina retail operations when applied to a test period consisting of the 12 months ended December 31, 1981, an approximately 11.85% increase in total North Carolina retail rates and charges. The Company requested that such increased rates be allowed to take effect for service rendered on and after April 30, 1982. The principal reasons set forth in the application as necessitating the requested increase in rates were: the need to improve earnings in order to be able to raise capital for the Company's construction and load management programs; the effect of inflation; and the addition to rate base of certain construction work in progress.

This docket was established by Duke's filing with the Commission on February 12, 1982, its letter of intent to file an application for a general increase in rates as is required by the provisions of Commission Rule R1-17(a). Moreover, on February 26, 1982, Duke filed a request for waiver of certain of the Commission's filing requirements applicable to general rate increase applications by electric utilities. The Public Staff, having filed it Notice of Intervention in this matter on March 18, 1982, filed on that same date its "Comments and Statement of Position. . ." regarding Duke's requested

waiver. On March 19, 1982, the Commission issued its Order specifying which filing requirements would be waived or delayed and also allowing the motion of the KUDZU Alliance to intervene which had been filed in this docket on March 15, 1982. Also, by Order issued March 15, 1982, the Commission cancelled the hearing on the Research Triangle Institute's report on Duke's "SSI" rate, which had been scheduled to be held in Docket No. E-100, Sub 43. Such Order stated that the hearings with respect to that report would be a part of this general rate case docket. On March 22, 1982, there was filed in this docket and in Docket No. E-100, Sub 43, the Research Triangle Institute's report entitled "An Evaluation of a Lifeline Rate Alternative: The Suppemental Security Income Rate."

On April 15, 1982, Great Lakes Carbon Corporation filed its Petition to Intervene and Protest. By its Order of April 19, 1982, the Commission allowed that request to intervene. On April 21, 1982, attorneys for Legal Services of North Carolina, Inc., filed the Petition of Lillia Brooks, Flora Cannady, Minnie Gant, Ada Hooker, and Bertha Lomack for Leave to Intervene, which intervention was allowed by Commission Order issued April 23, 1982. On April 26, 1982, Duke filed Affidavits of publication of the notice regarding its application as required by Commission Rule R1-15(1).

On April 29, 1982, the Commission issued an Order declaring Duke's application to be a general rate case pursuant to G.S. 62-134 for a period of up to 270 days from the proposed effective date of such rates, scheduling public hearings on the application, establishing the test period and requiring Duke to give public notice of its application and the hearings scheduled by the Commission.

On May 26, 1982, there was filed in this docket with the Commission the Petition of the North Carolina Textile Manufacturers Association, Inc. ("NCTMA"), to Intervene and Protest. By its Order of May 28, 1982, that request to intervene was allowed. On June 3, 1982, the Commission issued its Order scheduling the hearings on the Research Triangle Institute's report on the SSI Rate for a date certain in this docket.

On June 17, 1982, the General Assembly of North Carolina ratified House Bill 1594 which amended G.S. 62-133(b)(1) so as to substantially change the treatment to be accorded to construction work in progress by the Commission, which repealed G.S. 62-134(e), the fuel adjustment clause statute, and set forth a fuel procedure in a new section, G.S. 62-133.2.

On August 5, 1982, Duke filed its Affidavits of Publication evidencing that public notice had been given as required by the Commission in its Order issued April 29, 1982. On August 13, 1982, the Commission, on its own motion, issued an Order directing the Public Staff to file exhibits presenting certain information in the form therein specified. Said exhibits were filed on August 17, 1982. On August 10, 1982, the Conservation Council of North Carolina Incorporated (CCNC) filed in this docket its Petition to Intervene, Request for Copies of Prefiled Testimony and Motion for Extension of Time to File Testimony. On August 13, 1982, Duke filed it response objecting to the relief requested by CCNC. By its Order of August 27, 1982, the Commission allowed CCNC to become an Intervenor and granted the other relief requested.

On August 25, 1982, NCTMA filed a motion in this docket and certain other then pending dockets (NCUC Docket Nos. E-100, Sub 44, E-22, Sub 265, and E-2,

Sub 44) requesting a variety of hearings and determinations regarding generally how fuel and construction work in progress should be treated in then pending general rate cases.

Public hearings were held as scheduled by the Commission for the specific purpose of receiving testimony from public witnesses. The following persons appeared and testified:

Durham: - Frank Ward, Fred Cates, William P. Laws, Lucius M. Cheshire, Jr., Daniel F. Read, Jim Overton, John Hardner, Stan Deacon, Carl Forsyth, C.T. Boulware, Howard L. Sherman, James Williams, Sam Reed, Geralding Werner, Elisa Wolper, Steve Schull, Paul Lukey, Denny Foscue, Aida Wakil, Barbara Harris, John Frederick, Jr., and George Lougee.

Winston-Salem: - Oliver Scott, Geneva Tucker, Catherine Orloff, Elizabeth Roberts, R.D. James, Paul Brayton, J.H. Crossingham, Stewart Power, Ken Mullis, Lewis Kanoy, J.G.H. Mitchell, Benny G. Morgan, Carlis Fulk, Betty Lou Wallace, James Sands, and Charles Roser.

Greensboro: - Fannie Graves, John Redhead, Larry D. Cohick, Chester Street, Edith Holt, Hugh White, William R. Scott, Ethel Coble, Steve Conowall, Lula Chambers, Margaret Keesee, Eunice Terrill, Johnnie Lewis, Ann Nicholson, H.K. Martin, Mrs. W.B. Tyner, Marilyn Mink, D.H. Finn, and Tim Silver.

Hendersonville: - Donnie Justice, David Spicer, Ray Cantrell, Janie Vaughn, Henry Young, Carl Summy, Charles F. Hicks, Charles F. Himes, Harold Burrell, Robert Scruggs, H.L. Rickenbacker, Joseph Henry, Maurice Hendrick, Paul Butler, Harold Alexander, Ben Wilson, Mrs. Wayland Greene, John Murdock, William M. Milner, and Arthur Harrington.

Charlotte: - Murray Corriher, Anthony T. Presley, Rock Miralia, G.D. Hoyle, Sr., Harold Hike, Clifton Turner, Buck Wearn, Avery Hilton, D.L. Seamore, Harry Brinzer, Gerald Maisler, Wayne Roberts, Leonard Schenck, Authur Griffin, Brenda Best, Mark Regan, Mike Fenel, William Trotter, Jim Story, Joel Goodrich, Dottie Alexander, Irene Komor, W.J. Fisher, and Jess Riley.

Additionally, F.K. Borden, Sam Reed, and Elisa Wolper testified as public witnesses on September 8, 1982, in Raleigh. An affidavit of Jess Riley, a public witness at the earlier Charlotte public hearings, was also entered into evidence by agreement of all parties.

As previously ordered, the case in chief came on for hearing in Raleigh, on September 8, 1982. The Applicant presented the testimony and exhibits of the following witneses:

1. William S. Lee, Chairman and Chief Executive Officer of Duke (direct testimony);

2. William H. Grigg, Senior Vice President - Legal and Finance of Duke (direct and rebuttal testimony);

3. Dr. Eugene F. Brigham, Graduate Research Professor of Finance and Director of the Public Utility Research Center at the University of Florida (direct testimony);

4. William R. Stimart, Vice President, Regulatory Affairs of Duke (direct, additional direct, supplemental direct, and rebuttal testimony);

5. M.T. Hatley, Jr., Vice President, Rates, of Duke (direct testimony);

6. Donald H. Denton, Jr., Senior Vice President, Marketing and Rates, of Duke (rebuttal testimony); and

7. Dr. Edward W. Erickson, Professor of Economics and Business, North Carolina State University (rebuttal testimony).

The four Duke rebuttal witnesses noted above testified on rebuttal on September 22 and 24, 1982.

The Public Staff presented the testimony and exhibits of the following witnesses:

1. William E. Carter, Assistant Director of the Public Staff Accounting Division (direct testimony);

2. Thomas S. Lam, Engineer with the PUblic Staff Electric Division (direct testimony);

3. Timothy J. Carrere, Engineer with the Public Staff Electric Division (direct and revisions to direct testimony);

4. David Kirby, Accountant with the Public Staff Accounting Division (direct testimony);

5. Dennis J. Nightingale, Director of the Public Staff Electric Division (direct and additional direct testimony);

6. Benjamin R. Turner, Jr., Engineer with the Public Staff Electric Division (direct testimony and revisions to direct testimony);

7. Richard N. Smith, Jr., Engineer with the Public Staff Electric Division (direct testimony and revisions to direct testimony);

8. Candace A. Paton, Accountant with the Public Staff Accounting Division (direct testimony and revisions to direct testimony); and

9. Dr. Caroline Smith, Senior Consultant, J.W. Wilson and Associates, Inc., Washington, D.C. (direct testimony and revisions to direct testimony).

By stipulation of all parties the testimony and exhibits of Donald R. Hoover, Director of Accounting for the Commission, regarding funding for the National Regulatory Research Institute, were made a part of the record. KUDZU Alliance presentd the testimony and exhibits of Wells Eddleman. CCNC presented the testimony and exhibits of Thomas K. Gunter. Lillia Brooks, et al., presented the testimony and exhibits of Dr. John K. Stutz. NCTMA and Great Lakes Carbon offered no evidence.

Based upon the verified application, the testimony and exhibits received into evidence at the hearings, and the record as a whole of these proceedings, the Commission now makes the following

FINDINGS OF FACT

1. Duke is engaged in the business of developing, generating, transmitting, distributing, and selling electric power and energy to the general public within a broad area of piedmont North Carolina. Duke has its principal office and place of business in Charlotte, North Carolina.

2. Duke is a public utility corporation organized and existing under the laws of the State of North Carolina and is subject to the jurisdiction of this Commission. Duke is lawfully before this Commission based upon its application for a general increase in its North Carolina retail rates and charges pursuant to the jurisdiction and authority conferred upon the Commission by the Public Utilities Act.

3. The test period for purposes of this proceeding is the 12-month period ended December 31, 1981, adjusted for certain known changes based upon circumstances and events occurring up to the time of the close of the hearings in this docket.

4. By its application the Company sought rates to produce jurisdictional revenues of $1,559,605,000 based upon a test year ending December 31, 1981. Company-contended revenues under present rates were $1,394,328,000 thereby necessitating an increase of $165,277,000. By supplemental testimony, the Company seeks rates to produce revenues of $1,599,348,000, an increase of $205,020,000 over Company-contended revenues under present rates. Considering that rates have been changed due to fuel changes since the Company's application was filed, the revenue level being sought herein is an increase of approximately $197,012,000 over rates currently in effect.

5. The overall quality of electric service provided by Duke to its North Carolina retail customers is good.

6. The summer coincident peak method as discussed herein is the most appropriate method for making jurisdictional allocations and for making fully distributed cost allocations between customer classes in this proceeding. Consequently, each finding of fact appearing in this Order which deals with the overall level of rate base, revenues, and expenses for North Carolina retail service has been determined based upon the summer coincident peak allocation method.

7. The summer/winter peak and average method and the summer/winter peak and base method for making jurisdictional allocations and for making fully distributed cost allocations between customer classes should be carefully considered for use in the Company's next general rate case.

8. It is fair and reasonable to allow the Company to recover its investment in its cancelled Perkins nuclear generating unit over a five-year period without the inclusion of the unamortized balance of that investment in rate base.

9. It is fair and reasonable to accord Duke's North Carolina retail ratepayers the benefit of the North Carolina retail portion of the profit which Duke realized during the test year upon the sale of an interest in its Catawba generating unit No. 1.

10. The prices which Duke has been paying for coal purchased from its affiliated Eastover coal mines are unreasonably high and the adjustment to Duke's fuel costs as provided for herein is necessary and appropriate in order that Duke's North Carolina retail ratepayers should not bear any unreasonable costs related to Duke's purchases of Eastover coal.

11. The use of a normalized test period generation mix in determining a reasonable fuel cost is appropriate in this proceeding.

12. It would be inappropriate to include the average annual "undercollection" of fuel costs in the base fuel component in this proceeding as Duke advocated.

13. The fuel cost component which is appropriate for use in this proceeding, determined pursuant to the provisions of G.S. 62-133 and G.S. 62-133.2, is 1.3964¢/kWh including gross receipts tax. The fuel expense represented by said fuel cost component is $419,005,000 for North Carolina retail service.

14. The amount which should properly be allowed as Duke's North Carolina retail working capital allowance for coal inventory is $96,969,000.

15. The reasonable allowance for total working capital for Duke's North Carolina retail operations is $189,063,000.

16. The reasonable rate base used and useful in providing service to the public within the State of North Carolina including construction work in progress pursuant to G.S. 62-133(b)(1), as recently amended, is $2,512,548,000. This consists of electric plant in service of $3,264,995,000, net nuclear fuel of $43,767,000, construction work in progress of $275,868,000, and an allowance for working capital of $189,063,000, less accumulated depreciation of $998,133,000, accumulated deferred income taxes of $263,793,000, and operating reserves of $9,220,000.

17. Appropriate gross revenues for Duke for the test year, under present rates and after accounting and pro forma adjustments, are $1,408,035,000.

18. The reasonable level of test year operating revenue deductions for the Company after normalized and pro forma adjustments is $1,141,561,000, which includes $113,198,000 for actual investment currently consumed through reasonable actual depreciation and/or amortization.

19. The exchange of debt for equity capital finally consummated by the Company in March 1982 increases the cost of capital, without increasing the capital available to support rate base and fund the Company's construction budget. Because the transaction increases the cost of capital, without providing equivalent offsetting benefits to ratepayers, the gain attributable to the exchange will be reclassified on the Company books as a deferred credit and amortized in equal amounts as a reduction to the cost of service over a 10-year period.

20. The reasonable capital structure to be employed as a basis for setting rates in this proceeding is composed as follows:

Item	Percent
Long-term debt	47.00%
Preferred stock	13.00%
Common equity	40.00%
Total	100.00%

Consistent with this capital structure, the embedded cost of debt and preferred stock are 9.91% and 8.61%, respectively.

21. The overall rate of return to be applied to the Company's original cost rate base is 11.98%. Said amount allows Duke a reasonable opportunity to achieve a 15.5% return on its common equity capital. Such rate of return will enable Duke, by sound management, to produce a fair return for its shareholders, to maintain its facilities and service in accordance with reasonable requirements of its customers, and to compete in the market for capital funds on terms which are reasonable and fair to the customers and to existing investors.

22. The proper amount of construction work in progress to be included in Duke's rate base, pursuant to the provisions of G.S. 62-133(b)(1) as recently amended and applied to this case, is $275,868,000. Inclusion of this amount in rate base is in the public interest and is necessary to assure the financial stability of Duke.

23. The annual revenue requirement approved herein is $1,469,738,000. This is an increase of $61,703,000 in Duke's level of gross revenues under rates currently in effect. Said revenues will allow Duke a reasonable opportunity to earn the rate of return on its rate base which the Commission has found just and reasonable. The revenue requirement approved herein is based upon the original cost of Duke's property used and useful in providing service to its customers, construction work in progress, and its reasonable test year operating revenues and expenses as previously set forth in these findings of fact.

24. The Residential Loan Assistance Program of Duke Power Company offers relatively little incentive for customer participation and should be improved.

25. The Residential Load Control Program offered by Duke Power Company is too narrow in scope and should be improved. Water heater insulation jackets should be offered by the Company at no charge as an incentive for voluntary customer participation in the Company's water heater load control program.

26. An all-energy TOD rate for residential TOD service should be offered on a limited basis to determine the effectiveness of such a rate.

27. The rate designs, rate schedules, and service rules proposed by the Company, and the modifications thereto as described herein, are appropriate and should be adopted.

28. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance

and educational programs. There is a need for the member states of the National Association of Regulatory Utility Commissioners to establish regularized funding for the NRRI to ensure that this Institute can continue it work despite the certain loss of federal funding. It is reasonable and appropriate for Duke to contribute to the funding of the Institute.

29. The studies to determine the cost justification for the experimental SSI rate are inconclusive, and the matter should be pursued further by the full Commission in Docket No. E-100, Sub 43.

30. Water heater insulation jackets should be included in Duke's low income assistance program on a systemwide basis.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That Duke Power Company shall adjust its electric rates and charges in a manner so as to produce an annual level of revenue no greater than $1,469,738,000 from its North Carolina retail customers based upon the Commission's adjusted test year level of operations. Said amount represents an increase of $61,703,000 above the level of revenue that would have resulted from rates currently in effect based upon the test year level of operations. Said increase shall be effective for service rendered on and after the date of this Order.

2. That within five (5) working days after the date of this Order, Duke Power Company shall file with this Commission rate schedules designed to produce the level of revenue set forth in Ordering Paragraph No. 1 above in accordance with the guidelines set forth in Appendix A attached hereto.

3. That Duke Power Company shall give appropriate public notice of the rate increase approved herein by mailing a copy of the notice attached hereto as Appendix B by first-class mail to each of its North Carolina retail customers during the next normal billing cycle following the filing and acceptance of the rate schedules approved in Ordering Paragraph No. 2.

4. That Duke Power Company shall prepare cost allocation studies for presentation with its next general rate application which allocate production plant based on the following methodologies: (1) summer/winter peak and base; and (2) summer/winter peak and average. Both jurisdictional and fully distributed cost allocation studies shall be made using each method, and the studies shall be included in items 31 and 37, respectively, of Form E-1 of the minimum filing requirements for general rate applications.

5. That Duke Power Company shall prepare cost allocation studies for presentation with its next general rate application which show the demand, energy, and customer components assigned to each rate schedule based on the following methodologies: (1) summer/winter peak and base; and (2) summer/winter peak and average. Production plant (and production plant-related expenses) which are allocated by kWh energy shall be included with the energy-related component of each rate schedule in the studies, and the studies shall be included in item 37d of Form E-1 of the minimum filing requirements for general rate applications.

6. That Duke Power Company shall file with the Commission, instead of the annual cost-of-service studies currently being filed, annual cost-of-service studies based on the summer/winter peak and average method and the summer/winter peak and base method as described herein. In consideration of the voluminous nature of said studies, the Company shall file six (6) complete copies of said studies instead of the number of copies currently being filed.

7. That Duke Power Company shall, as a part of its next general rate application, take the steps necessary to move the rate of return for each rate schedule closer to the North Carolina retail rate of return and that said rates of return shall include the combined rate of return for: (1) rate Schedules T, T2, and T2X, and (2) rate Schedules R (w/o qualifying water heater) and R (w/ qualifying water heater).

8. That Duke Power Company shall present a proposal with its next general rate application for merging closed rate Schedule RA with Schedule R over a period of time.

9. That Duke Power Company shall amend its service regulations concerning extra facilities by revising paragraph 11d (5) of Leaf L to read: "The installed cost of extra facilities shall be the original cost of material used, including spare equipment, if any, plus applicable labor, transportation, stores, tax, engineering, and general expense, all estimated if not known."

10. That Duke Power Company shall submit for the Commission's consideration within 90 days after the date of this Order a proposal for a revised residential loan assistance program under which: (1) Duke will make direct loans to residential customers at 6% interest; (2) Duke will subsidize all but the first 6% interest on bank loans to residential customers; (3) loans up to $2,500 will be made to meet Schedule RC insulation standards; (4) loans up to $500 will be made to any residential customer; and (5) loans must be utilized for specific types of weatherization in an Order of priority based on relative cost-effectiveness.

11. That Duke Power Company shall submit for the Commission's consideration within 90 days after the date of this Order a proposal for a revised residential load control program under which: (1) Duke will make load control available systemwide at least by 1987 as discussed herein; (2) Duke will offer cycling load control as discussed herein, or a combination of cycling plus emergency load control, to all residential customers; and (3) Duke will offer water heater insulation jackets at no charge to customers who contract for load control.

12. That within 30 days after the date of this Order, Duke Power Company shall file with this Commission a rate schedule for residential TOD service containing the following features as discussed more fully herein: (1) all-energy type TOD rate available to the first 200 residential customers to volunteer for the rate; (2) the same on-peak/off-peak hours as the Company's other TOD rates; (3) a 4 to 1 ratio of on-peak energy charges to off-peakenergy charges; (4) a basic customer charge reflecting use of a typical two-part meter (i.e., without demand indicator or remote control); (5) revenue neutrality with non-TOD residential rates, considering projected peak demand savings for the TOD rates; (6) the availability of said TOD rate

publicized in the same manner as the other TOD rates are publicized; and (7) said rate available without remote control metering.

13. That Duke Power Company shall file with the Commission within six months of the date of this Order a full progress report on the Company's low income weatherization program.

14. That any motions heretofore filed in this proceeding and not previously ruled upon are hereby denied.

15. That Duke Power Company is authorized to contribute to the National Regulatory Research Institute in a manner and in an amount consistent with the funding formula of said Institute.

16. That Duke Power Company shall reclassify the gain realized from the debt/equity swap finally consummated during the first quarter of 1982 in the amount of approximately $45,889,000 from the proprietary capital section of its balance sheet to Account 253 - Other Deferred Credits. Further, Duke Power Compar / shall amortize said gain from Account 253 in equal annual amounts over a 10-year period by debiting Account 253 and crediting Account 930 - Miscellaneous General Expenses. To the extent, if any, the foregoing accounting treatment is inconsistent with the NARUC Uniform System of Accounts for Class A and B Electric Utilities adopted by this Commission and prescribed by this Commission for use by Duke Power Company, said accounting treatment is hereby specifically authorized and approved.

17. That Duke Power Company shall not charge as an operating revenue deduction or otherwise reflect in reporting its earnings from utility operations, other than on a pro forma basis, any price paid for coal from its Eastover Properties greater than a price equal to the highest price paid for comparable quality coal under long-term contract from nonaffiliated suppliers; provided, however, that the price of said coal charged as an operating revenue deduction shall not exceed the cost of production plus a reasonable return on Duke Power Company's equity investment in its Eastover Properties in the event that future production costs and capital costs are less than the highest price paid for comparable quality coal under long-term contract from nonaffiliated suppliers. Further, Duke Power Company shall place in a nonearning deferred account the difference between the cost of coal acquired from Eastover and the highest price paid for comparable quality coal under long-term contract acquired from nonaffiliated suppliers. In determining the cost of production of coal from its Eastover Properties, Duke Power Company shall include amortization of any amounts recorded in the aforementioned deferred account; provided, however, that the total costs of Eastover coal associated therewith do not exceed the hightest price paid for coal of comparable quality under long-term contract from nonaffiliated suppliers. The Commission considers a reasonable return on Duke Power Company's equity investment in its Eastover Properties to be a return no greater than the equity return last found fair by this Commission in establishing the level of Duke Power Company's North Carolina retail electric rates. Further, Duke Power Company shall file with the Chief Clerk of the Commission a quarterly report (10 copies required) setting forth by month the total number of tons of coal purchased from its Eastover Properties, the BTU content thereof and the price paid per ton and the price paid per BTU for said coal purchased from its Eastover Properties. Such report shall also clearly reflect the highest price per ton and per BTU paid for comparable quality coal under long-term contract from nonaffiliated

suppliers. Further, said report shall clearly reflect on an individual basis all transactions affecting the aforementioned deferred account during said reporting period, including beginning and ending balances of said account. Workpapers (five copies required) setting forth all calculations relating to the foregoing data shall be provided. Said report shall be filed no later than 60 days from the last day of the quarter for which the data is being reported. The first report shall be for the 4th quarter of 1982.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of November 1982.

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

APPENDIX A
DOCKET NO. E-7, SUB 338
GUIDELINES FOR DESIGN OF RATE SCHEDULES

Step 1: Determine the amount of rate schedule revenues and other revenues, respectively, which are necessary to produce the overall revenue requirement established by the Commission in this proceeding.

Step 2: Decrease the rate schedule revenues proposed by the Company to the level necessary to produce the total rate schedule revenues determined in Step 1, as follows:

(a) Decrease the revenue requirement for each rate schedule by the same percentage, except as described in (b) below.

(b) Hold the revenue requirement for all lighting schedules at the level proposed by the Company.

Step 3: Reduce the individual prices in a given rate schedule by the same percentage to reflect the decrease in revenue requirement for the rate schedule as determined in Step 2, except as follows:

(a) Hold the basic customer charge for each residential rate schedule at the present rate level.

(b) Hold the basic customer charge for each nonresidential rate schedule at the level proposed by the Company.

(c) Hold the first block (0-350 kWh) of the residential rate schedules at the level proposed by the Company.

(d) Hold the third block (over 1,300 kWh) of residential rate Schedules R (w/o qualifying water heater), RA, and RC at the level proposed by the Company until the second block (350-1,300 kWh) is reduced to the present rate level.

(e) Do not reduce the second block (350-1,300 kWh) of residential rate Schedules R (w/o qualifying water heater), RA, and RC below the present rate level.

(f) Hold the second block (350-1,300 kWh) of residential rate Schedule R (w/ qualifying water heater) at the level proposed by the Company until the third block - summer (over 1,300 kWh) is reduced to the level of said second block.

(g) Hold the third block - winter (over 1,300 kWh) of residential rate Schedules RA and RC at the level proposed by the Company until the summer/winter rate differentials are reduced to the present rate levels.

(h) Hold the third block - winter (over 1,300 kWh) of residential rate Schedule R at the level proposed by the Company until the summer/winter rate differential is reduced to 0.45¢ per kWh;.

(i) Reduce the revenue requirement for each section (i.e., three sections, or load factor ranges, per rate schedule) of nonresidential rate Schedules G, GA, GB, I, and IP by the same percentage in order to maintain the current ratio of revenue recovery between sections.

(j) Hold the last block (second or third block) of each section (i.e., three sections) of nonresidential rate Schedules G, GA, GB, I, and IP at the level proposed by the Company until the next to last block is reduced to the level of said last block.

(k) Reduce prices in the TOD rate schedules in such a manner that they will remain basically revenue neutral with comparable non-TOD rate schedules, considering projected peak-demand savings for the TOD rates.

(l) Hold miscellaneous service charges and extra charges at the same level proposed by the Company, except for revision to the extra facilities charge specifically described in this Order.

Step 4: Round off individual prices to the extent necessary for administrative efficiency, provided said rounded off prices do not produce revenues which exceed the overall revenue requirement established by the Commission in this proceeding.

APPENDIX B

DOCKET NO. E-7, SUB 338

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Power Company for an Adjustment in Its Rates and Charges Applicable to Electric Service in North Carolina	)))	NOTICE TO CUSTOMERS

The North Carolina Utilities Commission today, after several months of investigation and following three weeks of hearings held throughout the State, denied Duke's request for an increase of $197 million over rates currently in effect while approving an increase of $61.7 million. The Company in its application for rate relief filed with the Commission on March 31, 1982, had

proposed an increased level of rates that would have produced increased annual revenues of $165.3 million over the level of rates then in effect. However, due to legislative amendment of certain utility laws which prompted the Company to subsequently increase the level of fuel cost initially requested and due to the difference in the fuel factor in effect at March 31, 1982, and that now in effect the increase being sought when compared to rates currently in effect is $197 million. The rate increase allowed by the Commission equates to an increase of 4.38% over rates now in effect as compared to an increase of 13.99% which would have resulted had the Company's full rate increase request been approved.

The Commission estimates that the bill of a typical residential customer using 1,000 kWh per month and presently paying approximately $56.26 per month will increase to approximately $58.72 per month. However, the percentage increase will vary for different levels of usage.

In allowing the 4.38% increase, the Commission found that the approved rates would provide Duke, under efficient management, an opportunity to earn an approximate 11.98% rate of return on the original cost of its property. In its application, Duke had sought rates which would allow it to earn a 12.36% rate of return.

Among the more controversial issues addressed by the Commission in its Order was the level of construction work in progress to be included in rate base. The 1982 North Carolina General Assembly amended the rate-making statute to eliminate mandatory inclusion of CWIP in rate base. This amendment provided that CWIP "may be included (in rate base), to the extent the Commission considers such inclusion in the public interest and necessary to the financial stability of the utility in question." In this case, Duke sought to include $317.1 million of CWIP in rate base, but the Commission found that only $275.9 million was justified as being in the public interest and necessary to Duke's financial stability. The Commission's decision resulted in the exclusion of $41.2 million in CWIP from rate base and decreased the Company's revenue requirement by $8.4 million.

Another issue addressed by the Commission was the level of salaries paid to Duke's executive officers. The Commission ruled that the Company's customers should be required to pay only one-half of all salaries paid Duke's executive officers who earn in excess of $150,000 per year.

The Commission also in addressing the propriety of the transfer prices Duke pays for coal acquired from its wholly owned subsidiary's coal mines ruled that such prices are unreasonably high and that Duke's North Carolina retail ratepayers should not be required to bear any portion of that cost found to be unreasonable. Accordingly, the Commission reduced the Company's revenue increase request by $6.7 million dollars so as to prevent the collection of this excess cost from the Company's customers.

The 1982 General Assembly amended the statutes governing fuel cost adjustment procedures. As a result, electric rates should exhibit less fluctuation due to changes in fuel costs than they have in recent years. The fuel component established in this proceeding is anticipated to remain in effect for approximately 12 months or until the Company's next general rate proceeding.

In another area, the Commission directed that steps be taken to improve customer participation in the Company's conservation and load management programs. An experimental program was established to determine the effect of residential time-of-day rates which exclude demand charges and which exclude meters subject to remote control equipment. The Company was directed to submit proposals for improvements in its residential loan program and also proposals for acceleration of its program for control of residential water heaters and air conditioners.

Finally, the Commission required that steps be taken to move toward more uniform rates per kWh for all levels of usage within each class of customers. The rate revisions seek to eliminate declining block rates and multiple rate blocks where the rates are not cost justified.

DOCKET NO. E-13, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Nantahala Power and Light Company for Authority to Adjust and Increase Its Electric Rates and Charges	) ORDER INCREASING) RATES AND) REQUIRING REFUND

HEARD IN: Swain County Courthouse, Bryson City, North Carolina, on September 16, 1981, and The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on February 23, 24, 25, and 26, 1982, and March 2, 3, 4, 5, 9, 10, 11, and 12, 1982

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners A. Hartwell Campbell and Douglas P. Leary

APPEARANCES:

For Nantahala Power and Light Company:

Robert C. Howison, Jr., James E. Tucker, and William Matthews, Hunton & Williams, Suite 400, Branch Banking and Trust Building, P.O. Box 109, Raleigh, North Carolina 27602

For Aluminum Company of American and Tapoco, Inc.:

Ronald D. Jones, David R. Poe, and Dennis P. Harkawik, LeBoeuf, Lamb, Leiby & McRae, 140 Broadway, New York, New York 10005

For Cherokee, Graham, Jackson, and Swain counties, North Carolina; the towns of Andrews, Bryson City, Dillsboro, Robbinsville, and Sylva, North Carolina; The Tribal Council of the Eastern Band of Cherokee Indians; and Henry J. Truett:

William T. Crisp and Robert B. Schwentker, Crisp, Davis, Schwentker and Page, P.O. Box 751, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Richard L. Griffin, Assistant Attorney General, P.O. Box 629, Raleigh, North Carolina 27602

Thomas K. Austin and Karen Long, Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE PANEL: On December 31, 1980 Nantahala Power and Light Company (Applicant, the Company, or Nantahala) filed an application with the Commission seeking to increase its rates and charges for retail electric service in North Carolina effective February 1, 1981. The proposed increase in rates and charges was designed to produce approximately $2,147,853 of additional revenues for Nantahala's North Carolina retail operations based upon the test year level of operations. On January 18, 1981, the Commission issued an Order designating this proceeding to be a general rate case, pursuant to G.S. 62-137, and suspending Nantahala's application for a period of 270 days, pursuant to G.S. 62-134.

On January 16, 1981, the Public Staff and the Attorney Gereral moved to dismiss the application, or, in the subordinate alternative, to defer hearing the case and to join Nantahala's parent company, Aluminum Company of America (Alcoa), and Nantahala's affiliate, Tapoco, Inc. (Tapoco), as parties to the proceeding. The Public Staff and the Attorney General argued that Nantahala's application was deficient in that it did not include "roll-in" data which, in the view of the moving parties, was required by the Supreme Court's decision in State ex rel. Utilities Commission v. Edmisten, 299 N.C. 432 (1980). Answers were filed by Nantahala, Alcoa, and Tapoco on February 6, 1981. On March 13, 1981, the Commission issued an Order entitled "Ruling on Motions and Scheduling Hearings," in which it denied the motions to dismiss or join additional parties but ordered Nantahala to submit data and testimony in this docket on the issue of utilizing a rolled-in cost of service treating Nantahala and Tapco as a single system for rate-making purposes. In that Order, the Commission stated:

> "Upon analysis of the Supreme Court's decision, the current status of Docket No. E-13, Subs 29 and 35, and the contentions of the parties, the Commission concludes that a roll-in determination is required in Docket No. E-13, Sub 35 independently and irrespective of whether such a determination is required in Docket No. E-13, Sub 29. Because the test period in Docket No. E-13, Sub 29 was for the year ending December 31, 1975, and the test period in the current case is for the year ending December 31, 1979, and because Docket No. E-13, Sub 29 involves a rate base determined on fair value, and the current case involves a rate base to be determined on original cost, the Commission believes the factual and legal framework of the two cases is such that a roll-in determination in the remanded case is not necessarily dispositive of whether a roll-in determination is required in the current case. Whether a roll-in is beneficial is a question of fact that may vary as the facts of each case change, and thus it would not appear that a finding in the remand case will necessarily determine that outcome in the new case. Accordingly, the Commission concludes that Nantahala's application is defective for failure to include roll-in data, and

that if the Commission were to proceed to hearing in this case without requiring Nantahala to file roll-in information, it would be violating the Supreme Court's mandate which controls both the remanded case and the new case."

On March 23, 1981, all of the Intervenors in this docket at that time filed their Motion to Reconsider the Joinder of Alcoa and Tapoco as Parties and Exceptions to Rulings on Motions and Scheduled Hearings.

On April 10, 1981, the Public Staff filed a Renewal of Motion to Dismiss, Alternative Motion to Continue Hearing and Extend the Time to File Testimony.

On April 13, 1981, Exceptions were filed by Nantahala to Portions of Rulings on Motions and Scheduled Hearings.

On April 14, 1981, Nantahala filed its Response to Renewal of Motion to Dismiss; Alternative Motion to Continue Hearing and Extend the Time to File Testimony.

On April 29, 1981, the Commission issued an Order Rescheduling Hearings to Begin on September 15, and Extending Time for Filing Testimony and Giving Notice.

On May 19, 1981, the Commission issued an Order changing the hearing dates to begin in Bryson City on Wednesday, September 16, 1981, for the purpose of receiving testimony from public witnesses. The hearing was held in Bryson City as scheduled and public witnesses were heard.

On July 13, 1981, the Commission issued an Order referring the hearing in this docket to this panel of Commissioners.

On July 16, 1981, the Commission issued an Order Joining Alcoa and Tapoco as Parties to these proceedings. Also on July 16, 1981, Nantahala filed a notice of undertaking pursuant to G.S. 62-135 of suspended rates. Nantahala also filed a Petition to Delay the Effective Date of Commission Order of March 13, 1981, Tolling or Suspending of Time Periods.

On July 21, 1981, an Errata Order was issued to show the correct date for the hearings to begin. On July 22, 1981, Response of Intervenors to the Notice and Petition filed by Nantahala on July 16, 1981, was filed and motion was made to require Tapoco and Alcoa to join in Nantahala's undertaking as signatory parties or guarantors.

On July 28, 1981, Order Allowing Rates to be Collected Pursuant to G.S. 62-135 was issued by the Commission.

On July 31, 1981, Petition to Intervene was filed by Derol Crisp and allowed by Commission Order of August 12, 1981.

On July 31, 1981, and on August 3, 1981, Errata Orders were issued by the Commission to correct several errors in the Order issued on July 28, 1981, allowing rates to be collected pursuant to G.S. 62-135.

On July 31, 1981, Tapoco and Alcoa filed Statements of Exceptions, Request for Reconsideration, and Request for Clarification of the Commission Order

joining them as parties to this proceeding, and Order was issued on September 4, 1981, denying the Motions.

On August 12, 1981, Nantahala filed Undertaking to Refund.

Motion to Cancel or Limit Scope of Hearing was filed with the Commission on August 20, 1981, by Nantahala, and an Order Limiting Scope of Hearings of September 18, 1981, was issued by the Commission on August 31, 1981.

On September 4, 1981, Tapoco and Alcoa filed a Motion for Scheduling Additional Hearings and for Permission to File Testimony.

On September 4, 1981, Nantahala filed a Motion Regarding Membership of Hearing Panel, and Order Overruling Motion for Different Panel was issued September 15, 1981.

On September 8, 1981, Nantahala filed a Motion for Continuance of hearing in this proceeding. By Order of September 15, 1981, Nantahala's Motion for Continuance of the hearings scheduled to begin September 22, 1981, save that being held on September 16, 1981, in Bryson City, was allowed and continuance granted to February 23, 1982. The Order further extended the 270-day period for a period of 154 days upon Nantahala's waiver of its right to object to such extension.

On September 9, 1981, Intervenors to this proceeding filed Response to Nantahala's Motion to Challenge the Panel.

On September 11, 1981, Intervenors filed Response to (1) Tapoco's and Alcoa's Motion to Bifurcate Hearings and (2) Nantahala's Motion for Continuance which had been filed on September 2, 1981. By Order of September 16, 1981, the Motion by Alcoa and Tapoco to bifurcate the hearings into two phases was denied.

On September 18, 1981, Petitions to Intervene were filed by the town of Bryson City and the county of Swain and allowed by Commission Order of October 5, 1981.

On September 23, 1981, Nantahala filed Exceptions to the Order Overruling Motion for Different Panel.

On October 5, 1981, Exceptions were filed by Tapoco and Alcoa to the Order Overruling Motion for Different Panel.

On December 17, 1981, the Commission issued its Order Fixing Time for Alcoa and Tapoco to File Testimony on or before January 22, 1982.

On December 18, 1981, Alcoa and Tapoco filed Motion for Clarification; Motion to Suspend Schedule; Reservation of Federal Rights, and a Supplement to said Motions was filed on December 22, 1981. Intervenors filed their Response to said Motion on January 4, 1982. By Order issued on January 21, 1982, the Commission denied the Motion for Clarification except as set out therein; denied the Respondent's Motion for Continuance and ordered that the Panel take judicial notice of the Commission Orders in Docket No. E-13, Sub 29, including the September 2, 1981, Order and the Final Order when issued.

On January 6, 1982, Nantahala filed Reservations of Federal Rights.

On January 7, 1982, Alcoa and Tapoco filed Motion to Compel Response to Data Request, to which Intervenors filed their response on January 20, 1982.

On January 22, 1982, Tapoco filed Motion to Dismiss, Alternative Motion for a Bill of Particulars, and Statement on Nonfiling to which Intervenors filed their Response on January 29, 1982. On February 8, 1982, Order was issued by the Commission denying Motion to Dismiss and Motion for Bill of Particulars.

On January 29, 1982, Alcoa filed Statement of Position and Reservation of Rights.

On February 11, 1982, the Intervenors filed a Motion to Strike the Testimony and Exhibits of witnesses Little and Toof.

On February 19, 1982, the Complainants in Docket No. E-13, Sub 36, filed for leave to withdraw their complaint against Nantahala, Alcoa, and Tapoco. This Complaint had been filed with the Commission on January 16, 1981, and had been consolidated for hearing with Docket No. E-13, Sub 35, by Order issued on September 4, 1981. Defendants had twice moved for dismissal of this action. On February 22, 1982, an Order allowing withdrawal of the complaint was issued. On February 24, 1982, this Order was modified to the extent that the complaint was dismissed with prejudice.

The proceeding first came on for hearing in Bryson City, North Carolina, on September 16, 1981, at which time the following public witnesses testified in support of the Intervenors: Virginia Gribble, Marie Leatherwood, Charles S. Slagle, Derol Crisp (an Intervenor), Frank Young, Barbara Eberly, Alfred Lindsey, Eugene McMonigle, Pauline Styles, Ray Wright, Robert Fouts, Tom Underwood, Jeanne Shannon, Spencer Clark, Victor E. Shannon, Howard Patton, Harold L. Gershenoff, Elizabeth Dewees, Veronica Nicholas, Vance Fouts, James Coggins, Nell R. Rogers, Edward J. Skelley, Ruth Littlejohn, William G. Davis, Gladys Griffin, Helen Kirkland, Lucy Riley, Emaline Cucumber, Stacy Saunooke, Fred W. Bumgarner, Mary Alice Greer, Karl Nicholas, Sue Cypher, H. P. Browning, Helen Jacobs, Rose Greer, Katy Brady, James B. Childress, Ramona Eddy, Gene Stamey, Ted Farmer, Carrol E. White, Dale Nations, and Mary Lou Byrd. Witnesses Crisp, Wright, Leatherwood, and V. Nicholas identified several exhibits some of which were admitted into evidence. Witness Veronica Nicholas, a County Commissioner of Jackson County, testified again in Raleigh at the renewal of the proceedings and again identified exhibits which were admitted into evidence.

The resumed proceedings came on for hearing as scheduled on February 23, 1982. Previously, on January 22, 1982, Tapoco had filed a motion to dismiss wherein, in the alternative, Tapoco said that if the motion were not granted, Tapoco would not file testimony in the proceeding. On February 8, 1982, an Order issued which denied Tapoco's motion. Tapoco did not prefile testimony and upon the coming on of the case for hearing, counsel for Alcoa announced that Tapoco would not participate in the hearing. However, during the course of the hearing, counsel for Alcoa announced that he was also appearing in behalf of Tapoco for certain purposes and made motions in behalf of Tapoco.

On the afternoon of February 23 and continuing through February 24-26, March 2-5, and March 9-12, 1982, the Commission held hearings as to which

witnesses listed below testified (due to scheduling problems witnesses did not testify in the order listed below). The subject of their testimonies is summarized as follows:

For Nantahala: (1) N. Edward Tucker, Jr., Vice President of Rates and Research of Nantahala, an electrical engineer who testified as to certain adjustments to the 1979 book revenue and expenses, the 1979 book and the proposed rate of return, the proposed Purchased Power Adjustment, the methodology used for allocating revenues, expenses and rate base, the results of allocation studies, and the design of the proposed retail rate schedules; (2) William M. Jontz, President of Nantahala, an electrical engineer, who testified as to Nantahala's service areas, the customer growth in usage of electrical energy increase in original cost of electric plant in service since the last rate increase, the increase in operation and maintenance expenses, the need for rate increase, and Nantahala's ability to obtain debt financing and additional capital; (3) Stuart G. McDaniel, Senior Vice President of Associated Utility Service, Inc., who testified as to rate base, operating revenues and expenses, overall rate of return on present and proposed rates for Nantahala as a stand alone company, and on a rolled-in basis with Tapoco, Inc.; (4) Herbert J. Vander Veen, a principal in the Washington Utility Group of Ernst & Whinney, who testified as to a rolled-in cost of service for a single unified Nantahala-Tapoco public utility system which would supply the full electrical requirements for the Alcoa smelting and fabricating load in eastern Tennessee and the public load in the five-county service area in western North Carolina and the reasons why he did not think any type of roll-in was appropriate; and (5) Joseph F. Brennan, President of Associated Utility Services, Inc., who testified as to the fair rate of return which Nantahala should be afforded an opportunity to earn on its rates for retail electric service in North Carolina.

For the several intervenors: (1) Curtis Toms, Jr., Supervisor Accounting Division - Communications Section, Public Staff, who testified as to the revenues, expenses, and investment of Nantahala, of Nantahala on a total company rolled-in basis, of Tapoco on a total company rolled-in basis, and of Nantahala and Tapoco on a rolled-in basis as if the two companies were one entity; (2) Dr. Robert Weiss, economist in the Economic Research Division of the Public Staff, who testified as to a proper overall fair rate of return for Nantahala to earn on its North Carolina retail operations and a proper capital structure with regard to common equity, long-term debt, and preferred stock; (3) David A. Springs, head of the power supply planning and power systems planning section of Southern Engineering Company of Georgia, who testified as to his review and analysis of materials filed in the proceeding and in other proceedings, including various contrasts between and among Nantahala, Tapoco, Alcoa, and TVA, as to a recommendation for appropriate capacity and energy allocation factors under a rolled-in allocation of cost responsibility of the Nantahala-Tapoco system, as to a recommendation for separation of utility costs and revenues from nonutility costs and revenues, and in opposition to some of the testimony of witnesses for Nantahala, Tapoco, or Alcoa; and (4) J. Bertram Solomon, electric rate consultant with Southern Engineering Company of Georgia, who testified as to the results of the Intervenor's combined Nantahala-Tapoco allocation cost-of-service study.

For Nantahala: Joseph F. Brennan, who had previously testified, testified in opposition to the capital structure of Dr. Weiss which had included preferred stock.

For Alcoa: (1) John C. Romano, Utilities Engineer, Electric Division, Public Staff, who identified his prefiled testimony and exhibits which had been withdrawn prior to commencement of the hearing; (2) Bruce Barstow, Vice President for Public Relations and Advertising of Alcoa, who testified as to Alcoa's position with regard to its wholly owned subsidiary, Nantahala; (3) George J. Myers, Power Manager of Alcoa's Tennessee operations and President of Tapoco, who testified as to Tapoco's physical plant and operations and to the scope of regulation of federal agencies having jurisdiction over Tapoco; (4) Dr. David I. Toof, manager in the Washington Utility Group of Ernst & Whinney, who testified as to the concerns expressed by the North Carolina Utilities Commission that Nantahala's relationship with Alcoa has had an adverse impact on Nantahala's ratepayers, including how a revenue requirement model was defined and developed, based on specific assumptions which were used to produce alternative scenarios involving Nantahala's operations; (5) John M. Little, partner in Ernst & Whinney and member of the Washington Utility Group, who testified as to the Supreme Court's concern that Nantahala's relationship with Alcoa has had an adverse impact on Nantahala's ratepayers and explained the results of studies conducted by himself and Dr. Toof which analyzed the impact that Alcoa has had on Nantahala and its ratepayers from 1940 to 1980; (6) Dr. William J. Leininger, employee of Ernst & Whinney and co-director of the Washington Utility Group, who testified as to how Nantahala's New Fontana Agreement entitlements fit its load, to show the rate advantage to Nantahala's customers compared to other retail rates in North Carolina and Tennessee and to show that Alcoa's total power cost is greater than the total power cost to Nantahala where total power cost equals the sum of the generation plus purchased power; (7) B. S. Cockrell, employed by Alcoa as Operating Manager-Power, who testified as to the development of Alcoa's Tennessee operations and as to Nantahala's and Tapoco's, and as to why, in his opinion, Tapoco came out second best in the New Fontana arrangements and that Alcoa is subsidizing Nantahala's ratepayers; and (8) Herbert J. Vander Veen, who had previously testified, testified in opposition for applying a roll-in methodology for ratemaking and in rebuttal to the testimony of Intervenor witness Springs.

For Nantahala: (1) Herbert J. Edwards, Jr., Senior Vice President, Ebasco Business Consulting Company, who testified in rebuttal to Intervenor's witnesses Springs' and Soloman's allocation methodology; (2) Jeff M. Makholm, a Staff Econometrician employed by Associated Utility Services, Inc., who testified in rebuttal to Intervenor's witness Weiss' statistical analysis and to review his analysis and conclusions concerning the relationship between common equity ratio and total capitalization for electric utilities; and (3) N. Edward Tucker, who had previously testified, testified as to Nantahala's operations under the Fontana, New Fontana, and 1971 Apportionment Agreements and in opposition to Intervenor witness Springs' allocation methodology.

In addition to the testimony of the witnesses, virtually every witness sponsored one or more supporting exhibits.

Upon the close of testimony by witnesses for the Intervenors, Tapoco made an appearance in the case. Alcoa and Tapoco moved for dismissal of that portion of the case relating to the roll-in methodology. The motion was disallowed.

Following the close of the hearings, the parties were requested to file briefs and proposed Findings of Fact and Conclusions of Law within 30 days of filing of the last transcript of testimony. The parties did file briefs and proposed orders in apt time.

Upon consideration of the testimony and exhibits presented at the hearing and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. Nantahala is a duly organized public utility company under the laws of North Carolina, subject to the jurisdiction of this Commission, and is holding a franchise to furnish electric power in the western part of the state of North Carolina under rates and service regulated by this Commission as provided in Chapter 62 of the General Statutes.

2. Tapoco is a duly organized public utility and is domesticated as such under the laws of North Carolina. It is subject to the jurisdiction of this Commission with respect to its retail rates and electric service as provided in Chapter 62 of the General Statutes.

3. Both Nantahala and Tapoco are wholly owned subsidiaries of Alcoa. Alcoa is a public utility pursuant to G.S. 62-3(23)c and is subject to the jurisdiction of this Commission with respect to retail ratemaking.

4. The Nantahala and Tapoco electric facilities constitute a single, integrated electric system and are operated as such by, and as a coordinated part of, the Tennessee Valley Authority (TVA) system.

5. For purposes of setting the Applicant's rates in this proceeding, the Nantahala and Tapoco systems should be treated as one entity with respect to all matters affecting the determination of the Applicant's reasonable cost of service applicable to its North Carolina retail operations.

6. The New Fontana Agreement (NFA), executed by TVA, Alcoa, Nantahala, and Tapoco, and the resultant 1971 Apportionment Agreement between Tapoco and Nantahala have resulted in substantial benefits to Alcoa to the significant detriment of the customers of Nantahala.

7. The methodology employed by the Intervenors in making cost-of-service allocations is the most appropriate for use in this proceeding. Consequently, each finding of fact appearing in this Order which deals with the proper level of rate base, revenues, and expenses has been determined based upon said methodology.

8. Nantahala-Tapoco's original cost of electric plant is $21,955,280, consisting of electric plant in service of $50,161,648; construction work in progress of $371,262; reduced by the accumulated provision for depreciation of $25,539,709; accumulated deferred income taxes of $2,973,551; and accumulated deferred investment tax credit (pre-1971) of $64,370.

9. The reasonable allowance for working capital is $1,035,212, consisting of cash working capital of $625,057, materials and supplies of $497,389, FERC license expense of $48,076, unamortized maintenance of $56,607, less customer deposits of $191,917.

10. Nantahala-Tapoco's original allocated cost rate base is $22,990,492. This amount consists of net original cost of electric plant of $21,955,280, plus a reasonable allowance for working capital of $1,035,212.

11. The approximate gross revenues from electric operations for the test year, after accounting and pro forma adjustments, under rates approved by Commission Order of June 14, 1977, are $17,882,589 and after giving effect to the Company proposed increase is $20,030,442 ($17,882,589 + $2,147,853).

12. The approximate level of test year operating expenses under rates approved by Commission Order of June 14, 1977, after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $13,976,104 which includes an amount of $1,547,242 for actual investment currently consumed through reasonable actual depreciation after annualization to year-end levels.

13. The reasonable capital structure to be employed as a basis for setting rates in this proceeding is composed as follows:

Debt	49.3%
Equity	50.7%
Total	100.0%

14. The proper cost for debt and preferred stock is 8.46%. The reasonable rate of return Nantahala should be allowed to earn on common equity is 16.5%. Using a weighted average for the cost of debt and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall fair rate of return of 12.54% to be applied to the Company's original cost rate base. Such rate of return will enable Nantahala, by sound management, to produce a fair return for its shareholder, 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 terms which are reasonable and fair to the customers and to its existing investor.

15. The approximate annual level of revenues which Nantahala should be authorized to collect through rates charged for its sales of service, based upon the findings of fact set forth hereinabove, is $15,735,791.

16. The rates and charges of Nantahala, based upon the adjusted test year level of operations, under rates approved by Commission Order of June 14, 1977, are excessive to the extent that said rates produce a level of revenue which is $2,146,798 ($17,882,589 - $15,735,791) greater than the Applicant's revenue requirement (cost of service). Thus, Nantahala should be required to reduce said rates and charges in a manner so as to achieve an annual gross revenue reduction of approximately $2,146,798, based upon the adjusted test year level of operations.

17. Nantahala should be required to refund to its North Carolina retail customers all revenue collected since September 3, 1981, under the rates approved by Commission Order issued June 14, 1977, and proposed rates put into effect August 1,1981, to the extent that said rates produced revenue in excess of the rates approved herein. Said refund shall include revenues collected under the Company's base rate structure as well as through operation of the Purchased Power Adjustment Formula plus interest computed and compounded at the legal annual rate.

ELECTRICITY

SCHEDULE I
NANTAHALA - TAPOCO COMBINED SYSTEM
North Carolina Retail Operations
STATEMENT OF OPERATING INCOME
Twelve Months Ended December 31, 1979

	Present Rates	Decrease Required	Approved Rates
Operating Revenues:	$17,882,589	$ 2,146,798	15,735,791
Operating Revenue Deductions:			
Purchased power	1,907,827	-	1,907,827
Other operation and maintenance	6,188,583	-	6,188,583
Depreciation and amortization	1,547,242	-	1,547,242
Taxes - other than income	1,520,644	128,808	1,391,836
Income taxes - State and Federal	2,690,322	993,658	1,696,664
Deferred	-	-	-
Deferred in prior year	(65,584)	-	(65,584)
Investment tax credit normalized	238,031	-	238,031
Amortization of investment tax credit	(50,961)	-	(50,961)
Total operating revenue deductions	13,976,104	1,122,466	12,853,638
Operating income for return	$ 3,906,485	$ 1,024,332	$ 2,882,153

ELECTRICITY

SCHEDULE II
NANTAHALA-TAPOCO COMBINED SYSTEM
North Carolina Retail Operations
STATEMENT OF RATE BASE AND RETURN
Twelve Months Ended December 31, 1979

	Approved Rates	After Approved Rates
Investment in Electric Plant		
Electric plant in service	$50,161,648	$50,161,648
Construction work in progress	371,262	371,262
Accumulated provision for depreciation	(25,539,709)	(25,539,709)
Accumulated deferred income taxes	(2,973,551)	(2,973,551)
Accumulated deferred investment tax credit - pre-1981	(64,370)	(64,370)
Net original cost of electric plant	21,955,280	21,955,280
Allowance for Working Capital		
Cash working capital	625,057	625,057
Materials and supplies	497,389	497,389
FERC license adjustment	48,076	48,076
Unamortized maintenance	56,607	56,607
Customer deposits	(191,917)	(191,917)
Total allowance for working capital	1,035,212	1,035,212
Original Cost Rate Base	$22,990,492	$22,990,492
Rate of return	16.99%	12.54%

SCHEDULE III
NANTAHALA - TAPOCO COMBINED SYSTEM
North Carolina Retail Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended December 31, 1979

	Original Cost Rate Base	Ratio %	Embedded Cost %	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	$11,334,313	49.3	8.46	$ 958,883
Common stock	11,656,179	50.7	25.29	2,947,602
Total	$22,990,492	100.00	-	$3,906,485
	Approved Rates - Original Cost Rate Base			
Long-term debt	$11,334,313	49.3	8.46	$ 958,883
Common equity	11,656,179	50.7	16.50	1,923,270
Total	$22,990,492	100.00	-	$2,882,153

18. The Applicant should base all residential customer's billings on monthly meter readings.

19. The Applicant's Purchased Power Adjustment Clause should be formulated so as to permit the Applicant to recover from its North Carolina retail customers 26.56% of the total demand-related purchased power costs and 26.06% of the total energy-related purchased power costs attributable to Nantahala/Tapoco in the future. Applicant should also refund recoveries it has made from its North Carolina retail customers via its Purchased Power Adjustment Clause to the extent such recoveries exceeded 26.56% of the total demand-related purchased power cost and 26.06% of the total energy-related purchased power cost attributable to Nantahala/Tapoco during the test period. The Applicant should also list the Purchased Power Adjustment as a separate item on each billing.

20. Alcoa has so dominated certain transactions and agreements affecting its wholly owned subsidiary Nantahala that Nantahala has been left but an empty shell, unable to act in its own self interest, let alone in the interest of its public utility customers in North Carolina. Therefore, this Commission is compelled to find that, to the extent Nantahala is financially unable to make the revenue refunds required in this Order, Alcoa shall refund all or any portion of the aforementioned revenue refunds that Nantahala is financially unable to make.

21. Nantahala's proposed rate design and service rules are reasonable and appropriate as modified herein.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the appropriate annual level of revenues which Nantahala is hereby authorized to collect for rates charged for its sales of service, based upon the adjusted test year of operations, is $15,735,791.

2. That the rates and charges of Nantahala, based upon the adjusted test year of operations, under rates approved by Commission Order of June 14, 1977, are excessive to the extent that said rates produce a level of revenue which is $2,146,798 ($17,882,589 - $15,735,791) greater than the Applicant's revenue requirement (cost of service). The June 14, 1977, rates having been replaced by the Applicant with new rates under bond effective August 1, 1981, said rates are additionally excessive to the extent of their increase in the amount of $2,147,853 annually. Thus, Nantahala is hereby ordered to reduce said rates and charges by a uniform percentage across all rate schedules and charges in a manner so as to achieve an annual gross revenue reduction in the August 1, 1981, rates of approximately $4,294,651, based upon the adjusted test year level of operations.

3. That Nantahala is hereby ordered to refund to its North Carolina retail customers all revenue collected under the rates placed into effect on August 1, 1981, to the extent that said rates produced revenue in excess of the level of rates approved herein. Said refund shall include excess revenues collected under the Company's base rate structure as well as through operation of the Purchased Power Adjustment Clause calculated in a manner consistent with the findings and conclusions set forth herein plus interest computed and compounded at the legal annual rate.

4. That Nantahala shall file for Commission approval within 10 working days of the issuance date of this Order rates designed in accordance with the foregoing Ordering Paragraphs. Such rates shall include a Purchased Power Adjustment Clause formulated in a manner consistent with the Commission's findings and conclusions as set forth under Evidence and Conclusions for Finding of Fact No. 19.

5. That Nantahala shall begin calculating monthly bills for all residential customers based on monthly meter readings within 90 days after the date of this Order, said 90-day period being the time allowed for acquiring and training the additional staff and equipment necessary to implement such monthly meter readings.

6. That Nantahala shall file for Commission approval within 30 days from the issuance date of this Order its plan for making the refunds as required herein. Further, Nantahala, at such time, shall file 10 copies of its calculation of the total amount of refund due including 10 copies of all detailed work papers associated therewith.

7. That, to the extent Nantahala is financially unable to make revenue refunds required under Ordering Paragraph No. 3 above, Alcoa shall refund all

or any portion of the aforementioned revenue refunds that Nantahala is financially unable to make.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of June 1982.

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

*NOTE: Please refer to the official files in the office of the Chief Clerk for Errata Order dated June 9, 1982.

NOTE: Please refer to the official files in the Office of the Chief Clerk or in the Seventieth Report of the North Carolina Utilities Commission Orders and Decisions for Appendix A.

DOCKET NO. E-22, SUB 265

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Virginia Electric and Power Company	) ORDER GRANTING
for Authority to Adjust and Increase Its Electric	) PARTIAL INCREASE
Rates and Charges	) IN RATES

HEARD IN: Meeting Room, Municipal Building - Police Department, Ahoskie, North Carolina, on Monday, June 7, 1982, at 7:00 p.m.

Knob Creek Recreation Center, Elizabeth City, North Carolina, on Tuesday, June 8, 1982, at 6:00 p.m.

Williamston City Hall, Williamston, North Carolina, on Wednesday, June 9, 1982, at 7:00 p.m.

Roanoke Rapids Community Center, Roanoke Rapids, North Carolina, on Thursday, June 10, 1982, at 7:00 p.m.

The Commission Hearing Room, Second Floor, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on June 15-17, June 22-25, and June 29-30, 1982

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners A. Hartwell Campbell and John W. Winters

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Edward S. Finley, Jr., and Edgar M. Roach, Jr., Hunton & Williams, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602

Guy T. Tripp, III, Hunton & Williams, Attorneys at Law, P.O. Box 1535, Richmond, Virginia 23212

For the Using and Consuming Public:

Theodore C. Brown, Jr., Acting Chief Counsel, Paul L. Lassiter, Staff Attorney, and Gisele L. Rankin, Staff Attorney, Public Staff-North Carolina Utilities Commission, P.O. Box 991, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

For the North Carolina Textile Manufacturers Association:

Jerry B. Fruitt, Eller and Fruitt, Attorneys at Law, P.O. Drawer 27705, Raleigh, North Carolina 27705

For Weyerhaeuser Co., Champion International, Abbott Laboratories and Schlage Lock Co.

John N. Fountain and Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 25, 1982, Virginia Electric and Power Company (Vepco or Company) filed an application with the North Carolina Utilities Commission seeking authority to adjust and increase its rates and charges for electric service to its North Carolina retail customers, to become effective on February 25, 1982. The requested increase in rates and charges was designed to produce $20,400,000 of additional annual revenues from the Company's North Carolina customers and was based on a test period consisting of the 12 months ended June 30, 1981, with estimated updates through March 31, 1982.

By Order issued on February 15, 1982, the Commission, being of the opinion that the increase in rates and charges proposed by Vepco was a matter affecting the public interest, declared the application to be a general rate case pursuant to G.S. 62-137; suspended the proposed rate increase for a period of 270 days; set the matter for hearing before the Commission beginning on June 7, 1982; required Vepco to give notice of such hearing by newspaper publication 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 Public Staff on March 1, 1982. The Intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

On March 15, 1982, the Kudzu Alliance filed Petition to Intervene. An Order allowing the intervention of the Kudzu Alliance was entered on March 19, 1982. On April 2, 1982, the North Carolina Textile Manufacturers Association filed a Petition to Intervene and Protest the proposed rate increase. An Order allowing the intervention of the North Carolina Textile Manufacturers Association was entered on April 8, 1982. On May 24, 1982, Abbott Laboratories, Champion International Corporation, Schlage Lock Company, and Weyerhaeuser Corporation filed Petitions to Intervene. An Order allowing these interventions was entered by the Commission on June 1, 1982.

On April 6, 1982, the Public Staff filed a motion requesting the Commission to prevent Vepco from updating its test year from June 30, 1981, to March 31, 1982. On April 16, 1982, the Commission issued an Order setting the Public Staff's motion for oral argument on April 19, 1982.

The oral argument was held as scheduled on April 19, 1982. The Public Staff and the Textile Manufacturers argued that Vepco should not be allowed to update its test year from June 30, 1981, to March 31, 1982, and that to allow such an update would violate the Intervenors' right to due process of law. The Company argued that it should be allowed to make appropriate updates pursuant to Commission Rules and G.S. 62-133(c).

After careful consideration and due deliberation, the Commission issued an Order on April 22, 1982, permitting Vepco to update its application pursuant to G.S. 62-133(c) for all known changes in costs, revenues, and rate base only through December 31, 1981. Further, the Commission ordered Vepco, in conformity with the provisions of Commission Rule R1-17(b) and (c), to file data related to any proposed material significant updates reflecting actual changes in costs, revenues, and rate base based upon circumstances and events occurring up to the time the hearing in this matter is closed.

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, extensions of time to file testimony, and other procedural matters. Such motions and the Commission Orders entered in response thereto are reflected in the Chief Clerk's official files in this proceeding.

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 Vepco's proposed rate increase. The first such hearing was held in Ahoskie, North Carolina, at 7:00 p.m., on June 7, 1982; the second in Elizabeth City, North Carolina, at 6:00 p.m., on June 8, 1982; the third in Williamston, North Carolina, at 7:00 p.m., on June 9, 1982; the fourth in Roanoke Rapids, North Carolina, at 7:00 p.m., on June 10, 1982; and the fifth hearing beginning in Raleigh, North Carolina, at 10:00 a.m., on June 15, 1982.

Public witnesses at these hearings included the following persons:
Ahoskie - Edward H. Wilson, Jr.
Elizabeth City - Joe Mathias and James Ferebee
Williamston - Allison Clark
Roanoke Rapids - Grova L. Bridgers, J. R. Daniel, John Wiley, Jewel Glover, Dennis Parnell and Keith Dobbins.

The matter came on for hearing in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on June 15, 1982, at 10:00 a.m. Vepco offered the testimony and exhibits of the following witnesses: William W. Berry, President and Chief Operating Officer of Vepco; Jack H. Ferguson, Executive Vice President of Vepco; B. D. Johnson, Vice President and Controller of Vepco; O. J. Peterson, III, Vice President and Treasurer and Chief Financial Officer of Vepco; Irene M. Moszer, Manager of Forecasting and Economic Analysis for Vepco; Tyndall L. Baucom, Manager-Fossil and Hydro Operations and Maintenance for Vepco; Henry H. Dunstan, Jr., Manager-Cost Analysis for Vepco; and Howard M. Wilson, Jr., Manager-Rates for Vepco.

The Public Staff offered testimony and exhibits of the following witnesses: Timothy J. Carrere, Engineer with the Public Staff's Electric Division; Thomas S. Lam, Engineer with the Public Staff's Electric Division; Richard N. Smith, Jr., Engineer with the Public Staff's Electric Division; Benjamin Turner, Jr., Engineer with the Public Staff's Electric Division; William W. Winters, Supervisor of the Electric Section of the Public Staff's Accounting Division; and Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff.

Vepco presented the following rebuttal witnesses: James P. Carney, Director-Economic Analysis Division of Vepco; J. H. Ferguson, Executive Vice President-Power of Vepco; O. J. Peterson, III, Vice President and Treasurer and Chief Financial Officer of Vepco; and B. D. Johnson, Vice President and Controller of Vepco.

The Intervenor, Champion International Corporation, offered the testimony and exhibits of Richard A. Luoma, Assistant Production Manager at Champion's plant at Roanoke Rapids.

During the hearing, Donald R. Hoover, Chief Accountant of the Commission Staff of the North Carolina Utilities Commission, took the stand and recommended that the Commission allow the Company an opportunity to participate in the funding of the National Regulatory Research Institute.

At the close of the hearing, the Company requested that it be granted an increase of $14,674,000 based on the Company's March 31, 1982, updates and reduction in fuel expenses.

Based upon the foregoing, the testimony and exhibits admitted at the hearing, and the entire files and records in this docket, the Commission now reaches the following

FINDINGS OF FACT

1. That Vepco is engaged in the business of developing, generating, transmitting, distributing, and selling electric power and energy to the general public in northeastern North Carolina, and Vepco has its principal office and place of business in Richmond, Virginia.

2. That Vepco is duly organized as a public utility company under the laws of North Carolina and is subject to the jurisdiction of this Commission. Vepco is lawfully before this Commission based upon its application for a general increase in its North Carolina retail rates and charges, pursuant to the jurisdiction and authority conferred upon the Commission by the Public Utilities Act.

3. That the test period for purposes of this proceeding is the 12-month period ended June 30, 1981, adjusted for certain changes and updates through March 31, 1982. Vepco, by its application, is seeking an increase in its basic rates and charges to its North Carolina retail customers of approximately $14,674,000 net of its proposed modification in fuel expense.

4. That the overall quality of electric service provided by Vepco to its North Carolina retail customers is adequate.

5. That the "average and excess" method proposed by the Company is the most appropriate method for making jurisdictional allocations in this proceeding, and that the "summer/winter peak and average" method as discussed herein is the most appropriate method for making fully distributed cost allocations between customer classes in this proceeding. Consequently, each finding of fact appearing in this Order which deals with the proper level of overall rate base, revenues, and expenses for North Carolina retail service has been determined based upon the average and excess allocation methodology.

6. That the reasonable original cost of Vepco's property used and useful, or to be used and useful within a reasonable time after the test period, in providing service rendered to the public within the State of North Carolina, less that portion of the cost which has been consumed by previous use recovered by depreciation expense is $195,997,000.

7. That the reasonable allowance for working capital and deferred debits and credits is $20,074,000.

8. That Vepco's reasonable original cost rate base is $216,071,000. This amount consists of net utility plant in service and construction work in progress of $195,997,000, plus a reasonable allowance for working capital and deferred debits and credits of $20,074.000.

9. That Vepco's appropriate level of gross revenues for the test year rate of return under present rates and after accounting and pro forma adjustments is $98,522,000 and after the increase approved herein, it is $102,077,000 for the period (through October 27, 1982) under rate of return penalty, and $110,336,000, for the period thereafter.

10. That the reasonable level of test year operating revenue deductions is $80,079,000, after considering the rate of return penalty, and $79,880,000 before considering the rate of return penalty. This amount includes $8,373,000 for investment currently consumed through reasonable actual depreciation on an annual basis.

11. That the capital structure for Vepco which is appropriate for use in this proceeding is as follows:

Item	Percent
Debt	52.03
Preferred stock	11.09
Installments received on capital stock	.09
Common equity	
Stock and retained earnings	35.55
Other paid-in equity	.43
Total	100.00%

12. That the Company's embedded costs of debt, preferred stock, and installments received on capital stock are 9.27%, 8.51%, and 8.00%, respectively. The other paid-in equity portion of the capital structure is at zero cost. The Company's fair and reasonable overall cost of capital is 11.353%, which results in a fair and reasonable rate of return for the Company's common stockholders of 15.5%

13. That the rate of return penalty imposed upon Vepco by this Commission in Docket No. E-22, Sub 257, should remain in effect until October 27, 1982, and that the overall rate of return found appropriate for this period is 9.398%, which results in a fair and reasonable rate of return for the Company's stockholder's during the period of 10.00%.

14. That, based upon the foregoing, Vepco should increase its annual level of gross revenues under present rates by $3,555,000 for the period ending October 27, 1982. That subsequent to the lifting of the rate of return penalty on Vepco on October 27, 1982, Vepco should increase its annual level of gross revenues under test year rates by $11,814,000. These levels of annual gross revenues will allow the Company a 9.398% overall rate of return on rate base for the period ending October 27, 1982, and a 11.353% overall rate of return on rate base for the period subsequent to October 27, 1982. Such level of returns are found to be fair and reasonable to both the Company and its ratepayers.

SCHEDULE I
VIRGINIA ELECTRIC AND POWER COMPANY
North Carolina Retail Operations
STATEMENT OF OPERATING INCOME
For the Test Year Ended June 30, 1981

(Adjusted for Known Charges Occurring Subsequent to the End of the Test Year and After Consideration of Rate of Return Penalty in Effect Through October 27, 1982)

(000's Omitted)

	Present Rates	Approved Increase	After Approved Increase
Operating Revenues:			
Net operating revenues	$98,522	$3,555	$102,077
Operating Revenue Deductions:			
Operation and maintenance expenses	55,579	9	55,588
Depreciation	8,373		8,373
Amortization of property losses	968		968
Gain or loss on disposition of property	(4)		(4)
Taxes other than income	8,540	213	8,753
Deferred income taxes	4,298		4,298
Current federal and state income taxes	3,437	1,641	5,078
Investment tax credits	(1,224)		(1,224)
Interest on customer deposits	34		34
Commitment fees	78		78
Total operating revenue deductions	80,079	$1,863	$ 81,942
Net operating income	$18,443	$1,692	$ 20,135

ELECTRICITY

SCHEDULE I
VIRGINIA ELECTRIC AND POWER COMPANY
North Carolina Retail Operations
STATEMENT OF OPERATING INCOME
For the Test Year Ended June 30, 1981

(Adjusted for Known Charges Occurring Subsequent to the End of the Test Year and Reflecting No Rate of Return Penalty Applicable for Operation After October 27, 1982.)

(000's Omitted)

	Present Rates	Approved Increase	After Approved Increase
Operating Revenues:			
Net operating revenues	$98,522	$11,814	$110,336
Operating Revenue Deductions:			
Operation and maintenance expenses	55,264	29	55,293
Depreciation	8,373		8,373
Amortization of property losses	968		968
Gain or loss on disposition of property	(4)		(4)
Taxes other than income	8,540	707	9,247
Deferred income taxes	4,414		4,414
Current federal and state income taxes	3,437	5,455	8,892
Investment tax credits	(1,224)		(1,224)
Interest on customer deposits	34		34
Commitment fees	78		78
Total operating revenue deductions	79,880	6,191	86,071
Net operating income	$18,642	$5,623	$24,265

SCHEDULE II
VIRGINIA ELECTRIC AND POWER COMPANY
N. C. Retail Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended June 30, 1981

(Adjusted for Known Changes Occurring Subsequent to the End of the Test Year)

(000's Omitted)

Item	Amount
Investment in Electric Plant	
Gross electric plant in service, including nuclear fuel	$257,876
Electric portion of common utility plant in service	726
Construction work in progress	17,377
Total plant investment	275,979
Deduct: Accumulated provision for depreciation	(62,190)
Amortization of nuclear fuel assemblies, front-end costs	(5,595)
Plant investment less accumulated depreciation and amortization	208,194
Deduct: Cost-free capital	12,197
Total net investment in electric plant before working capital allowance	195,997
Working capital and deferred debits and credits	20,074
Original cost rate base	$216,071

ELECTRICITY

SCHEDULE III
VIRGINIA ELECTRIC AND POWER COMPANY
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended June 30, 1981

(Adjusted for Known Changes Occurring Subsequent to the End of the Test Year and After Consideration of Rate of Return Penalty in Effect Through October 27, 1982)

(000's Omitted)

Item	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
		Present Rates		
Long-term debt	52.03	$112,422	9.27	$10,422
Preferred stock	11.90	25,712	8.51	2,188
Common equity	35.55	76,813	7.75	5,818 1/
Subscription received on capital stock	.09	195	8.00	15 1/
Other paid-in capital	.43	929	-	-
Total	100.00	$216,071		$18,443
		Approved Rates		
Long-term debt	52.03	$112,422	9.27	$10,422
Preferred stock	11.90	25,712	8.51	2,188
Common equity	35.55	76,813	10.00	7,510 1/
Subscription received on capital stock	.09	195	8.00	15 1/
Other paid-in capital	.43	929	-	
Total	100.00	$216,071		$20,135

1/ After consideration that no return on unamortized cancellation costs allowed for these items.

ELECTRICITY

SCHEDULE III
VIRGINIA ELECTRIC AND POWER COMPANY
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended June 30, 1981

(Adjusted for Known Changes Occurring Subsequent to the End of the Test Year and Reflecting No Rate of Return Penalty Applicable for Operation After October 27, 1982)

(000's Omitted)

Item	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
		Present Rates		
Long-term debt	52.03	$112,422	9.27	$10,422
Preferred stock	11.90	25,712	8.51	2,188
Common equity	35.55	76,813	8.01	6,017[1/]
Subscription received on capital stock	.09	195	8.00	15[1/]
Other paid-in capital	.43	929	-	
Total	100.00	$216,071		$18,642
		Approved Rates		
Long-term debt	52.03	$112,422	9.27	$10,422
Preferred stock	11.90	25,712	8.51	2,188
Common equity	35.55	76,813	15.50	11,640[1/]
Subscription received on capital stock	.09	195	8.00	15[1/]
Other paid-in capital	.43	929	-	
Total	100.00	$216,071		$24,265

1/ After consideration that no return on unamortized cancellation costs allowed for these items.

15. That the rate designs, rate schedules, and service rules proposed by the Company, and the modifications thereto, as described herein, are appropriate and should be adopted.

16. That the National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance

and educational programs. There is a need for the member states of National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of federal funding. It is reasonable and appropriate for Vepco to contribute to the funding of the Institute.

NOTE:. Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That Virginia Electric and Power Company be, and hereby is, authorized to adjust its electric rates and charges so as to produce additional annual revenues from operations of $3,555,000, and that such increase be, and hereby, is authorized to be adjusted to $11,814,000 after October 27, 1982.

2. That within five (5) days after the date of this Order, Virginia Electric and Power Company shall file with this Commission rate schedules designed to produce the increase in revenues set forth in Ordering Paragraph No. 1 above in accordance with the guidelines set forth in Appendix A attached hereto.

3. That the tariffs filed in accordance with paragraph 2 above will become effective for service rendered on or after the issuance of a further Order in this docket.

4. That Virginia Electric and Power Company shall prepare a study for presentation with its next general rate application which will provide the information necessary to determine the energy-related portion of production plant (and production plant related expenses) as described herein. Such information shall include at least the following:

a. For each current nonpeaking unit (i.e., base load, intermediate load, etc.) determine the difference between (1) the annual cost of capital for the nonpeaking unit and (2) the annual cost of capital for a peaking unit with the same capacity and the same years service.

b. For each current nonpeaking unit, determine the difference between (1) the annual fuel cost for the nonpeaking unit and (2) the annual fuel cost for a peaking unit with the same kWh production.

The study may exclude units which are so old as to have an insignificant impact on the current overall investment in production plant (and production plant related expenses)

5. That Virginia Electric and Power Company shall prepare cost allocation studies for presentation with its next general rate application which allocate production plant based on the "summer/winter peak and average" method as described herein. Both jurisdictional and fully distributed cost allocation studies shall be made using the method, and the studies may be utilized as a part of items 31 and 37 of Form E-1 of the minimum filing requirements for general rate applications if appropriate.

6. That Virginia Electric and Power Company shall prepare cost allocation studies for presentation with its next general rate application which show the demand, energy, and customer components assigned to each rate schedule based on the "summer/winter peak and average" method as discussed herein. Production plant (and production plant related expenses) which are allocated by kWh energy shall be included with the energy-related component of each rate schedule in the studies. The studies may be utilized as a part of item 37d of Form E-1 of the minimum filing requirements for general rate applications if appropriate.

7. That Virginia Electric and Power Company shall file with the Commission, instead of the annual cost-of-service studies specified in the Commission Order of June 28, 1973, in Docket No. E-22, Sub 141, an annual cost-of-service study based on the "summer/winter peak and average" method as described herein. In consideration of the voluminous nature of said studies, the Company shall file six complete copies of said studies instead of the 31 copies currently being filed.

8. That Virginia Electric and Power Company shall revise the availability of Rate Schedule 1W in order to make said Schedule 1W available to controlled storage space heating as discussed herein.

9. That Virginia Electric and Power Company shall add an appropriate description to Rate Schedules 5P and 6P specifying how the load factor is to be determined in establishing the eligibility of a customer for either rate schedule.

10. That Virginia Electric and Power Company shall prepare a study for presentation with its next general rate application which will show how much demand-related cost is included in each energy block of the energy charges for rate Schedules 5 and 6. In order to facilitate a comparison between the demand cost per kWh in one energy block versus the demand cost per kWh in another energy block, the study shall also include a billing analysis as follows:

A. For Schedule 5, show:

1. For customers (billings) whose billing demand is not metered or is not utilized for billing:

   a. Total kW billing demand
   b. Total kWh usage in 1st energy block (0-800 kWh)
   c. Total kWh usage in 2nd energy block (800-3,000* kWh)
   d. Total kWh usage in 3rd energy block (over 3,000* kWh)

2. For customers (billings) whose billing demand does <u>not</u> exceed 10 kW:

   a. Total kW billing demand
   b. Total kWh usage in 1st energy block (0-800 kWh)
   c. Total kWh usage in 2nd energy block (800-3,000* kWh)
   d. Total kWh usage in 3rd energy block (over 3,000* kWh)

3. For customers (billings) whose billing demand falls between 10 kW and 30 kW:

a. Total kW billing demand
b. Total kWh usage in 1st energy block (0-800 kWh)
c. Total kWh usage in 2nd energy block (800-3,000* kWh)
d. Total kWh usage in 3rd energy block (over 3,000* kWh)

4. For customers (billings) whose billing demand exceeds 30 kW:

a. Total kW billing demand
b. Total kWh usage in 1st energy block (0-800 kWh)
c. Total kWh usage in 2nd energy block (800-3,000* kWh)
d. Total kWh usage in 3rd energy block (over 3,000* kWh)

B. For Schedule 6 show:

1. For customers (billings) whose energy usage does <u>not</u> exceed 1,000 kW billing demand:

a. Total kW billing demand
b. Total kWh usage in 1st energy block (0-210,000* kWh)
c. Total kWh usage in 2nd energy block (over 210,000* kWh)

2. For customers (billings) whose energy usage exceeds 1,000 kW billing demand:

a. Total kW billing demand
b. Total kWh usage in 1st energy block (0-210,000* kWh)
c. Total kWh usage in 2nd energy block (over 210,000* kWh)

C. For both Schedules 5 and 6, show:

1. Energy cost in ¢ per kWh for each energy block.

2. Demand cost in ¢ per kWh for each energy block.

11. That Virginia Electric and Power Company shall, at the time of its next general rate application, file proposals and discussions thereof which accomplish the following:

a. Increase winter demand charges for Schedule 7 to the same level as Schedule 5; and

b. Increase energy charges for Schedule 7 closer to the energy charges for Schedule 5.

12. That upon approval by the full Commission, Vepco shall be authorized to contribute no more that $1,940 annually to the National Regulatory Research Institute.

13. That any motions heretofore filed in this proceeding and not previously ruled upon are hereby denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of August 1982.

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

APPENDIX A

DOCKET NO. E-22, SUB 265

GUIDELINES FOR DESIGN OF RATE SCHEDULES

Step 1: Determine the amount of rate schedule revenues and other revenues, respectively, which are necessary to produce the overall revenue requirement established by the Commission in this proceeding.

Step 2: Reduce the revenue requirement proposed by the Company for each rate schedule to the level necessary to produce the total rate schedule revenues determined in Step 1, as follows:

(a) The rate of return for each rate schedule shall be within 10% of the total North Carolina retail rate of return, based on the "summer/winter peak and average" cost allocation method.

(b) The rate of return for Schedule 6 shall be no lower than the rate of return for Schedule 1, based on the "summer/winter peak and average" cost allocation method.

Step 3: Reduce the individual prices in a given rate schedule by the same percentage to reflect the required reduction in revenue requirement for the rate schedule as determined in Step 2, except as follows:

(a) Hold the basic customer charge for each rate schedule at the same level proposed by the Company, except residential Schedules 1, 1P, and 1DF.

(b) Hold the basic customer charge for Schedule 1 at $6.64 as discussed herein, and revise the basic customer charge for Schedules 1P and 1DF to appropriate levels reflecting the $6.64 charge for Schedule 1.

(c) Revise Schedule 1 energy charges to reflect the blocking and the summer/winter differentials proposed by the Public Staff herein.

(d) Reduce prices in TOD rate schedules 1P, 5P and 6P in such a manner that they will remain basically revenue neutral with applicable non-TOD rate schedules, considering projected peak demand savings for the TOD rates.

(e) Adjust prices in new Schedule 1DF so that energy charges for April through October conform to Schedule 1.

(f) Reduce the summer demand charge for Schedule 7 from $4.00 per kW to $3.00 per kW (the same level as Schedule 5) prior to making any overall reductions in level of prices for the rate schedule.

(g) Hold miscellaneous service charges and RKVA charges at the same level proposed by Company, except for revision to extra facilities charge specifically described in this Order.

Step 4: Round off individual prices to the extent necessary for administrative efficiency, provided said rounded off prices do not produce revenues which exceed the overall revenue requirement established by the Commission in this proceeding.

DOCKET NO. E-22, SUB 267

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Virginia Electric and Power Company for Authority to Adjust its Electric Rates and Charges Based Solely Upon Changes in Cost of Fuel	) ORDER APPROVING) ADJUSTMENT OF RATES) AND CHARGES PURSUANT) TO G.S. 62-134(e)

HEARD IN: Commission Hearing Room 213, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Wednesday, February 27, 1982, at 9:30 a.m.

BEFORE: Commissioner Leigh H. Hammond, Presiding, and Commissioners Sarah Lindsay Tate and Douglas P. Leary

APPEARANCES:

For the Applicant:

Guy T. Tripp, III, Hunton & Williams, Attorneys at Law, First Virginia Bank Tower, P. O. Box 3889, Norfolk, Virginia 23514

Edgar M. Roach, Jr., Hunton & Williams, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27602

For the Public Staff:

Gisele L. Rankin, 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 January 25, 1982, Virginia Electric and Power Company (Vepco) filed an application with the North Carolina Utilities Commission pursuant to G. S. 62-134(e) and Commission Rule R1-36 requesting authority to adjust its rates and charges based solely upon the cost of fuel used in the generation of electric power for the four-month period ended December 31, 1981, by decreasing the amount included for fuel expenses in the base retail schedules by 0.486 cents per kilowatt-hour (which includes revenue-related taxes) for bills rendered during the billing months of April 1982 through July 1982.

On January 28, 1982, the Commission issued an Order which suspended the tariff, set the matter for hearing, and required public notice.

On February 10, 1982, the Public Staff filed a "Notice of Intervention" in this proceeding on behalf of the using and consuming public.

The matter came on for hearing as scheduled on February 17, 1982. Vepco and the Public Staff were present and represented by counsel. Vepco presented testimony by the following witnesses: S.A. Hall, III, Director - Rate Application; Vernon O. Ragland, Jr., Director of General Accounting Services; and H. M. Hastings, Jr., Director of Oil and Coal Contracts.

Based upon a careful consideration of the verified application, the testimony and exhibits received into evidence at the hearing, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Virginia Electric and Power Company is a public utility corporation organized and existing under the laws of the State of Virginia, which is authorized to transact business in the State of North Carolina, and which is subject to the jurisdiction of this Commission. Vepco is lawfully before this Commission based upon an application for adjustment in its rates and charges prusuant to G.S. 62-134(e).

2. During the four-month period ended December 31, 1981, Vepco's fuel generating costs were $0.01677 per kilowatt-hour. In accordance with NCUC Rule R1-36 and the formula adopted pursuant thereto, the proposed decrease in rates due solely to the cost of fuel and associated gross receipts taxes would be $0.00486 per kilowatt-hour for the four billing months of April 1982 through July 1982.

Whereupon, the Commission reaches the following

CONCLUSIONS

A careful consideration of the entire record in this proceeding leads the Commission to conclude that Vepco should be allowed to adjust its base retail rates as heretofore approved by the Commission pursuant to an Order entered in Docket No. E-22, Sub 264, by the reduction of an amount equal to $0.00486 per kilowatt-hour (which includes revenue-related taxes) effective for bills rendered during the billing months of April 1982 through July 1982, and for service rendered on and after the effective date of this Order. The authorized base fuel cost included in Vepco's retail rates will then be $0.01677 per kilowatt-hour, excluding revenue-related taxes.

Accordingly, the Commission concludes that Vepco's application should be approved, with the proposed rates becoming effective for bills rendered during the billing months of April 1982 through July 1982, and for service rendered on and after the date of this Order.

IT IS, THEREFORE, ORDERED as follows:

1. That, effective for bills rendered during the billing months of April 1982 through July 1982 and for service rendered on and after the effective date of this Order, Vepco shall adjust its base retail rates by the reduction

of an amount equal to $0.00486 per kilowatt-hour and shall roll this amount into each kilowatt-hour block of each rate schedule.

2. That Vepco shall file appropriate rate schedules with the Commission in conformity with this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of February 1982.

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

ELECTRICITY

DOCKET NO. E-7, SUB 325

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Duke Power Company for Authority	) ORDER
to Sell a Portion of its Catawba Nuclear Station	) AUTHORIZING
to Piedmont Municipal Power Agency	) SALE

BY THE COMMISSION: On August 17, 1981, Duke Power Company ("Duke") filed an application with the North Carolina Utilities Commission for authority to sell to Piedmont Municipal Power Agency ("PMPA") a 25% undivided ownership interest in Unit 2 of the Catawba Nuclear Station. The application states that Duke and Piedmont Municipal Power Agency have reached agreement on the terms and conditions of the sale of a portion of Catawba as contained in the following: (a) The Purchase, Construction, and Ownership Agreement (the "Sales Agreement"); (b) The Interconnection Agreement; and (c) The Operation and Fuel Agreement. Duke contends that the sale by Duke of a portion of Catawba to PMPA, as set forth above and described in detail in the Agreements, is in the public interest, for the reason, among others, that the sale will relieve Duke of the burden to finance that portion of its construction program associated with Catawba.

By Commission Order dated September 23, 1981, Duke was required to give public notice of the above-referenced application by means of newspaper publication once a week for two successive weeks beginning not later than October 1, 1981. Said Commission Order further provided that unless a significant number of requests for a public hearing were received within forty-five (45) days after the date of such Order, the Commission would proceed to decide the matter without public hearing. To date, the Commission has received no requests for a public hearing with respect to the application at issue herein. The official Commission file in this docket contains appropriate affidavits of publication, indicating that Duke has fully complied with decretal paragraph number 1 of the Commission Order Requiring Notice entered herein on September 23, 1981.

Based upon a careful consideration of the verified application and the pertinent Agreements submitted in conjunction therewith, the Commission now makes the following

FINDINGS OF FACT

1. Duke Power Company is a public utility corporation organized and existing under the laws of the State of North Carolina. Duke is engaged in the business of developing, generating, transmitting, distributing and selling electric power and energy to the general public within the States of North Carolina and South Carolina and is subject to the jurisdiction of this Commission.

2. On October 12, 1973, the Public Service Commission of South Carolina ("PSC") issued its Order NO. 17,167 in Docket No. 16,810 in which it granted to Duke a Certificate to construct a major facility (Catawba Nuclear Station and Transmission System) as described in Duke's application dated April 25, 1973, to be located on Lake Wylie in York County, South Carolina.

3. On August 7, 1975, the Nuclear Regulatory Commission ("NRC") issued to Duke a Construction Permit authorizing Duke to construct the Catawba Nuclear Station located on Lake Wylie in York County, South Carolina.

4. The Catawba Nuclear Station is a nuclear-fueled electric generation plant consisting of two units of 1145 MW each and support facilities and is presently under construction.

5. Environmental Impact Statements and applicable environmental acts and regulations of the United States and the State of South Carolina were considered by the PSC in issuing the Certificate to construct Catawba and the NRC in issuing the Construction Permit for Catawba.

6. On September 18, 1978, this Commission issued an Order in Docket No. E-7, Sub 195, and Docket No. E-43 in which it approved the sale by Duke to North Carolina Municipal Power Agency Number 1 ("Power Agency") of a 75% undivided ownership interest in Unit 2 and a 37.5% undivided ownership interest in the support facilities of the Catawba Nuclear Station and in which it granted to the Power Agency a certificate of public convenience and necessity for its ownership interest in Catawba. On October 18, 1978, the NRC issued Amendment No. 1 to Construction Permit No. CPPR-117 to add the Power Agency as a co-owner of Unit 2 of Catawba and co-applicant of the facility.

7. On December 19, 1980, this Commission issued an Order in Docket No. E-7, Sub 303, in which it approved the following sales by Duke: a 56.25% undivided ownership interest in Unit 1 of the Catawba Nuclear Station and a 28.125% undivided ownership interest in the support facilities thereof to North Carolina Electric Membership Corporation ("NCEMC") and an 18.75% undivided ownership interest in Catawba Unit 1 and a 9.375% undivided ownership interest in the support facilities thereof to Saluda River Electric Cooperative, Inc. ("Saluda River"). On December 23, 1980, the NRC issued Amendment No. 1 to Construction Permit No. CPPR-116 to add NCEMC and Saluda River as co-owners of Unit 1 and co-applicants of the facility.

8. Duke and Piedmont Municipal Power Agency have entered into three Agreements dated August 1, 1980, for the sale of a portion of Catawba to PMPA. These documents are described as follows:

a. The Purchase, Construction, and Ownership Agreement;

b. The Interconnection Agreement, and

c. The Operating and Fuel Agreement.

9. The Sales Agreement provides for Duke to sell to PMPA a 25% undivided ownership interest in Unit 2 of the Catawba Nuclear Station. Duke will continue to construct Catawba in accordance with the designs, plans, and specifications contained in the Certificate issued by the PSC and the Construction Permit issued by the NRC and any amendment and changes authorized by the NRC. Duke will perform its obligations to construct that portion of Catawba sold to PMPA at its cost of construction plus a profit. PMPA will make monthly advances to Duke for this purpose.

Upon closing, Duke proposes that it will credit Account 107, Construction Work in Progress, for the original cost of the plant sold with an offsetting

debit of the proceeds to Duke's General Cash Account, Account 131. The net difference between the proceeds from the sale and the original cost of the plant sold will be credited to Non-Operating Other Income, Account 421.1, Gain on Disposition of Property.

10. The Interconnection Agreement provides for Duke to interconnect its generation and transmission system with Catawba in order to wheel electric power and energy to the participants of PMPA. Duke will also provide supplemental and backup services for the supply of all of the electric requirements of the members of PMPA participating in the Catawba project and Duke will purchase power and energy from PMPA's ownership of Catawba as provided for in said Agreement. The Interconnection Agreement also provides for a nuclear reliability exchange; first, between the Catawba Units and second, between Catawba and Duke's McGuire Nuclear Station.

11. The Operating and Fuel Agreement provides for Duke to operate and maintain Catawba. Duke will schedule the output and dispatch the Catawba Units. Duke will also procure the fuel to be used in Catawba for itself and PMPA. The services to be performed for Duke on behalf of PMPA will be at cost plus any applicable fees. PMPA will make monthly advances to Duke for this purpose.

12. PMPA currently consists of eleven municipalities located within Duke's service area in South Carolina, ten of which are participants in the Catawba project. (The City of Seneca, although a member of PMPA, has declined to participate in the Catawba project.) Duke presently supplies all of the electric power and energy requirements of nine of the participating municipalities (except a small amount supplied from Southeastern Power Administration) and Duke's construction program for future generation and transmission plants includes these municipalities. Without the sale of this portion of Catawba to PMPA, these nine participating municipalities of PMPA would continue presumably to be wholesale customers of Duke. The remaining participant of PMPA, the City of Union, is a wholesale customer of Lockhart Power Company, which itself receives a substantial portion of its power requirements from Duke.

13. Duke and PMPA have filed with the PSC a joint application seeking approval for Duke to sell and for transferring the Certificate to construct Catawba to PMPA to reflect its ownership interest therein.

14. The sale by Duke of a portion of Catawba to PMPA as set forth above and described in detail in the Agreements is in the public interest for the following reasons:

a. Duke carries on a continuous construction program for expanding its electric plants to meet the future needs of its customers. During the period 1981-1983, Duke estimates that the total capital requirements for its construction will be approximately $1.6 billion. This amount does not include costs related to the Cherokee Nuclear Station, Unit Nos. 1 and 2 of which have been delayed indefinitely. The sale of a portion of Catawba to PMPA as proposed herein will provide Duke with a secure source of capital for the construction of Catawba.

b. The sale of a portion of Catawba to PMPA will not expand Duke's service obligations because the participating member municipalities of PMPA (except for the City of Union which is served by Lockhart Power Company as noted above) would remain wholesale customers of Duke without such sale and with such sale will provide for their own needs through Catawba and the supplemental and backup services to be provided by Duke.

c. The proposed sale to PMPA of a portion of Catawba will result in no significant incease in any environmental impact of the facility, or a change in the location of all or a portion of the facility; therefore, additional environmental, financial, and other such studies are unnecessary.

d. Duke's sale of supplemental and backup services will be on a compensatory basis as set forth in the Interconnection Agreement.

e. By purchasing ownership interests in Catawba, the member municipalities of PMPA are helping to ensure a power supply for their customers in the future. Since these customers are assuming some of the burden of providing electric generation for their future needs, the public interest is served.

15. The public convenience and necessity requires the acquisition by PMPA of the proposed ownership interest in Catawba.

Whereupon, the Commission reaches the following

CONCLUSIONS

The Commission, upon consideration of the verified application, the pertinent Agreements made a part thereof, and the foregoing findings of fact, concludes that the sale proposed herein by Duke to PMPA, being in the public interest and required by the public convenience and necessity, should be approved. The Commission further finds and concludes that the proposed joint ownership of Catawba clearly benefits the customers of both Duke and the members of PMPA; that such joint ownership will serve to promote adequate, reliable and economical electric utility service in North Carolina. Finally the Commission concludes that Duke shall account for the sale by debiting Account 131 (cash); crediting Account 107 (construction work in progress); and, crediting Account 253 (other deferred credits) in an amount equal to the difference between the proceeds from the sale and the original cost of the plant sold. Further, Duke, the Public Staff and any other interested parties are hereby called upon to present testimony and/or exhibits in Duke's next general rate case setting forth their respective positions with respect to how the gain from the sale should be treated for ratemaking purposes: i.e., Should the gain be amortized as a reduction to the cost of service over some future period? Should the gain be used to off-set present or future construction costs? Should the gain be assigned exclusively to the shareholders of the Company? . . .?

IT IS, THEREFORE, ORDERED that Duke Power Company be, and the same is hereby, authorized to sell a 25% undivided ownership interest in Unit 2 of the Catawba Nuclear Station to Piedmont Municipal Power Agency on the terms and conditions set forth in the Agreements dated August 1, 1980, between Duke and

PMPA. Further, Duke is hereby ordered to account for said sale consistent with the accounting procedure described hereinabove.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of January 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. E-2, SUB 453

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Carolina Power & Light Company - Application for Authority to Issue and Sell Securities	) ORDER APPROVING) AMENDMENT OF NUCLEAR) FUEL TRUST FINANCING

BY THE COMMISSION: This cause comes before the Commission upon an Application of Carolina Power & Light Company filed under date of May 28, 1982, wherein approval is sought to amend certain nuclear fuel trust financing.

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 411 Fayetteville Street, Raleigh, North Carolina, where it is engaged in the business of generating, transmitting, delivering, and furnishing electricity to the public for compensation.

2. On February 21, 1979, the Commission issued an Order in Docket No. E-2, Sub 353, approving a Nuclear Fuel Trust Financing which authorized, inter alia, the creation of Carolina Resources Trust to provide up to $50,000,000 for the purpose of financing a portion of the Company's nuclear fuel requirements under terms and conditions further described in the Order.

3. On May 18, 1981, the Commission issued an Order in Docket No. E-2, Sub 419, approving a Nuclear Fuel Trust Financing which authorized, inter alia, the creation of Carolina Power Fuel Trust to provide up to $50,000,000 for the purpose of financing a portion of the Company's nuclear fuel requirements under terms and conditions further described in the Order.

4. The two fuel trusts are substantially similar in structure and concept. However, the more recently created Carolina Power Fuel Trust arrangement has proved to be more beneficial to the Company for the following reasons:

A. The Letter of Credit Fee is 1/2 of 1% under the Carolina Power Fuel Trust compared to 5/8 of 1% under the Carolina Resources Trust;

B. The marketing efforts of the Dealer, Merrill Lynch Money Markets, Inc., and the direct guarantee by the Company of the commercial paper issued by Carolina Power Fuel Trust have resulted in a greater market acceptance of that Trust's commercial paper, resulting in interest rates averaging about 18 to 20 basis points below the rates on Carolina Resources Trust commercial paper; and

C. The Carolina Power Fuel Trust contains an option in Section 10.1(b) of the Credit Agreement to amend the basic documents to provide additional protection to purchasers of the Trust's commercial paper as may be necessary to maintain the highest commercial paper rating.

The Company has been unsuccessful in its attempts to negotiate all of these more favorable terms with Security Pacific National Bank, the Credit Bank

under the Carolina Resources Trust arrangement. Therefore, subject to the approval of the North Carolina Utilities Commission and the Public Service Commission of South Carolina, the Company proposes to terminate Carolina Resources Trust and finance $100,000,000 of its nuclear fuel costs through Carolina Power Fuel Trust.

5. Manufacturers Hanover Trust Company, the Credit Bank under the Carolina Power Fuel Trust arrangement, has agreed to increase its commitment from $50,000,000 to $100,000,000 under the terms of the original Carolina Power Fuel Trust, provided that the Letter of Credit Fee on the second $50,000,000 of commercial paper outstanding shall be .57%.

6. The Company believes that this transaction is in the best interest of the public and of the Company because the financing of the entire $100,000,000 of nuclear fuel by Carolina Power Fuel Trust will produce an annual savings of approximately $120,000 in commitment fees, interest costs and elimination of duplicate fees for ratings, trusteeships, and administration of nuclear fuel trust financing.

7. The Company estimates that it will not incur expenses in excess of $10,000 with respect to the consummation of this transaction.

CONCLUSIONS

From a review and study of the Application, its supporting data, and the other information in the Commission's files, the Commission is of the opinion and so concludes that the transaction herein proposed:

1. Is for a lawful purpose and is within the corporate purposes of the Company;

2. Is compatible with public interest;

3. Is necessary and appropriate for and consistent with the proper performance by the Company of its service to the public;

4. Will not impair its ability to perform that service; and

5. Is reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED:

1. That Carolina Power & Light Company be, and it hereby is, authorized, empowered, and permitted under the terms and conditions set forth in the application to terminate Carolina Resources Trust and to increase the amount permitted to be financed under the Carolina Power Fuel Trust to $100,000,000 as further described in this Order and in the application, and to execute such instruments, documents, and agreements as shall be necessary or appropriate in order to effectuate such transaction.

2. That Manufacturers Hanover Trust Company and First Union National Bank of North Carolina shall not be subject to the jurisdiction of this Commission or be deemed a "public utility" within the meaning of the North Carolina

Public Utilities Act of 1963, as amended, as a result of entering into the transaction described hereinabove.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of June 1982.

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

ELECTRICITY

DOCKET NO. E-2, SUB 435

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Carolina Power & Light Company - Expansion of Water Heater Control Program and Modification of Residential Service Interruptible Rider No. 56D	) ORDER APPROVING EXPANSION) OF WATER HEATER CONTROL) PROGRAM AND MODIFICATION OF) RESIDENTIAL INTERRUPTIBLE) RIDER NO. 56D

BY THE COMMISSION: On December 29, 1981, Carolina Power & Light Company requested an expansion in its water heater load control program into the Goldsboro, Sanford, Asheville, and Wilmington areas in 1982 and into the Southern Pines, Jacksonville, and Nashville areas in 1983. The Company also proposed supplying water heater insulation wrappers at no charge to encourage participation in the program. The Public Staff concurred in the expansion program but recommended that the Company install the water heater wrappers at no charge so as to not diminish the promotional impact of this measure. The Company was opposed to the proposal of the Public Staff that it be required to install the water heater wrappers supplied to its participating customers. Instead, CP&L stated that it would conduct a study in approximately six (6) months to determine whether or not its customers are actually installing the water heater wrappers and that if the Company then finds that said wrappers are not being installed, it will reevaluate this portion of its plan. The Commission finds CP&L's proposal in this regard to be reasonable.

The Company proposed deleting the word "interruptible" from the name of the applicable rider. The Public Staff recommended substituting "load control" for "interruptible" as being more descriptive of the subject of the rider.

The Company proposed a credit of $13.00 per summer month for air conditioning load control customers with multiple units because units of larger total KW demand are being interrupted. The Public Staff concurred in the view that the increased credit, from $10.00 for single units, would enhance participation in the program.

The Company proposed that the water heater and air conditioner credit not exceed 35% of the customer's bill as computed without the credit to prevent overcompensation for minimal use when a customer is absent a large part of the month. The Public Staff did not concur with CP&L's proposed credit limitation because it felt that the limitation would impact relatively few customers and that the negative reaction to such a limitation would outweigh any dollar advantage to such a limitation. During the Commission's Staff Conference on January 25, 1982, the Company stated its position to the Commission with respect to said issue.

Based on the foregoing, and the record of this proceeding, the Commission concludes that the expanded water heater load control program is justified to further reduce CP&L's generation demand and that offering water heater insulation wrappers and increasing credits for control of multiple air conditioning units are warranted promotional measures.

IT IS, THEREFORE, ORDERED as follows:

1. That the proposed Carolina Power & Light Company expansion of the water heater control program be, and the same is hereby, approved.

2. That Residential Service Load Control Rider No. 56E attached hereto as Appendix A be, and the same is hereby, approved.

ISSUED BY ORDER OF THE COMMISSION.
This the 29th day of January 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

APPENDIX A

Carolina Power & Light Company
(North Carolina Only)

RESIDENTIAL SERVICE
LOAD CONTROL RIDER NO 56E

AVAILABILITY

This Rider is available in conjunction with all residential service schedules provided Customer contracts for Company or its representative to install and operate the necessary control equipment in a location provided by Customer and suitable to Company in or about the residential dwelling unit, to interrupt service to each installed, approved electric water heater, and at the option of the Customer to interrupt service to each installed, approved central air conditioning unit when controlled in conjunction with an electric water heater, and to monitor their operation under the provisions of this Rider. The residence must be owned by Customer, or Customer must provide Company with the written permission of the owner.

This Rider is only available where Company has the necessary communications equipment installed and where such signal can be satisfactorily received at or near the electric meter on Customer's residence.

MONTHLY RATE

The Monthly Rate for bills rendered in the months of July through October shall be as computed under the provisions of the applicable rate schedule, less two dollars ($2.00) if water heaters are controlled, or less twelve dollars ($12.00) if water heaters and air conditioning units are controlled, during the calendar months of June through September. The monthly rate for all other months shall be computed under the provisions of the applicable rate schedule, less two dollars ($2.00) for water heater control. In all months, the Customer's bill shall not be less than the Basic Customer Charge.

WATER HEATER INSULATION

The Company will offer to furnish an insulating water heater wrap to participating water heater control customers at no charge.

APPROVED WATER HEATER AND CENTRAL AIR CONDITIONING UNIT

An approved water heater is an insulated standard storage type water heater of not less than 40 gallons rated capacity equipped with either one self-contained electric heating element or two self-contained non-simultaneous operating electric heating elements. The wattage rating of each element shall not exceed 5,500 watts. An approved central air conditioning unit is an installed central electric air conditioning unit used to cool the residence through a duct network.

INTERRUPTION

Company shall be allowed, at its discretion, to interrupt service to each water heater for up to four hours during each day of the calendar year. Such interruption may be for longer periods of time in the event continuity of service is threatened. Company shall also be allowed, at its discretion, to interrupt service to each air conditioning unit for up to four hours per day during the summer months. Air conditioner interruptions shall be limited to a total of 60 hours during any one summer season. Company reserves the right for longer interruption in the event continuity of service is threatened. The Company reserves the right to test the load control equipment at any time, and such test periods shall be counted towards the maximum hourly interruption limit.

EQUIPMENT INSPECTION AND SERVICING

Company or its agents will have the right to ingress and egress the premises of Customer at all reasonable hours for the purpose of inspecting Company's wiring and apparatus; changing, exchanging, or repairing its property as necessary; or removing its property after termination of service. If any tampering with Company-owned equipment occurs, Company may adjust the billing and take other action in accordance with the Rules and Regulations of the North Carolina Utilities Commission and the laws of the State of North Carolina as applicable to meter tampering.

DOCKET NO. E-2, SUB 435

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Power & Light Company - Expansion of) ERRATA ORDER
Water Heater Control Program and Modification) CORRECTING ORDER OF
of Residential Service Interruptible Rider No. 56D) JANUARY 29, 1982

BY THE CHAIRMAN: It has come to the attention of the Chairman that the Order Approving Expansion of Water Heater Control Program and Modification of Residential Interruptible Rider No. 56D which was issued in this case on January 29, 1982, needs a correction made in the Appendix A attached to the Order.

IT IS, THEREFORE, ORDERED that the paragraph following the heading Monthly Rate on page 1 of the Appendix A attached to the Commission Order issued in this docket on January 29, 1982, be corrected to read as follows:

MONTHLY RATE

The Monthly Rate for bills rendered in the months of July through October shall be as computed under the provisions of the applicable rate schedule, less two dollars ($2.00) if water heaters are controlled, or less twelve dollars ($12.00) if water heaters and air conditioning units are controlled, during the calendar months of June through September. The discount will be fifteen dollars ($15.00) if water heater(s) and multiple central air conditioning units are controlled. The monthly rate for all other months shall be computed under the provisions of the applicable rate schedule, less two dollars ($2.00) for water heater control. In all months, the Customer's bill shall not be less than the Basic Customer Charge.

IT IS FURTHER ORDERED that in all other respects the Order issued January 29, 1982, shall remain the same.

ISSUED BY ORDER OF THE CHAIRMAN.
This the 2nd day of February 1982.

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

DOCKET NO. E-2, SUB 440

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for Approval of Accounting Methodology for Certain Fuel Transactions	) ORDER APPROVING CERTAIN) FUEL COSTS ACCOUNTING) METHODOLOGY

BY THE COMMISSION: On December 17, 1981, Carolina Power & Light Company (hereinafter referred to as CP&L or the Company) submitted a request for approval of an accounting treatment for certain fuel transactions. CP&L stated in its request that the Company has the opportunity from time to time to participate in fuel transactions that will result in benefits to the Company, its customers, and shareholders. The Company plans to take advantage of these opportunities as they become available. The Company requests that certain gains on such transaction be used to offset deferred costs arising from the Company's Leslie Coal mining venture. The Commission Order requiring CP&L to place the Leslie Coal losses in a deferred account also provided that any subsequent gains from the Leslie Mine operations would first be applied to offset such deferred losses, and thereafter would be applied to the fuel charge as lower cost coal, to reduce rates. The Company recommends that the previously described fuel transactions be recorded in said deferred debit account until the deferred costs associated with the Leslie Mine are recovered.

In the Commission Conference of January 18, 1982, the Public Staff recommended that CP&L's request for approval of the accounting treatment for the previously discussed fuel transactions be approved with certain stipulations. The Public Staff recommended that if and when CP&L has offset the total amount of the Leslie deferred costs, any additional gains on such transactions be passed on to CP&L's ratepayers in the form of lower fuel

costs. The Public Staff also recommended that any gains on future uranium sales not be utilized to off-set Leslie deferred costs but be recognized as being applicable to partially offset costs associated with the cancellation of CP&L's Sharon Harris nuclear units 3 and 4.

After careful review of the evidence in this regard, the Commission finds and concludes that the previously described fuel transactions will be beneficial to the Company, its customers, and shareholders. However, with respect to the accounting treatment(s) to be accorded the gains expected to be realized from such transactions, the Commission believes that said accounting treatment(s) should be considered in the context of a general rate case proceeding. Therefore, the Commission concludes that the aforementioned gains should be placed in a deferred account pending final disposition of this matter. Further, the Commission hereby calls upon the Company and the Public Staff to present their respective recommendations concerning the proper accounting treatment to be accorded the aforementioned gains for rate-making purposes. The recommendations should be presented in the Company's next general rate case proceeding in the form of prefiled testimony and/or exhibits of each Party's expert witness(es). Additionally, the Commission encourages other parties to offer their views and recommendations in this regard.

IT IS, THEREFORE, ORDERED as follows:

1. That Carolina Power & Light Company shall account for any gain realized from the sale of fossil fuel arising from its contract(s) and/or agreement(s) with Eastern Coal Company, and gains, if any, on future uranium and/or other nuclear fuel related sales, including that classified in operating and nonoperating accounts in a manner consistent with the conclusions set forth hereinabove.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. A-27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Alger G. Willis Fishing Camps, Inc., Box 234, Davis, North Carolina 28534 - Application for Authority to Transport Passengers	)))	RECOMMENDED ORDER GRANTING AUTHORITY

HEARD IN: The Auditorium, Municipal Building, 2202 South 8th Street, Morehead City, North Carolina, on Friday, May 21, 1982, at 9:00 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

James W. Thompson, III, Bennett, McConkey & Thompson, P.A., Attorneys at Law, P. O. Box 807, Morehead City, North Carolina 28557

For the Using and Consuming Public:

Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina

PARTIN, HEARING EXAMINER: On February 23, 1982, Alger G. Willis Fishing Camps, Inc., Box 234, Davis, North Carolina, filed an application seeking authority to engage in the transportation of passengers and their baggage by boat from Davis, North Carolina, on the western bank of Core Sound to the western bank of Core Banks and return over the same route.

On April 21, 1982, the Commisson issued an Order assigning the matter for hearing in Morehead City, North Carolina.

No protests were filed to the application.

The application came on for hearing as scheduled in Morehead City on Friday, May 21, 1982. The Applicant and the Public Staff were present and represented by counsel. The Applicant presented the testimony of Alger G. Willis, Jr., Vice President of the Applicant. No one else offered testimony.

FINDINGS OF FACT

1. Alger G. Willis Fishing Camps, Inc., Davis, North Carolina, seeks authority to operate as a common carrier of passengers and their baggage from Davis, North Carolina, across Core Sound to the western banks of Core Banks and return over the same route.

2. The Applicant has been engaged in the transportation of passengers and their vehicles and fishing equipment across Core Sound for 25 years.

3. The Applicant will use three vessels which are properly documented with the United States Coast Guard.

4. The Applicant has insurance for all three vessels.

5. The Applicant plans to carry fishermen and campers to the National Park on Core Banks. The Applicant will provide fishing cabins to its passengers. Docking facilities are available on Core Banks. There is a public demand and need for this service.

6. The Applicant has assets of $73,500, which consists of equipment, and no liabilities.

7. The Applicant has obtained the necessary concession permit from the National Park Service.

CONCLUSIONS

The Applicant is fit, willing, and able to provide the proposed service set forth in this application. The Applicant is solvent and financially able to furnish adequate service on a continuing basis. Furthermore, the Applicant is providing a service for which there is a public need and demand. The Examiner is of the opinion that the authority should be granted.

IT IS, THEREFORE, ORDERED:

1. That the Applicant is hereby granted the common carrier authority set forth in Exhibit B attached to this Order and made a part hereof.

2. That, to the extent it has not already done so, the Applicant shall file with the Commission, within thirty (30) days after the effective date of this Order, evidence of the required insurance, a list of equipment, a tariff schedule of rates and charges, designation of a process agent, and shall otherwise comply with the rules and regulations of the Commission.

3. That unless the Applicant complies with the requirements set forth in Ordering Paragraph 2 above and begins operating as herein authorized within thirty (30) days after the effective date of this Order, unless such time is extended by the Commission upon written request for such extension, the operating authority granted herein will cease.

4. That the Applicant shall maintain its books and records in such a manner that all of the applicable items of information required in its prescribed Annual Report to the Commission can be used by the Applicant in the preparation of such Annual Report. A copy of the Annual Report form shall be furnished to the Applicant upon request made to the Accounting Division, Public Staff, North Carolina Utilities Commission.

5. That this Order shall constitute a certificate until a formal certificate has been issued and transmitted to the Applicant authorizing the common carrier transportation described and set forth in Exhibit B attached hereto.

6. That the Applicant shall comply with all the rules and regulations of the United States Coast Guard with regard to the transportation of passengers for hire.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of May 1982.

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

DOCKET NO. A-27

ALGER G. WILLIS FISHING CAMPS, INC.
RFD Box 234
Davis, North Carolina 28534

IRREGULAR ROUTE COMMON CARRIER AUTHORITY

EXHIBIT B

Transportation of sports fishermen, their vehicles, and equipment from the mainland at Davis, North Carolina, to Core Banks, all pursuant to concession permit issued by the National Park Service, from Davis, North Carolina, on the western bank of the Core Sound; thence in a generally southeasterly direction across Core Sound to the western bank of Core Banks. The return trip is by the same route. Core Banks is currently owned by the National Park Service.

DOCKET NO. A-27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Alger G. Willis Fishing Camps, Inc., Box 234,	)	
Davis, North Carolina 28534 - Application for	)	FINAL ORDER ADOPTING
Authority to Transport Passengers	)	RECOMMENDED ORDER

BY THE COMMISSION: On May 25, 1982, Hearing Examiner Partin issued his Recommended Order granting common carrier authority to the above-described Applicant. The Commission is of the opinion that an Order should issue adopting the Recommended Order of the Hearing Examiner as the Commission's Final Order. There were no protests to the application and the Public Staff has waived its right to file exceptions to the Recommended Order.

IT IS, THEREFORE, ORDERED that the Recommended Order of Hearing Examiner Partin issued this day be, and the same is hereby, adopted as the Final Order of the Commission, to become effective on and after the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of May 1982.

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

DOCKET NO. A-24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Alonzo O. Burrus, Jr., P.O. Box 127, Ocracoke, North Carolina 27960 - Request to Cancel Certificate No. A-24	) ORDER CANCELLING) CERTIFICATE) NO. A-24

BY THE COMMISSION: Upon consideration of the record in this matter and of a letter filed with the Commission on March 17, 1982, by Alonzo O. Burrus, Jr., Ocracoke, North Carolina, requesting that Certificate No. A-24, be cancelled due to declining revenues, and good cause appearing,

IT IS, THEREFORE, ORDERED as follows:

That Certificate No. A-24, heretofore issued to Alonzo O. Burrus, Jr., be, and is hereby, cancelled.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of May 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. G-3, SUB 109

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Pennsylvania and Southern Gas Company -) North Carolina Gas Service Division for an Adjustment) of Its Rates and Charges to Recover Costs of) Exploration Programs)	ORDER ELIMINATING E & D SURCHARGE

BY THE COMMISSION: In Docket No. G-100, Sub 22, on June 26, 1975, the Commission issued an Order Establishing Natural Gas Exploration Rules setting forth the manner in which gas utilities participating in Commission approved exploration programs would be allowed to "track" their costs for exploration and development. On December 11, 1975, the Commission issued a further order in Docket No. G-100, Sub 22, providing that participation in the financing of such ventures be in the ratio of 75% customer funds and 25% stockholder funds.

On July 1, 1982, in Docket No. G-3, Sub 109, Pennsylvania and Southern Gas Company - North Carolina Gas Service Division (N.C. Gas), filed a petition to eliminate the surcharge relating to exploration and development presently in its rates. This would increase rates by $.00388 per therm.

The Public Staff notes that N.C. Gas has made no provision in its petition to refund revenues received during the six-month period ended March 31, 1982, and recommends that N.C. Gas be required to file a refund plan by September 1, 1982, in accordance with the Commission Order of August 8, 1979, in Docket No. G-100, Sub 22.

The Commission, after review of the application and upon the recommendation of the Public Staff, is of the opinion that N.C Gas be allowed to remove the $.00388 per therm decrement presently in its rates for exploration and development and that N.C. Gas be required to file a refund plan by September 1, 1982, to refund revenues received from the exploration programs during the six-month period ended March 31, 1982.

IT IS, THEREFORE, ORDERED:

1. That N.C. Gas be, and hereby is, allowed to remove the $.00388 per therm decrement in its rates relating to the exploration and development programs effective on service rendered on and after the date of this Order.

2. That N.C. Gas be, and hereby is, required to file revised tariffs within five (5) days of receipt of this Order reflecting the change in rates approved herein.

3. That on or before September 1, 1982, N.C. Gas be, and hereby is, required to file a plan to refund exploration revenues received during the six-month period ended March 31, 1982, in accordance with the Commission Order issued in Docket No. G-100, Sub 22, on August 8, 1979.

4. That N.C. Gas be, and hereby is, required to notify its customers by bill insert in the next billing cycle of the change in rates approved herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of July 1982.

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

DOCKET NO. G-9, SUB 212

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Piedmont Natural Gas Company, Inc.,) ORDER GRANTING PARTIAL
for an Adjustment of its Rates and Charges) RATE INCREASE

HEARD IN: Commissioners Board Room, County Office Building, Charlotte, North Carolina, on Monday, November 23, 1981

Guilford County Social Services Building, Greensboro, North Carolina, on Tuesday, November 24, 1981

Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on Tuesday, December 1, 1981, through Wednesday, December 9, 1981

BEFORE: Commissioner Douglas P. Leary, Presiding; and Commissioners Sarah Lindsay Tate and John W. Winters

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:

David H. Permar, Hatch, Little, Bunn, Jones, Few & Berry, Attorneys at Law, P.O. Box 527, Raleigh, North Carolina 27602
For: Edward R. McHenry, Jr., Durane Gas Company, Thomas Gas Company, Inc., Piedmont Energy Systems, Inc., Piedmont Gas Service Company, Inc., Carolina Propane Gas Company, Inc., and Green's Fuel Gas Company, Inc.

Jerry B. Fruitt, Eller & Fruitt, Attorneys at Law, P.O. Box 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

For the Public Staff:

G. Clark Crampton, 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:

David Gordon, Special Deputy Attorney General, State of North Carolina, P.O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On June 26, 1981, Piedmont Natural Gas Company, Inc. (hereinafter Piedmont, Applicant, or Company), filed an application with this Commission for authority to adjust its rates and charges for retail natural gas in North Carolina.

On July 24, 1981, the Commission issued an Order setting the matter for hearing, suspended the proposed rates for a period of 270 days from the proposed effective date of August 1, 1981, and required that public notice be given.

On September 16, 1981, a Petition to Intervene in this case was filed by David H. Permar, Attorney at Law, on behalf of Edward R. McHenry, Jr., Durane Gas Company, Thomas Gas Company, Inc., Piedmont Energy Systems, Inc., Piedmont Gas Service Company, Inc., Carolina Propane Gas Company, Inc., and Green's Fuel Gas Company, Inc. (hereinafter sometimes collectively referred to as Propane Dealers), and such petition was granted by Commission Order issued on September 21, 1981.

Notice of the Public Staff's intention to intervene and to participate in this matter as a party was first made evident by motion filed in this docket on September 28, 1981. The Commission, in effect, recognized the Public Staff's participation in this case as an intervenor by its Order issued on October 1, 1981, in response to the Public Staff's motion.

On November 3, 1981, a Petition to Intervene and Protest was filed with the Commission by the North Carolina Textile Manufacturers Association, Inc. (NCTMA). Such Petition to Intervene was allowed by Commission Order issued November 9, 1981.

On November 30, 1981, the Attorney General of the State of North Carolina filed a Notice of Intervention with the Commission. Said intervention was recognized on December 1, 1981.

After the filing of the subject application, there were numerous matters relating primarily to discovery activities conducted, or proposed to be conducted, by the Applicant and various intervenors, extensions of filing deadlines, challenge by the Applicant to the right of the Propane Dealers to intervene, and similar matters primarily of a procedural nature. The record adequately reflects such matters and they will not be fully recited here. However, a few are noteworthy. Based upon a motion of the Propane Dealers which was filed with the Commission on September 23, 1981, and the Company's response thereto filed on September 28, 1981, the Commission issued its Order on October 5, 1981, which in effect directed the Company to file certain cost allocation studies assigning and apportioning all properly allocable costs between the Company's utility and nonutility operations, such nonutility operations include the Company's merchandising and jobbing activities. The Company's originally filed cost allocation studies did not include allocations of costs associated with its nonutility merchandising and jobbing operations. Responsive to the Commission Order of October 5, 1981, the Company timely filed additional cost allocation studies and materials on October 15, 1981.

It is also perhaps helpful to note that there were several successive filings of testimony and exhibits which were made by both the Company and the Public Staff in this docket. The Company initially filed on June 26, 1981, as a part of its application in this matter, the testimony and exhibits of its witnesses John H. Maxheim, Everette C. Hinson, Hugh Gower, Barry L. Guy, Robert L. Hahne, W. Randall Powell, Ware F. Schiefer, and Eugene W. Meyer. The Public Staff, on November 3, 1981, filed the testimony and exhibits of its witnesses Raymond J. Nery, John T. Garrison, Jr., Hsin-Mei C. Hsu, and Elise Cox. By Commission Order issued on September 26, 1981, the Public Staff was granted an extension of time through November 13, 1981, within which to file the testimony and exhibits of its consultants Robert Drennan, Jr., and Richard Seekamp (regarding the Company's utility/nonutility cost allocation studies) and any revisions in the testimony of the other Public Staff witnesses which had been filed on November 3, 1981, which revisions flowed from the testimony and exhibits of Mr. Drennan and Mr. Seekamp. On November 13, 1981, the Public Staff timely filed the testimony and exhibits of Mr. Drennan and Mr. Seekamp, as well as certain revised testimony and exhibits of its witnesses John T. Garrison, Jr., and Elise Cox.

On November 13, 1981, the Company also filed supplemental testimony and exhibits of its witnesses Barry L. Guy, Ware F. Schiefer, and Hugh Gower. Among other things, this supplemental testimony included revisions and various updating adjustments through September 30, 1981. These updating adjustments and revisions were made with respect to the Company's originally filed cost of gas and revenue calculations. The Company's additional revenue request was reduced from $17,284,139 to $12,841,971 as a result of said revisions. This adjusted increase was subsequently reduced to $12,669,951 at the public hearing.

In view of and in response to the Company's supplemental testimony and exhibits which were filed on November 13, 1981, the Public Staff prepared and filed November 25, 1981, revised and supplemental testimony and exhibits for its witnesses John T. Garrison, Jr., Elise Cox, and William E. Carter, Jr.

On December 23, 1981, the Company filed and served late exhibits relating to: Computation of Short Term Interest Expense, Gas Receivable Balances Charged-Off and Construction Work in Progress as of September 30, 1981.

On December 31, 1981, the Public Staff filed and served a late filed exhibit prepared by accounting witness Elise Cox, reflecting revisions and matters which witness Cox generally testified to in the proceeding and as permitted by Commission ruling entered in response to a request by the Public Staff made prior to the close of the hearings.

Additionally, it should be noted that on December 9, 1981, the Propane Dealers through their counsel filed a motion requesting the Commission to order the Applicant to physically separate all employees and property used for utility operations at the operating, marketing, and service levels. That motion was denied by Commission Order issued December 14, 1981.

The matter came on for hearing as scheduled in the Order Setting Hearing.

The following public witnesses appeared at the hearing in Charlotte, North Carolina, on November 23, 1981: Duncan Ballentine, Assistant to Charlotte Mayor Eddie Knox; Willie J. Stratford, Sr.; and Margaret Miller.

The following public witnesses appeared at the hearing in Greensboro, North Carolina, on November 24, 1981: John Satterfield, Assistant Director of Economic Development for the Greensboro Chamber of Commerce, and Tracy N. Peters, Jr., City of Greensboro Public Works Department.

When the hearing resumed in Raleigh, North Carolina, beginning December 1, 1981, the Company presented the direct testimony and exhibits of eight witnesses as follows:

1. John H. Maxheim, President and Chief Executive Officer of Piedmont, testified concerning Piedmont's service area, its customers, its shareholders, and Piedmont's need for rate relief.

2. Everette C. Hinson, Piedmont's Senior Vice President - Finance, testified concerning Piedmont's financing history, Piedmont's present financial condition, and Piedmont's need for rate relief to meet its financial need.

3. Robert L. Hahne, Certified Public Accountant and Partner, Deloitte, Haskins & Sells, testified concerning results of the lead-lag study performed as a result of a directive of the Commission in its October 31, 1978, Order in Docket No. G-100, Sub 36.

4. W. Randall Powell, Assistant Vice President, Stone & Webster Management Consultants, Inc., presented the Company's cost-of-service study.

5. Hugh Gower, Partner in Arthur Andersen & Co., presented testimony supporting the cost allocation studies performed by the Company as a result of the Order issued May 12, 1981, in Docket No. G-9, Sub 208.

6. Ware F. Schiefer, Piedmont's Vice President - Gas Supply, testified with respect to the Company's gas supply, projected revenues and cost of gas, rate design, and proposed changes in the Company's rate schedules.

7. Eugene W. Meyer, Vice President and Director of Kidder, Peabody & Co., Incorporated, testified for the Company as an expert in the area of cost of capital.

8. Barry L. Guy, Controller of Piedmont, testified as to Piedmont's accounting exhibits.

The Public Staff offered the testimony and exhibits of the following witnesses:

1. Raymond J. Nery, Director of the Natural Gas Division of the Public Staff, testified as to the basis of future negotiated rates both with respect to the price of gas and how it would change in the future based on what is pending or ongoing at the Federal Energy Regulatory Commission. He also estimated the future price of oil and compared the projected prices of gas and oil.

2. John T. Garrison, Jr., Public Utilities Engineer with the Natural Gas Division of the Public Staff, testified as to end-of-period revenues, end-of-period cost of gas, and rates to produce the required revenues. Witness

Garrison also provided several allocation factors for use in computing the North Carolina portion of various joint North Carolina - South Carolina plant and expenses.

3. Hsin-Mei C. Hsu, Economist with the Economic Research Division of the Public Staff, testified as to Piedmont's cost of capital and suggested a fair rate of return for Piedmont.

4. William E. Carter, Jr., Assistant Director of Accounting for the Public Staff, testified concerning accumulated depreciation.

5. Elise Cox, Staff Accountant with the Public Staff, presented the results of the Staff's investigation of Piedmont's level of revenues, expenses, and the original cost rate base.

6. Robert Drennan, Jr., Vice President of Currin and Associates, Inc., and Richard Seekamp, Senior Utility Analyst with Currin and Associates, Inc., testified as consultants for the Public Staff.

Following the receipt of all testimony and exhibits, it was agreed that briefs and proposed orders could be filed by all parties, and the record in this docket was closed, pending receipt of such briefs and proposed orders.

Based upon a careful consideration of the entire record in this proceeding, the Commission now makes the following

FINDINGS OF FACT

1. Piedmont Natural Gas Company, Inc., is a duly created and existing New York corporation authorized to do business and doing business in North Carolina as a franchised public utility providing natural gas service in 42 North Carolina communities and is properly before the Commission in this proceeding for a determination of the justness and reasonableness of its proposed rates and charges as regulated by the Commission under Chapter 62 of the General Statutes of North Carolina.

2. The test period established by the Commission and utilized by all parties in this proceeding is the 12 months ended March 31, 1981.

3. The annual increase in revenues sought by Piedmont under the rates originally proposed herein by the Company on June 26, 1981, was $17,284,139, which amount was subsequently reduced by Piedmont to $12,669,951.

4. Piedmont is providing adequate natural gas service to its existing customers in North Carolina.

5. The original cost of Piedmont's plant in service used and useful in providing natural gas service in North Carolina is $149,684,141. To this amount should be added leasehold improvements net of amortization of $433,796 and construction work in progress of $6,262,122 and deducted the accumulated depreciation associated with the original cost of this plant of $43,212,776 and customer advances for construction of $648,701, resulting in a reasonable original cost less depreciation or a net gas plant in service of $112,518,582.

6. The appropriate amount of accumulated deferred income taxes is $8,728,810.

7. The reasonable allowance for working capital for Piedmont Natural Gas Company is $18,070,721.

8. The reasonable original cost less depreciation of Piedmont Natural Gas Company's plant in service to its customers within the State of North Carolina of $112,518,582, less the appropriate amount of accumulated deferred income taxes of $8,728,810, plus the reasonable allowance for working capital of $18,070,721 yields a reasonable original cost of Piedmont Natural Gas Company's property used and useful to North Carolina customers of $121,860,493.

9. Piedmont's test year operating revenues, after appropriate accounting and engineering adjustments, under present rates are $234,351,593 and under the Company's proposed revenue increase such increase would have been $247,021,544 ($234,351,593 + $12,669,951).

10. The test-period level of Piedmont's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $224,129,390, which includes the amount of $4,303,700 for actual investment currently consumed through reasonable actual depreciation.

11. The capital structure which is proper for use in this proceeding is the following:

Item	Percent
Long-term debt	47.34%
Preferred stock	1.85%
Common equity	50.81%
Total	100.00%

12. The Company's proper embedded costs of debt and preferred stock are 7.64% and 5.14%, respectively. The rate of return which should be applied to the original cost rate base is 11.96%. This return on Piedmont's rate base of 11.96% will allow the Company the opportunity to earn a return on its common equity of 16.24%, after recovery of the embedded costs of debt and preferred stock. Such returns on rate base and on common equity are just and reasonable.

13. Piedmont's pro forma return on its rate base at the end of the test year was approximately 8.38%, which is less than the Commission has herein determined to be just and reasonable. Therefore, in order to earn the level of returns which the Commission herein finds to be just and reasonable, Piedmont should be allowed to increase its rates and charges so as to produce an additional $9,172,740 of revenues 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 and on common equity which the Commission has found to be fair, both to the Company and to its customers.

14. The rates set forth in Appendix A attached hereto and approved herein will generate the appropriate level of end-of-period revenue and afford the Applicant an opportunity to achieve the approved overall rate of return of 11.96%.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 THROUGH 4

The evidence for these findings of fact is contained in the verified application, the Commission's Order Setting Hearing and Investigation, and the testimony of Company witnesses Maxheim, Hinson, and Guy and Public Staff witness Cox. The evidence was uncontradicted and uncontested. These findings of fact are essentially informational, procedural, and jurisdictional in nature.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence pertaining to this finding of fact is found in the testimony and exhibits of Company witness Guy and Public Staff witness Cox. The following table sets forth the net plant in service as proposed by these witnesses:

Item	Company	Public Staff	Difference
Plant in service	$155,946,263	$154,091,713	$1,854,550
Leasehold improvements, net of amortization	433,796	433,796	-
Accumulated depreciation	(43,212,776)	(43,709,036)	496,260
Customer advances for construction	(648,701)	(648,701)	-

The Company and the Public Staff agree that $433,796 is the proper amount of leasehold improvements net of amortization and that $648,701 is the proper amount of customer advances for construction. There being no evidence to the contrary, the Commission concludes that these amounts are reasonable and proper.

The $1,854,550 difference in plant in service results from the fact that the Company included in this item construction work in progress (CWIP) at the end of the period, whereas the Public Staff included CWIP at a 13-month average level.

The Commission recognizes the important difference in the construction projects of a gas utility company and those of an electric utility where the projects span a period of years. However, the Commission is not convinced by the evidence offered in this proceeding supporting the Public Staff's adjustment and therefore concludes that $6,262,122 is the proper level of construction work in progress to be used in determining rates in this case.

The $496,260 difference in accumulated depreciation results from the fact that the Public Staff increased the balance of accumulated depreciation for depreciation expenses allegedly paid by ratepayers from September 30, 1981, to November 30, 1981. The Commission concludes that the Public Staff's proposed increase in accumulated depreciation is inappropriate. This conclusion is consistent with the Order entered by the Commission on November 13, 1981, in Docket No. G-1, Sub 85, wherein the Commission stated:

> "This conclusion is based on the controlling objective to achieve the best matching of the costs of producing revenues with the revenues to which they relate. The Commission is constrained by statute to determine the appropriate pro forma end-of-period test

year rate base. Hence, the addition of accumulated depreciation, accrued (capital recovered) during the interim of time between the end of the test year and the close of the hearing, to the balance of accumulated depreciation as of the end of the test year, without updating all of the other items of costs entering into the total cost of service, violates the matching concept and is, therefore, inconsistent and improper."

Based upon the above findings and conclusions, the Commission finds and concludes that the appropriate level of net plant in service for use in this proceeding is $112,518,582.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence for this finding of fact is found in the evidence and exhibits of Company witness Guy and Public Staff witness Cox. The Company and the Public Staff agree that the appropriate amount to include for accumulated deferred income taxes is $8,728,810. There being no evidence to the contrary the Commission finds and concludes that $8,728,810 is the appropriate amount to include in this case for accumulated deferred income taxes.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The Company computed working capital of $18,137,491, whereas the Public Staff computed working capital of $17,586,882. Witness Guy testified for the Company that the difference relates entirely to the use of different allocation factors to allocate gas inventory costs between North Carolina and South Carolina. For the reasons hereinafter set forth under Evidence and Conclusions for Finding of Fact No. 10 and consistent therewith, the Commission concludes that the proper allocation factors which should be used to allocate the cost of gas inventory are those calculated herein by the Commission; therefore, the Commission finds and concludes that the proper level of working capital in this case is $18,070,721.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

For the reasons hereinabove set forth in conjunction with Findings of Fact Nos. 5, 6, and 7, the Commission finds and concludes that the appropriate original cost rate base for use in this proceeding is $121,860,493, consisting of net plant in service of $112,518,582 plus working capital of $18,070,721 less accumulated deferred income taxes of $8,728,810.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence supporting this finding of fact is found in the evidence and exhibits of Company witnesses Schiefer and Guy and Public Staff witnesses Garrison and Cox. The following table sets forth the test period pro forma revenues as calculated by the Company and the Public Staff:

Item	Company	Public Staff	Difference
Sale of gas	$226,948,349	$237,805,748	$10,857,399
Other operating revenues	505,289	505,289	-
Total operating revenues	$227,453,638	$238,311,037	$10,857,399

Both the Public Staff and the Company agreed that the Company's actual North Carolina sales volumes during the test period were 48,754,064 dekatherms. Moreover, both the Company and the Public Staff agreed to the adjustment to normalize the actual test period sales volumes for the effects of normal weather. The total North Carolina test period sales volumes after the Public Staff's weather normalization adjustment, which the Company adopted, were 47,652,852 dekatherms. After annualizing for customer growth, Public Staff witness Garrison calculated Piedmont's reasonable annual level of North Carolina sales volumes to be 51,605,959 dekatherms, whereas Company witness Schiefer's customer annualization calculation produced a reasonable annual level of North Carolina sales volumes of 49,340,609 dekatherms.

This difference arises primarily out of differences in the methodology used by each witness in reflecting the annualization of customer growth during the test year and through September 30, 1981. The first adjustment is the annualization of test year sales volumes to reflect the additional volumes which will be sold by Piedmont due to customers added during the course of the test year. The second adjustment is due to the updated filing which Piedmont made on November 13, 1981. Included in that supplemental filing was a revised and updated revenue calculation by Company witness Schiefer which reflected not only a test year annualization adjustment to reflect the additional volumes which would be sold due to customer additions during the test year, but which also included an additional adjustment to reflect the volumes which would be sold due to additional customers resulting from plant additions during the update period from the end of the test year, March 31, 1981, through September 30, 1981. Public Staff witness Garrison presented a similar adjustment using a different methodology than that used by the Company.

The Commission will first consider the annualization adjustment to test year sales volumes which both witness Garrison and witness Schiefer made in order to reflect the effect of customer additions during the test year. Because of the seasonal nature of the gas utility business, it is difficult to determine with exactness the number of net customer additions which occurred during the test period. Both the methodology of witness Garrison and that of witness Schiefer in making the annualization adjustment assume that one-half of the number of net customer additions occurred in the last half of the test year. As will be pointed up, however, other aspects of the methodologies used by the Public Staff and the Company differ in at least two significant respects.

The first significant difference involves the number of categories of customers for which witness Garrison and witness Schiefer calculated their respective test year annualization factors. Witness Garrison calculated a separate factor for 10 different categories of the Company's customers. The categories of customers for which he calculated such a factor were either established rate schedules, or "rate code" categories of the customers on a particular rate schedule, or, in the case of customers on rate schedule 104, the reasonable categorization of such customers between "firm" and "other." Company witness Schiefer's methodology, by contrast, entailed the calculation of an annualization factor with respect to three broad categories of customers: "residential," "commercial," and "industrial." The Commission concludes that witness Garrison's derivation of an annualization factor using 10 categories of customers more accurately determines the appropriate adjustment to be made in order to reflect the additional volumes which will be sold due to customer additions which occurred during the test year.

The second significant difference in the methodologies used by witness Garrison and witness Schiefer in making the test year customer annualization adjustment involves a difference in the basic data used by each. Witness Garrison's methodology used data reflecting the actual average number of the Company's customers in various periods. Specifically, witness Garrison computed his annualization factors for each customer category by comparing the actual average number of customers in that category during the 12-month period which immediately preceded the test year (i.e., 12-month period ended March 31, 1980) with the average number of customers in that category during the test period (i.e., 12-month period ended March 31, 1981) to determine the increase or decrease in the average number of customers during the test period as compared with the 12 months preceding the test period. The increase or decrease in the average number of customers in that category was then related to the average number of customers in the 12-month period immediately preceding the test year to obtain a percentage indicative of such increase or decrease. One-half of the factor or percentage thus obtained was applied by witness Garrison to the weather normalized test year sales volumes for that particular category of customers. In that manner the appropriate volume annualization adjustment was thus derived for that customer class or category. (It should be noted that taking one-half of the percentage obtained in order to derive the applicable annualization factor is a step designed and intended to recognize that there were customer additions throughout the test year and to quantify in a reasonable manner only the sales volumes attributable to such additions which are not already reflected in the actual test year sales volumes. Company witness Schiefer used a similar step and procedure in his method of calculating his test year customer annualization adjustment.)

In contrast to witness Garrison's methodology, Company witness Schiefer compared an average of the average number of customers for the test year to the comparable averages for the preceding year. Specifically, witness Schiefer obtained the average number of customers for the 12 months ended March 1979, April 1979, May 1979, and so on through March 1980. He then totaled these 13 averages and divided by 13 to obtain an average number of customers for the year ended March 31, 1980. He made the same type of calculation for the 13 months ended March 31, 1981, to arrive at the average number of customers for the test year. Witness Schiefer then compared the average number of customers derived for the two years to develop his annualization factor. Witness Schiefer contended that this method better accounts for the effects of seasonality.

Witness Schiefer's method gives a weighting to customer growth during the period April 1978 through March 1979. This was a period of low customer and volume growth for the Company due to an inadequate gas supply. Witness Garrison testified that witness Schiefer's methodology tended to diminish or mute the magnitude of actual customer additions.

The Commission concludes that witness Schiefer's methodology gives undue weight to the customer growth in the low growth period of 1978 and 1979 before gas supplies became more plentiful and is not representative of actual test year customer growth when more ample gas supplies were available.

The Commission believes and concludes that witness Garrison's method of determining customer additions, using as it does a comparison of actual average number of customers during the test year with the actual average

number of customers during the year immediately preceding the test year, is the most reasonable, accurate, and appropriate one for use in this case. The Commission further specifically rejects the contention that the Company's use of running averages better takes into consideration the effects of seasonality. The Commission concludes that witness Garrison's data and method adequately and appropriately takes the seasonality involved in customer additions into consideration in a reasonable manner while at the same time not understating such changes as have in fact occurred based upon a comparison of reasonably relevant periods.

The Commission will next consider the appropriate level of additional customers resulting from plant additions up to September 30, 1981. As noted, the Company in its supplemental filing of November 13, 1981, revised and updated its original rate case filing in order to reflect the plant in service which had been added during the update period from the end of the test year through the end of September 1981. The Company's update in this regard seeks to earn a return on such plant in service added during that update period. The Company recognized, however, as the well-known matching principle would dictate, that such additional plant will produce and support additional revenues which must properly be taken into consideration in such an update. Company witness Schiefer's revised and updated revenue calculation reflects an additional plant adjustment designed and intended to reflect such additional revenues attributable to the update period plant additions.

In making his additional plant adjustment, witness Schiefer first determined the dollar amount of distribution plant which the Company had added during the test period. He then divided that dollar amount by the total number of customers (of all three of his customer classes) added during the test year as such number had been determined by him in making his annualization adjustment for additional sales volumes attributable to customers added during the test year. It should be noted that the annualization adjustment methodology used by witness Schiefer in that adjustment involved the comparison of various running averages rather than actual monthly number of customers, an aspect of that methodology which the Commission has herein earlier found to be unacceptable and which it has rejected. Witness Schiefer then divided the dollar amount of distribution plant added during the test year (i.e., $4,602,019) by the number of customers which he determined had been added during the test year (i.e., 4,853) to derive an average investment in distribution plant per such additional customer in the amount of $948.28. Witness Schiefer then divided the dollar amount of distribution plant which had been added by the Company during the period with respect to which the Company updated its plant investment in this case (i.e., the period from April 1, 1981, through September 30, 1981), which he testified was $1,610,351.19, by the $948.28 amount earlier derived. He then concluded that the result of that division indicated 1,698 new customers due to plant additions made during the update period. That number of new customers, calculated in the foregoing manner, was divided by the average number of customers which witness Schiefer had determined for the end of the test period. Witness Schiefer thus derived a single percentage, or "factor," which he applied to the proformed, weather normalized, annualized, test year volumes which he had earlier derived for each of the three customer classes which his method utilized. In that manner witness Schiefer derived the volume adjustment with respect to each of those three customer classes which he contended was appropriate to reflect the effects of the plant additions occurring during the update period.

Based upon a careful consideration of witness Schiefer's plant adjustment, the Commission concludes that it is inadequate and inappropriate for use in this case for several reasons. First, the adjustment utilizes a total customer additions number for the test period which was calculated and derived by witness Schiefer by use of his test year annualization adjustment and methodology, which the Commission has already rejected for the reasons previously indicated. Additionally, and in the same vein, the additional plant factor which witness Schiefer derived is not only derived by a methodology which the Commission has rejected, it is applied by witness Schiefer to volumes which have been adjusted by him pursuant to that methodology which the Commission has and does reject. Independently of those considerations, however, the Commission notes that an underlying assumption of witness Schiefer's plant additions adjustment is that each of the three customer classes which he utilized increased at the same rate, and that the same dollar investment was required to add a customer of one class as a customer of another class.

The Commission notes that the plant addition adjustment proposed by Public Staff witness Garrison employs essentially the same type of approach and methodology as he utilized in making his test year annualization adjustment. Witness Garrison's method computes and derives not merely a single overall factor as did witness Schiefer's method, but rather a separate factor for each of the same multiple customer classes for which he calculated and derived a test year annualization factor. Thus, this feature of witness Garrison's methodology again more accurately and reasonably focuses upon and measures the particular customer class additions due to additional plant investment and applies the particular factor derived to the weather normalized and annualized test year volumes properly associated with that particular customer class. Witness Garrison's methodology utilizes a comparison of the actual average number of customers in each of his multiple customer classes during the test period with the average number of such customers in those classes during the 12-month period ended September 30, 1981. Hence, the Commission concludes that witness Garrison's methodology to annualize customer growth to September 30, 1981, is appropriate for use herein, except that the adjustment should be divided by two in order to more accurately reflect customer growth in the March 31, 1981, to September 30, 1981, period.

Based on all of the above, the Commission concludes that the proper and reasonable level of North Carolina sales volumes for use in this proceeding is 50,754,143 dekatherms.

The next issue to be decided in conjunction with this finding of fact is the appropriate gas supply necessary to support the level of sales volumes previously determined. The one difference in the two witnesses is the amount of Transco CD-2 volumes. Public Staff witness Garrison proposes 65,639,986 dekatherms while Company witness Schiefer proposes 62,230,200 dekatherms. This accounts for the 3,409,786 dekatherms difference in the total Company supply of 71,937,015 dekatherms proposed by witness Garrison and the 68,527,229 dekatherms proposed by Company witness Shiefer.

The amount proposed by each witness for Transco CD-2 supply is substantially lower than Piedmont's annual contract with Transco which exceeds 77,000,000 dekatherms. Therefore, the Commission concludes that either supply level is available even if there is some degree of curtailment.

Since the return of reasonably adequate gas supplies has made the available market (volume sales) the major determinent of gas supply, the Commission must only determine the reasonable annual level of Company use and unaccounted for volumes and the reasonable annual level of sales volumes for North Carolina and South Carolina to arrive at the reasonable and proper gas supply for use in this proceeding.

Both the Company and the Public Staff agree on a reasonable level of Company use and unaccounted for volumes; therefore, the Commission adopts those agreed upon matters and concludes that Company use volumes of 87,801 dekatherms and unaccounted for volumes of 1,048,710 dekatherms represent reasonable annual levels for use in determining the total Company supply for the purposes of this case. The Commission has already concluded that 50,754,143 dekatherms is the reasonable annual level of sales volumes for North Carolina for use in this case. Therefore, the only remaining determination is a reasonable annual level of sales volumes for South Carolina. The Commission has previously determined that the method used by Public Staff witness Garrison in his determination of North Carolina's sales volumes is reasonable and appropriate for use in this case except for how it relates to customer annualization from March 31, 1981, to September 30, 1981. Consistency dictates that the reasonable annual level of sales volumes for South Carolina should be determined in the same manner as were the sales volumes for North Carolina. Thus, the Commission is of the opinion and concludes that 18,793,717 dekatherms represent the reasonable annual level of South Carolina's sales volumes and that the reasonable total Company annual supply requirements appropriate for use in this case are 70,684,371 dekatherms (50,754,143 + 18,793,717 + 87,801 + 1,048,710).

The final issue relating to gas supply is the volumes available for sale during the five-month winter period (November 1 through March 31).

The Company used the actual "unaccounted for" volumes of 1,048,710 dekatherms in its determination of the total Company winter supply available for sale. The Commission recognizes that unaccounted for volumes are a function of unbilled revenues (due to cycle billings), calibration of meter equipment, and temperature as well as "lost" volumes. This is clearly indicated by an examination of the monthly unaccounted for volumes in the monthly financial reports filed with the Commission. The unaccounted for volumes fluctuate from a high of positive 950,000 dekatherms in October 1980 to a negative 932,000 dekatherms in April 1981. Because of the increased demand in the winter, the amount of unaccounted for volumes resulting from unbilled gas deliveries can be substantial and, as indicated above, a negative amount of unaccounted for volumes can and does exist in the summer period.

Therefore, the most reasonable method to determine the "actual" unaccounted for volumes during the winter season is a percentage of the annual unaccounted for volumes based on the winter season sales to annual sales. This results in unaccounted for volumes of 590,529 dekatherms for total Company operations. This adjustment increases the maximum winter sales volumes that the Company contends it can sell by 458,181 dekatherms for total Company operations. Hence, since the Commission's winter sales volumes are less than those calculated by the Public Staff and the appropriate level of winter loss and unaccounted for volumes is 590,529, the Commission concludes that the record is clear that Piedmont's gas supply will be sufficient in meeting the sales volumes found to be reasonable herein.

The final issue to be considered in conjunction with this finding of fact is the proper distribution of sales volumes among the rate schedules. Both Company witness Schiefer and Public Staff witness Garrison presented calculations of Piedmont's reasonable annual level of revenues which were to be reasonably expected from the annual North Carolina gas volume sales projected by each. The revenue calculation of each of those two witnesses presented the volumes which each witness determined could reasonably be sold in North Carolina under Piedmont's various rate schedules. For the reasons indicated above, the Commission has concluded that the revenue calculation of Public Staff witness Garrison, including the annual level of volumes which his calculation assumed will be sold by Piedmont under its various rate schedules and the resulting revenues, is reasonable and appropriate for use in this case, except for the effects of the annualization adjustment from March 31, 1981, to September 30, 1981, and the Commission has accepted and adopted witness Garrison's calculations and evidence in that regard in preference to that of Company witness Schiefer, with the necessary adjustment to reflect the Commission's approved customer annualization from March 31, 1981, to September 30, 1981.

The Public Staff and the Company also disagreed with respect to distribution of sales volumes. Specifically, the Company and the Public Staff disagreed with respect to adjustments to test year rate schedule 108 sales volumes and "special" or "sales for resale" volumes.

During the test year the Company actually sold on negotiated rate schedule 108 some 1,976,424 dekatherms. In projecting and adjusting its test year sales volumes in the revenue calculation presented by Company witness Schiefer, the Company has assumed that it will have the same level of annual sales under rate schedule 108 as occurred in the test year, adjusted by the Company's annualization factor. The Public Staff in its revenue calculations presented by its witness Garrison has assumed that the Company will not make any sales on rate schedule 108 and, consequently, has moved the volumes which were sold on that rate schedule during the test year to industrial rate schedule 104, on the assumption that the volumes in question would be sold under this rate schedule rather than under negotiated rate schedule 108. Public Staff witness Raymond J. Nery, Director of the Natural Gas Division of the Public Staff, offered testimony which supports the Public Staff's adjustment which transferred those actual test year rate schedule 108 volumes to the volumes projected to be sold on rate schedule 104.

Sales under rate schedule 108 are made only to industrial customers who would or do normally buy natural gas from the Company under its rate schedule 104. Sales under rate schedule 108 are made at negotiated rates which are less than the Commission's established rate for sales under rate schedule 104 to customers who have an alternative fuel use capability in order to induce them to continue to buy natural gas from the Company rather than to switch to their alternative fuel during such periods, if any, when such alternative fuel happens to be lower in price than natural gas sold at rate schedule 104 prices. Sales at negotiated rates under schedule 108 are permitted only in such circumstances. Such sales are made on a short-term basis only, for as soon as the cost differential in the alternative fuel disappears there no longer remains any reason or justification for allowing sales to be made, in effect, at a discount from the rate schedule 104 rate at which such sales would normally be made. Thus, whether or not there will be any negotiated sales under rate schedule 108 in the future is dependent upon the many factors

which determine the relative price of natural gas and the alternative to it, almost always #6 fuel oil. Public Staff witness Nery offered testimony reflecting his analysis of whether in the period out through April 1983 the price of fuel oil would fall below the price of natural gas under rate schedule 104 so as to give rise to a situation where negotiated sales under rate schedule 108 would occur. Witness Nery concluded from his analysis that such a situation would not arise within the period in which he looked. The evidence further indicates that the Company has not made any negotiated sales under schedule 108 since October 1980.

After a careful review of the record, the Commission concludes that the Public Staff's position on this matter is reasonable and appropriate.

The Company and the Public Staff also differed regarding what adjustments should properly be made to the volumes and the price of such volumes which were sold during the test year as "sales for resale" or "special" sales. Public Staff witness Garrison in his revenue calculation made two adjustments to the actual test year "sales for resale" which totaled 163,731 dekatherms. Like Company witness Schiefer, he removed the volumes which were sold on an emergency basis during the test year to New Jersey Natural Gas Company on the theory that such sales were nonrecurring. However, unlike Company witness Schiefer, witness Garrison did not shift these emergency sales volumes to rate schedule 104, or to any other rate schedule. Witness Garrison further adjusted the sales for resale to reflect that the Company would sell 100,000 dekatherms of gas to North Carolina Natural Gas Company (N.C.N.G.) under a contract which had been entered into between the Company and N.C.N.G. at the time of the hearing in this matter. Company witness Schiefer used the lower amount of actual test year sales made to N.C.N.G. Therefore, witness Garrison's adjustments derived, calculated, and projected sales for resale in the amount of 100,000 dekatherms, whereas Company witness Schiefer in his revenue calculation derived, calculated, and projected sales for resale (which he labeled "special sales") in the amount of 50,326 dekatherms. After a careful review of the record, the Commission concludes that the adjustments which Public Staff witness Garrison made to sales for resale volumes are unreasonable and inappropriate except for treatment of the New Jersey Natural Gas Company sales volumes and therefore should not be adopted for the purposes of this case except that the Public Staff's treatment of the New Jersey Natural Gas Company sales volumes is adopted. The Commission agrees, however, with witness Garrison's employment of the selling price per dekatherm, denoted in the most recent contract between the Applicant and N.C.N.G., as being the rate to be applied to the "sales for resale" volumes proposed herein by the Applicant of 50,326 dekatherms.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Evidence for this finding of fact is found in the evidence and exhibits of Company witnesses Maxheim, Gower, Hahne, Guy, and Schiefer and Public Staff witnesses Garrison, Cox, Carter, Drennan, and Seekamp.

The following table sets forth the various differences between the Company and the Public Staff with respect to operating expenses:

Operating Expenses

Item	Company	Public Staff	Difference
Cost of gas	$171,926,647	$179,181,220	$(7,254,573)
Operation & maintenance	22,168,760	21,050,024	1,118,736
Depreciation	4,303,700	4,303,700	-
Taxes other than income	15,869,757	16,495,413	(625,656)
State income taxes	526,496	778,547	(252,051)
Federal income taxes	3,780,440	5,596,885	(1,816,445)
Amortization of investment tax credit	(168,801)	(168,801)	-
Total operating expenses	$218,406,999	$227,236,988	$(8,829,989)

The difference in "cost of gas" relates either to (1) the different sales volumes used or (2) the different allocation factors used to allocate gas costs between the two jurisdictions in which Piedmont operates and can be summarized as follows:

	Volume	Allocation Factor	Company Over/(Under) Public Staff
CD-2	$(7,522,172)	$ -	$(7,522,172)
DS-1	-	72,624	72,624
PS-2	-	(8,208)	(8,208)
Piedmont Exploration	-	3,588	3,588
GSS	(7,963)	96,098	88,135
WSS	31,029	64,422	95,451
LGA	(4,063)	7,990	3,927
LNG	-	12,035	12,035
LPG	-	79	79
Rounding	-	(32)	(32)
	$(7,503,169)	$248,596	$(7,254,573)

The difference in cost of gas relating to CD-2 purchases relates entirely to the different sales volumes used by the Company and the Public Staff. The differences in sales volumes relate to (1) the different annualization factors used by the Company and the Public Staff and (2) the different treatment of "special sales" by the Company and the Public Staff. For the reasons heretofore stated, the Commission has adopted neither the Company's nor the Public Staff's exact annualization factor; therefore, the Commission finds that the volumes and cost of CD-2 gas used by the Public Staff are appropriate after adjusting for the Commission's annualization factor for the period March 31, 1981, to September 30, 1981, and the inclusion of the Company's special sales volume level.

The Company and the Public Staff used the same total supply of DS-1 gas and Piedmont Exploration gas. The differences in the cost of these gas supplies attributable to North Carolina relate entirely to the use by the Company and the Public Staff of different percentage factors to allocate these gas supplies between North Carolina and South Carolina. The Company allocated 73.22% of these supplies to North Carolina, based on the percentage of annual sales in North Carolina to total Company sales.

The Public Staff computed a 72.899% allocation factor based on the normalized and annualized sales as computed by the Public Staff. The

Commission has already discussed the deficiencies of each of the parties' annualization factors; therefore, the Commission finds that the appropriate allocation factor to be used in computing the appropriate level of DS-1 and Piedmont Exploration gas is that which results from utilization of the annualization factor developed by the Commission.

Both the Company and the Public Staff used the same total Company supply and cost of PS-2 gas. The difference in the amount of the cost attributed to North Carolina relates entirely to the difference in allocation factors used by the Company and the Public Staff. The Company allocated 73.22% of this gas cost to North Carolina and the Public Staff allocated 74.369%. The real question here, after concluding that the Commission's annualization methodology is more appropriate than that of either of the parties, is whether PS-2 gas should be allocated based on winter sales as the Public Staff has done or on annual sales as the Company has done. The Commission, consistent with the discussion below, concludes that the appropriate basis of allocation of PS-2 gas between North Carolina and South Carolina is the winter sales to priority 1 and 2 customers.

The major difference in the cost of GSS, WSS, LGA, and LNG storage services attributed to North Carolina relates to the different allocation factors used by the Company and the Public Staff. The Company used an allocation factor of 77.75% which represents the percentage of priority 1 and 2 sales which occurred in North Carolina based on test-period normalized volumes. The Public Staff used 74.369% which represents the percentage of total winter sales attributable to North Carolina based on test-period normalized and annualized sales.

The Commission finds that the use of an allocation factor based on priority 1 and 2 sales is appropriate and consistent with past Commission practice, but that the Applicant's allocation methodology errs in that it considers annual sales rather than the appropriate winter period only. Thus, application of the Commission's annualization factor, found reasonable herein, to the priority 1 and 2 winter sales volumes yields the appropriate allocation factor for these storage services.

The other differences in the amount of storage costs attributed to North Carolina are as follows:

1. The Company based its GSS costs on the assumption that it would inject and withdraw the maximum amount generally available under the GSS rate schedule. The Public Staff used test period actual injections and withdrawals. During the test period, the Company exceeded its daily GSS contract limits through the purchase of excess GSS service. There is no assurance that the Company will need or be permitted to exceed contract limits in the future; therefore, the Commission finds the approach used by the Company to be appropriate.

2. The Public Staff used test period actual volumes for WSS withdrawals and LGA deliveries. The Company agreed to accept the Public Staff's total Company WSS and LGA numbers and therefore the Commission concludes that these volumes are appropriate to be used in determining the fair and reasonable cost of gas level.

The Company allocated LPG based on priority 1 and 2 usage. The Public Staff used a single peak day. The Company agreed to accept the Public Staff's adjustment due to the negligible amount of money involved.

Therefore, for all of the reasons stated above, the Commission finds and concludes that the appropriate cost of gas for use in this proceeding is $176,605,076.

The difference between the Company and the Public Staff with respect to operation and maintenance expenses is comprised of the following items:

Item	Amount
Uncollectible accounts	$ 447,973
Rate case expense	38,691
Payroll	69,906
Pension	29,244
Advertising expense	112,585
RCS audit services	39,850
Outside services	114,212
Customer accounts expense	(8,609)
Nonutility adjustment	274,884
Total difference	$1,118,736

The difference in the amount of uncollectible accounts relates to (1) the different amount of revenues computed by the Company and the Public Staff and (2) the different percentages applied to those revenues. The first difference has heretofore been resolved.

The evidence in this proceeding presents the Commission with three options. The Commission can select a writeoff percentage of .3242% (representing the amount estimated prior to the updated test period), .5371% (representing the amount actually written off during the updated test period), or .4627% (representing the actual updated test period writeoffs less an adjustment for one industrial customer which the Public Staff contends represents a nonrecurring extraordinary writeoff). After a careful review of the record, the Commission concludes that the Applicant's proper uncollectible rate to be used in this proceeding is .4627%.

The Company included $38,691 more in rate case expense than the Public Staff. Of the difference, $28,942 relates to the fact that the Company amortized these expenses over two years and the Public Staff amortized these expenses over three years. Considering the fact that the Company has filed four general rate cases in the last five years, the Commission finds and concludes that a two-year amortization period is appropriate for rate case expenses in this proceeding.

The remaining difference in rate case expenses relates to the Public Staff's exclusion of $9,749 of rate case expenses on the theory that these expenses will be paid by ratepayers from March 31, 1981, to November 30, 1981. The Public Staff's exclusion of a portion of rate case expense for the period between October 1, 1981, and November 30, 1981, on the theory that it will be paid by ratepayers in existing rates is the same argument that the Public Staff has used before this Commission with respect to accumulated depreciation, and the Commission rejects it for the same reasons set forth in Evidence and Conclusions for Finding of Fact No. 5. Hence, the Commission

concludes that rate case expense to be recovered through rates in this proceeding should only be reduced by $7,312 to reflect the amortization of 1980 rate case expense through September 30, 1980. Therefore, the Commission concludes that the fair and reasonable level of rate case expense to be used in setting rates in this proceeding is the Company's amount reduced by $7,312.

The Public Staff accepted the Company's September 30, 1981, ongoing level of payroll of $22,774,340 but allocated a greater portion thereof to nonutility activities. The Public Staff used 69.74% as the percent of payroll charged to utility operations while the Company used 71.67%. The difference is attributable to the different amounts charged to nonutility operations and the amount of payroll which is credited out of general and administrative salaries to construction. The amount of payroll which is transferred to construction from general and administrative salaries was not included in the Company's calculation.

The Commission is of the opinion that the methodology employed by the Public Staff is correct. The Company did not question the adjustment for that portion of payroll that is transferred from account 920 to construction. Furthermore, since the Commission is in agreement with the finding from the cost study of Currin and Associates which will be discussed below in dealing with the adjustment for the allocation of nonutility expenses the Commission concludes that the adjustment of $69,906 proposed herein by the Public Staff is proper.

The next adjustment proposed by the Public Staff removes $29,244 from pension expense. This difference between the Public Staff and the Company also relates to the percent of payroll charged to operations. The Commission, having previously concluded that the percent of payroll charged to operations by the Public Staff is correct, accepts the Public Staff's adjustment of $29,244.

The Public Staff removed $81,556 of co-op advertising expense from operation and maintenance expenses because the Public Staff considered said advertising to have been promotional advertising. After careful review of the record concerning this item, the Commission concludes that this adjustment by the Public Staff is proper and clearly consistent with the Commission's policy as to utility advertising as set forth in Commission Rules R12-12 and R12-13.

The Public Staff also removed $31,029 of institutional advertising from operation and maintenance expenses on the theory that these expenditures were promotional. For the reasons heretofore stated in the Commission's discussion of co-op advertising, this Public Staff adjustment is found to be appropriate.

The Company and the Public Staff agreed on the amount of the RCS audit expense; however, the Public Staff amortized the associated indirect expenses over two years on the theory that they represent nonrecurring expenses.

The Public Staff testified that in its opinion the RCS audit expenses were nonrecurring; however, the Public Staff did not identify what these nonrecurring expenses were. There simply is insufficient evidence in the record to exclude these expenditures as nonrecurring.

Piedmont included the amount of $114,212 payable to one of its subsidiaries for services rendered by the subsidiary in purchasing, transporting, and storing propane for Piedmont. The amount is made up of three components: a storage fee of $39,342, an interest cost of $37,930, and a management fee of $36,940. The Public Staff admits that the first two components are reasonable, but suggests that these fees should be deferred and charged off when the propane is actually used. These expenses were incurred prior to the time of the hearing and the Commission is not persuaded to require Piedmont to wait until some later date to recover the expenses through some yet to be ascertained method of recovery.

Public Staff witness Garrison testified that he felt that the above-referenced management fee of $36,940 was unreasonable; however, he gave no substantial reason whatsoever for his conclusion. The management fee represents services performed pursuant to a contract between Piedmont and its subsidiary. A copy of that contract was filed as an exhibit in this proceeding. The Commission finds and concludes that the contract is fair and reasonable and that the payment of $114,212 pursuant to said contract is fair and reasonable and constitutes an appropriate expense to be recovered in this proceeding.

The Public Staff increased customer accounts expense by $8,609. This increase results from the larger annualization factor used by the Public Staff. In view of the fact that the Commission has rejected each of the parties' specific annualization factors, the Commission finds and concludes that the appropriate adjustment to customer accounts expense is $1,492, which results from the application of the annualization factor found to be fair and reasonable by the Commission.

The difference of $274,884 in expenses allocated to nonutility operations is comprised of the following components:

$145,958 of the difference relates to an additional allocation of merchandising and jobbing (M&J) expenses by the Public Staff as a result of a recommendation made by its consultants, Currin and Associates, Inc. The Commission concludes that fairness dictates that the fully distributed allocation method, as proposed herein by the Currin and Associates witnesses, should be used in allocating expenses to M&J accounts.

The next difference concerns the approach to the Massachusetts formula used by the Public Staff and the Company. The Company used the historical approach based on test year data while the Public Staff through its consultants, Currin and Associates, used an end-of-period approach. The use of the end-of-period approach is particularly appropriate herein because the new subsidiaries were formed during the test year. Furthermore, since end-of-period adjustments are standard for rate-making purposes, it is proper to adjust the three-factor Massachusetts formula to an end-of-period level. The Commission concurs with the Public Staff's end-of-period approach. Currin and Associates at the time of the hearing agreed to remove the allocated expenses related to outside services of $11,851 which was incorporated by the Public Staff. However, the Company agreed to the allocation of accounting and tax outside services of $120,758 which would increase the adjustment for expenses allocated to nonutility operations by $4,492 based on the allocation factor proposed herein by Currin and Associates.

During the hearing, both the Company and the Public Staff made adjustments to the expenses to be allocated to nonutility operations for salaries already considered in the payroll adjustment. The Commission concludes that this adjustment for salaries was not proper. Therefore, the Commission concludes that the total amount of expenses that should be allocated to nonutility operations is $460,315 ($467,674 - $11,851 + $4,492) and the adjustment should be $274,884.

Based on the evidence presented, the Commission concludes that the proper level of operating and maintenance expenses for the test year is $21,539,389.

The Public Staff and the Company agreed that the amount of depreciation expense is $4,303,700; therefore, the Commission concludes this amount is proper.

The third item of difference in operating expenses relates to other operating taxes. The difference is related to two items. Public Staff witness Cox increased other operating taxes by $651,444 because of the proposed increase in end-of-period revenues. Payroll taxes were reduced by $23,672 due to the different percent of payroll charges to operations used by the Public Staff. Consistent with the Commission's decision to adopt the Public Staff's payroll adjustment, the Commission concludes that the Public Staff's adjustment to payroll taxes is appropriate.

Since the Commission, herein, has determined that neither of the parties' end-of-period revenues is appropriate for use in this proceeding, the Commission concludes that the appropriate level of gross receipts taxes is determined by application of the gross receipts tax rate to the Commission's end-of-period revenues, net of uncollectibles. In summation, the Commission concludes that $16,239,182 is the proper level of operating taxes other than income.

The fourth difference in operating revenue deductions of concern is Federal and State income taxes. Both witnesses agreed on the methodology used, but their amounts of income taxes differed due to the different levels of operating revenues and expenses. However, the Commission notes that, consistent with past Commission decisions and the Internal Revenue Code, the unamortized portion of the job development investment tax credit (JDITC) should be deducted from original cost net investment when calculating interest expense for income tax purposes. After consideration of the JDITC, and the other Commission decisions reflected herein, the Commission concludes that the appropriate levels of Federal and State income taxes are $4,756,663 and $685,380, respectively.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The evidence for this finding of fact was presented in the supplemental testimony of Company witness Guy and Public Staff witness Hsu.

In its original prefiled testimony, the Company used its capital structure at March 31, 1981. The Public Staff updated the capital structure to September 30, 1981. On November 13, 1981, the Company filed its supplemental testimony and agreed with the Public Staff's position on capital structure by also updating its capital structure to September 30, 1981. Hence, the Commission concludes that the capital structure should be updated to

September 30, 1981. Specifically, the Commission concludes that the proper capitalization ratios for use in this proceeding are 47.34% long-term debt, 1.85% preferred stock, and 50.81% common equity.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence concerning the cost of capital and fair rate of return was presented by Company witnesses Guy, Hinson, and Meyer and by Public Staff witness Hsu.

Subsequent to the Public Staff's review of the Company-supplied working papers on the updated embedded cost of debt and preferred stock, there was no dispute with respect to the embedded cost of Piedmont's long-term debt and preferred stock; therefore, the Commission concludes that the embedded cost of Piedmont's long-term debt and preferred stock is 7.64% and 5.14%, respectively.

Three witnesses presented evidence as to the cost of equity capital to Piedmont. Eugene W. Meyer, Vice President of Kidder, Peabody and Co., testified that Piedmont should be allowed to earn 18% on its book common equity in order to obtain a market to book ratio of 1.0x. Everette C. Hinson, Senior Vice President - Finance of Piedmont, testified that the Company is seeking 17% on its common equity at this time. Hsin-Mei Hsu, of the Public Staff, testified that Piedmont should be permitted to earn 16.24% on common equity.

In order to satisfy the financing requirements of the Company, witness Meyer stated that ". . . at the minimum, the Company should obtain secure A/A ratings for its debenture bonds." He then quantified the financial results which he believed to be necessary in order for the Company to obtain such A/A ratings as being the achievement of a minimum pretax coverage ratio of 3.5x to 4.0x and a debt ratio under 50%.

The key parameter in determining witness Meyer's recommended rate of return on common equity of 18% was the dividend to book value ratio. Witness Meyer testified that a dividend to book ratio of 9.0% is required by investors to provide a market to book ratio of 1.0x. Although witness Meyer stated on cross-examination that his opinion of a 9.0% dividend yield of book value was based on an examination of a 32-gas company sample group, he presented no explicit analysis of the relationship between the market to book ratio and the dividend yield on book value.

Witness Hinson testified that he totally agreed with witness Meyer's recommended return on equity of 18%. Nevertheless, considering the high cost of living faced by its residential customers and the availability of alternate fuels faced by its industrial customers, witness Hinson testified that the Company is seeking a return on common equity of only 17%.

Public Staff witness Hsu employed a DCF analysis of two selected groups of companies - one group consisted only of natural gas distribution companies, while the other was composed of companies which she found comparable in investment risk to Piedmont as measured by beta and Value Line safety rankings.

Based on her DCF analysis of Piedmont, witness Hsu concluded that the cost of common equity capital was within the range of 15.9% to 16.6% with a midpoint of 16.2%. After allowing a floatation cost adjustment, witness Hsu recommended that the authorized rate of return on book common equity be set no higher than 16.24%. Witness Hsu then stated that her recommended level of return, if earned, would produce a pretax interest coverage of 5.27x, which is much higher than the Company's pursued 3.5x level (the level required to obtain A/A ratings for its debenture bonds according to witness Meyer's testimony).

The Commission concludes that, based upon its consideration of all of the evidence presented with regard to this matter, the fair and reasonable rate of return which the Company should be allowed to earn on its jurisdictional common equity is 16.24%, which yields an overall fair rate of return of 11.96%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The Commission has previously discussed the findings and conclusions regarding the fair rate of return which Piedmont Natural Gas Company should be afforded an opportunity to earn.

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
PIEDMONT NATURAL GAS COMPANY
Sate of North Carolina
STATEMENT OF OPERATING INCOME
For the Test Year Ended March 31, 1981

Line No.	Item	Present Rates	Increase Approved	After Approved Increase
1.	Operating Revenues:			
2.	Natural gas sales	$233,846,304	$9,172,740	$243,019,044
3.	Miscellaneous	505,289	-	505,289
4.	Total	$234,351,593	$9,172,740	$243,524,333
5.	Operating Revenue Deductions:			
6.	Cost of gas	$176,605,076	$ -	$176,605,076
7.	Operation and maintenance	21,539,389	42,442	21,581,831
8.	Depreciation	4,303,700	-	4,303,700
9.	Taxes other than income	16,239,182	547,818	16,787,000
10.	State income taxes	685,380	514,949	1,200,329
11.	Federal income taxes	4,756,663	3,711,064	8,467,727
12.	Total operating revenue deductions	224,129,390	4,816,273	228,945,663
13.	Operating income for return	$ 10,222,203	$4,356,467	$ 14,578,670

SCHEDULE II
PIEDMONT NATURAL GAS COMPANY
State of North Carolina
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended March 31, 1981

Line No.	Item	Amount
1.	Investment in Gas Plant	
2.	Gas utility plant in service	$149,684,141
3.	Leasehold improvements	433,796
4.	Depreciation reserve	(43,212,776)
5.	Construction work in progress	6,262,122
6.	Customer advances for construction	(648,701)
7.	Working capital	18,070,721
8.	Accumulated deferred income taxes	(8,728,810)
9.	Original cost rate base	$121,860,493
10.	Rate of Return	
11.	Present rates	8.38%
12.	Approved rates	11.96%

SCHEDULE III
PIEDMONT NATURAL GAS COMPANY
State of North Carolina
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended March 31, 1981

Line No.	Item	Original Cost Rate Base	Ratio %	Embedded Cost %	Operating Income
		Present Rates - Original Cost Rate Base			
1.	Long-term debt	$ 57,688,757	47.34	7.64	$ 4,407,421
2.	Preferred stock	2,254,419	1.85	5.14	115,877
3.	Common equity	61,917,317	50.81	9.20	5,698,905
4.	Total	$121,860,493	100.00		$10,222,203
		Approved Rates - Original Cost Rate Base			
1.	Long-term debt	$ 57,688,757	47.34	7.64	$ 4,407,421
2.	Preferred stock	2,254,419	1.85	5.14	115,877
3.	Common equity	61,917,317	50.81	16.24	10,055,372
4.	Total	$121,860,493	100.00		$14,578,670

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding of fact is contained in the testimony and exhibits of Company witness Schiefer and Public Staff witness Garrison. No other party offered any evidence with respect to the proposed rate schedules; however, the North Carolina Textile Manufacturers Association did question certain aspects of Piedmont's rates by way of cross-examination. Aside from the differences caused by different revenue requirements and sales volumes, the only major difference between the Company's proposed rate design and that proposed by the Public Staff concerns the monthly charge for outdoor gas light

service provided in rate schedule 105. The Company proposed no change to the monthly charge while the Public Staff proposed an increase of $3.00 per month. The Commission concludes that the increase proposed by the Public Staff to the rate schedule 105 monthly charge should not be incorporated in the rates to be filed by the Company since public notice of such recommended charge has not been given in this proceeding.

In addition, the Commission concludes that the Company should prorate the customer or facilities charge for those customers on the system for less than a full billing cycle. Both the Company and the Public Staff state that the economic effect on the Company is nil. While the Commission is concerned with keeping the Company "whole," each customer should also be kept whole to the extent practicable. The Commission notes that the Company already prorates the commodity charge in its rates when a change in rates occurs. Prorating the customer or facilities charge is simply an extension of this. Therefore, the Commission concludes that the Company should now begin to prorate its customer charge.

After a review of the entire record, the Commission concludes that the rates included in Appendix A attached hereto are appropriate and will generate the approved level of revenue found to be reasonable herein. In this regard, the Commission notes that the rates approved herein have been designed so as to adjust the rates of return proposed by Piedmont between classes of service by reducing the proposed returns required from the Company's industrial customers on rate schedule 103 to a greater degree than the reduction in proposed rates granted herein to the Company's rate schedule 101 and 102 customers. It is clear that results of the cost-of-service study presented in this case by Piedmont certainly indicate that, in general, the Company's industrial customers do in fact contribute, and have historically contributed, a greater amount to Piedmont's cost of service than have its residential customers. The rate designs herein approved by the Commission and set forth in Appendix A attached hereto serve to more equitably distribute Piedmont's cost of service among its customers. Furthermore, while said rate designs are felt to be justified under the facts of this case, they are certainly not necessarily meant to be indicative of or to encompass any radical change in Commission philosophy with respect to any future shifts in rates of return between customer classes. Rather, the Commission concludes that said rate designs are entirely fair and reasonable and justified under the facts of this case as a means of more equitably adjusting Piedmont's rates of return between customer classes without radically affecting the Company's residential customers. The Commission will continue, in all future general rate cases filed by Piedmont, to consider and determine rate design issues on the basis of the facts presented in each particular case.

IT IS, THEREFORE, ORDERED as follows:

1. That Piedmont Natural Gas Company, Inc., be, and is hereby, allowed to increase its rates and charges based on the Company's level of test year operations by $9,172,740.

2. That the base rates attached hereto as Appendix A be, and the same are hereby, approved effective for service rendered on and after the date of this Order.

3. That Piedmont shall file appropriate tariffs in conformity with the base rates set forth in Appendix A and in conformity with the provisions of this Order not later than ten (10) days from the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of February 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

APPENDIX A
DOCKET NO. G-9, SUB 212
APPROVED BASE RATES

Rate Schedule	Season	Facility Charge/Month	Commodity Charge/Therm
101		$ 4.05(1)	
	Winter(2)		$.51190
	Summer(3)		.46190
102		8.00	
	Winter(2)		.51190
	Summer(3)		.46190
103		100.00	
	Winter(2)		.45129
	Summer(3)		.42629
104		200.00	
	Winter(2)		.42629
	Summer(3)		.42629
105		5.00	

(1)
(2) Excludes Government Housing
(3) April 1 - October 31
November 1 - March 31

DOCKET NO. G-9, SUB 219

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Piedmont Natural Gas Company, Inc.,) ORDER GRANTING PARTIAL
for An Adjustment of Its Rates and Charges) INCREASE IN RATES AND
) CHARGES

HEARD IN: Commissioner's Board Room, 4th Floor, County Office Building, 720 East Fourth Street, Charlotte, North Carolina, on October 5, 1982

Auditorium, Guilford County Social Services Building, 301 North Eugene Street, Greensboro, North Carolina, on October 6, 1982

Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on October 7, 8, 12, and 13, 1982

BEFORE: Commissioner Edward B. Hipp, Presiding; and Chairman Robert K. Koger and Commissioner Leigh H. Hammond

APPEARANCES:

For the Applicant:

Jerry W. Amos, Brooks, Pierce, McLendon, Humphrey & Leonard, P.O. Drawer U, Greensboro, North Carolina 27410
For: Piedmont Natural Gas Company, Inc.

For the Intervenors:

Paul L. Lassiter and Antoinette R. Wike, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Jerry B. Fruitt, Eller & Fruitt, P.O. Drawer 27866, Raleigh, North Carolina 27612
For: The North Carolina Textile Manufacturers Association

BY THE COMMISSION: This matter arose upon the filing of an application on April 30, 1982, by Piedmont Natural Gas Company, Inc. (Piedmont, Applicant, or the Company), requesting an adjustment of its rates and charges effective May 30, 1982, to produce additional annual revenues from North Carolina operations of approximately $10,109,801. Piedmont stated in its application that the purpose of the request was to enable the Company to earn the rate of return (16.24% on common equity) granted by the Commission on February 2, 1982, in Docket No. G-9, Sub 212, its last general rate case. Included in this application, in addition to accounting and pro forma adjustments, were estimated update adjustments through July 31, 1982.

The Public Staff filed Notice of Intervention on May 24, 1982. By Order issued May 25, 1982, the Commission declared the application to be a general rate case under G.S. 62-137, suspended the proposed rate increase for a period of 270 days, scheduled the matter for hearing, requested the Company to give public notice of the application and hearings, and established the test period to be used in the proceedings.

The Public Staff filed a Motion on May 14, 1982, requesting the Commission to prevent Piedmont from updating its test year or, in the alternative, to restrict the update adjustments to March 31, 1982, and to require the Company to file supporting testimony and exhibits no later than June 15, 1982. Piedmont stated in its response filed May 24, 1982, that information supporting the update adjustments would be available no later than August 20, 1982. By Order issued June 7, 1982, the Commission declared the test period to be used by all parties to be the 12 months ended December 31, 1981, and permitted Piedmont to file a comprehensive update through March 31, 1982, no later than July 1, 1982, and any party to make adjustments of material significance through July 31, 1982, no later than August 20, 1982. Piedmont made no comprehensive update through March 31, 1982, pursuant to the

Commission Order. On August 20, 1982, however, the Company filed revised testimony and exhibits which included actual updates along with certain accounting adjustments and corrections recommended by the Public Staff. The effect of the August 20, 1982, filing was to reduce the additional revenue request to approximately $6,630,626. The Public Staff filed testimony and exhibits on September 15, 1982, recommending that the Company receive only approximately $1,511,422 in additional annual revenues. Also, on September 15, 1982, the Public Staff filed and the Commission granted a motion for a one-week extension of time to file Exhibit JTG-7, Cost of Service Study, to the prefiled testimony of John T. Garrison, Jr.

The matter came on for public hearings as scheduled. At the Charlotte hearing on October 5, 1982, the Commission received the testimony of Seddon Goode, Jr., President of the University Research Park and an investment banker, and Larry Steven Moore, construction engineer with the City of Charlotte. Witness Goode testified that Piedmont's financial strength and ability to serve are important to the Charlotte area from an industrial development standpoint. Witness Moore testified that the working relationship between the City and Piedmont has been one of good cooperation and coordination. In addition to the testimony of those two witnesses, the Commission received into evidence a letter from Janet Hunter, on behalf of the Central Piedmont group of the Sierra Club North Carolina Chapter, commending Piedmont for its diversification into solar technology and propane sales.

There were no public witnesses at the Greensboro hearing.

The case in chief came on for hearing as scheduled in Raleigh. The Company presented the testimony and exhibits of the following witnesses: John H. Maxheim, President and Chief Executive Officer of Piedmont; Ware F. Schiefer, Vice President - Gas Supply of Piedmont; Barry L. Guy, Controller of Piedmont; Eugene W. Meyer, Vice President and Director of Kidder, Peabody & Co.; and Robert W. Hahne, partner in the firm of Deloitte Haskins & Sells. At the commencement of the Raleigh hearing, the Company further reduced its additional revenue request to $6,183,313.

The Public Staff presented the testimony and exhibits of its witnesses as follows: John T. Garrison, Jr., Utilities Engineer with the Natural Gas Division of the Public Staff; Elizabeth C. Porter, Staff Accountant with the Accounting Division of the Public Staff; and Dr. Richard G. Stevie, Director, Economic Research Division of the Public Staff. At the opening of its case, the Public Staff made certain revisions to its testimony which were accompanied by revised exhibits of witness Garrison.

The Intervenor NCTMA offered no evidence.

The Company presented rebuttal testimony of witnesses Schiefer and Maxheim.

The Commission Staff, through Robert P. Gruber, General Counsel, entered a limited appearance for the purpose of presenting the testimony and exhibits of Donald R. Hoover, Director of Accounting, with respect to the funding of the National Regulatory Research Institute (NRRI).

On October 18, 1982, the Public Staff submitted late-filed revised exhibits of witness Porter as requested by the Company and of witness Garrison as requested by the NCTMA. Also, on October 18, 1982, the Public Staff made Motion to file additional exhibits.

Based upon the verified application, the testimony and exhibits received into evidence at the hearings, and the record as a whole, the Commission makes the following

FINDING OF FACTS

1. Piedmont Natural Gas Company, Inc., is a duly created and existing New York corporation authorized to do business, and doing business, in North Carolina as a franchised public utility providing natural gas service in 42 North Carolina communities and is properly before the Commission in this proceeding for a determination of the justness and reasonableness of its rates and charges as regulated by the Commission under Chapter 62 of the General Statutes of North Carolina.

2. The test period established by the Commission and utilized by all parties in this proceeding is the 12 months ended December 31, 1981, updated primarily through July 31, 1982.

3. By its application Piedmont sought rates to produce additional annual gross revenues of $10,109,801. By revised testimony, the Company seeks rates to produce revenues of $251,254,018, an increase of $6,187,648 over rates in effect at July 31, 1982.

4. No construction work in progress (CWIP) should be included in Piedmont's rate base in this proceeding.

5. The reasonable allowance for working capital for Piedmont is $18,276,344.

6. The original cost of Piedmont's plant in service used and useful in providing natural gas service in North Carolina is $167,235,437. To this amount should be added leasehold improvements net of amortization of $297,620 and deducted the accumulated depreciation associated with the original cost of this plant of $47,320,658, customer advances for construction of $681,865 and accumulated deferred income taxes of $11,794,604, resulting in a reasonable original cost less depreciation or a net gas plant in service of $107,735,930.

7. The reasonable original cost less depreciation of Piedmont's plant in service to its customers in North Carolina of $107,735,930, plus the reasonable allowance for working capital of $18,276,344 yields a reasonable original cost of the Company's property used and useful to North Carolina customers of $126,012,274.

8. The reasonable level of annual volumes that Piedmont can be expected to sell in North Carolina under normal weather conditions is 49,151,145 dekatherms. The total Company supply required to achieve this level of sales is 68,073,759 dekatherms.

9. Piedmont's test year level of operating revenues, after appropriate accounting and engineering adjustments, under present rates is $245,408,418.

10. Piedmont's test year level of operating revenue deductions, after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $232,684,360, which includes the amount of $4,708,688 for actual investment currently consumed through reasonable actual depreciation.

11. Piedmont's net operating income for return under present rates should be increased by a growth adjustment of $59,803.

12. The capital structure which is proper for use in this proceeding is as follows:

Long-term debt	45.35%
Deferred stock	1.48%
Common equity	53.17%
Total	100.00%

13. The proper embedded costs of Piedmont's long-term debt and preferred stock are 7.66% and 5.12%, respectively. The rate of return which should be applied to the original cost rate base is 11.87%. This return on Piedmont's rate base of 11.87% will allow the Company the opportunity to earn a return on its common equity of 15.65%, after recovery of the embedded costs of debt and preferred stock. Such returns on rate base and on common equity will enable Piedmont, by sound management, to produce a fair return for its shareholders, 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 terms which are reasonable and fair both to the customers and to the existing investors.

14. The annual revenue requirement approved herein is $249,982,142, an increase of $4,573,724 in Piedmont's gross revenues under rates currently in effect. This revenue requirement, which will allow the Company to earn the 11.87% return on its rate base that the Commission has found to be just and reasonable, is based upon the original cost of Piedmont's property used and useful in providing service to its customers and its reasonable test year operating revenues and expenses as previously set forth in these findings of fact.

15. The rates set forth in Appendix A attached hereto and approved herein will produce the appropriate level of end-of-period revenue and afford Piedmont an opportunity to achieve the approved overall rate of return of 11.87%.

16. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of the National Association of Regulatory Utility Commissioners to establish regularized funding for the NRRI to ensure that this Institute can continue its work despite the certain loss of federal funding. It is reasonable and appropriate for Piedmont to contribute to the funding of the Institute.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, AND 3

The evidence for these findings of fact is contained in the verified application, the Commission Orders Setting Investigation and Hearing and Ruling on Motion to Restrict Updates, and the testimony and exhibits of Company witnesses Maxheim, Schiefer, and Guy and Public Staff witnesses Garrison and Porter, and is uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The issue of the amount of construction work in progress (CWIP) to be allowed in rate base was discussed primarily in the testimony of Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff, and in the testimony and exhibits of Company witness Guy. The Company took the position that all CWIP, amounting to $3,529,471 at July 31, 1982, should be placed in rate base. However, Dr. Stevie testified that in analyzing the dual guidelines of "financial stability" and "public necessity," Piedmont was in a very good financial position. CWIP, as a percentage of rate base, was quite small. Allowance for funds used during construction as a percent of net income was below 1 1/2%, and pretax cash interest coverage was 3.7x even if no CWIP was in rate base. For these reasons, Dr. Stevie concluded that it was not necessary to the financial stability of the Company to allow CWIP in rate base.

Company witness Guy stated in redirect testimony that approximately $3,078,527 of construction had been completed since July 31, 1982, and that $891,577 of this amount related to the Charlotte West Loop. On cross-examination witness Guy stated that some of this completed plant was revenue producing.

Based on all the evidence of record, the Commission concludes that for purposes of determining fair and reasonable rates in this proceeding the plant completed since July 31, 1982, and consequently used and useful to the Applicant's customers, should be included in plant in service. The Commission further concludes, as reflected under Evidence and Conclusions for Finding of Fact No. 11, that the Applicant's net operating income should be increased to reflect this adjustment to plant in service. Furthermore, the Commission concludes that $450,944 (3,529,471 - 3,078,527) of CWIP should not be included in rate base due to the fact that it does not meet the tests of "financial stability" and "public necessity."

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence for this finding is contained in the testimony and exhibits of Company witnesses Guy and Schiefer and Public Staff witnesses Porter and Garrison.

A comparison of the components of working capital presented by the parties in their respective proposed orders is shown below:

	Company	Public Staff Adjustment	Public Staff
Cash - lead-lag study	$ 1,109,815	$ -	$ 1,109,815
Compensating balances	1,077,219	-	1,077,219
Cash working funds	61,223	-	61,223
Average prepayments	79,685	-	79,685
Operating and construction supplies	2,789,893	-	2,789,893
Natural gas stored	15,087,548	(1,990,039)	13,097,509
Customer deposits	(1,332,898)	-	(1,332,898)
Total working capital	$18,872,485	($1,990,039)	$16,882,446

The witnesses agree on all of the components of the working capital allowance except for the amount of capital to support stored natural gas. There being no evidence to the contrary, the Commission concludes that those components of working capital on which the parties agree are reasonable and proper.

At the hearing, the Company revised the amount of working capital for stored gas to $15,087,548 based on average volumes of 5,287,547 dt at July 31, 1982, priced at a projected weighted unit cost at November 1, 1982, excluding demand charges. The Public Staff, in its original testimony and exhibits, included $14,760,897 in working capital for stored natural gas based on average volumes of 5,287,547 dt for the 12 months ended July 31, 1982, using an estimated weighted unit cost including demand charges at September 1, 1982. In late filed exhibits the Public Staff revised this amount to $13,983,230 based on the same 5,287,547 dt priced at the actual October 1, 1982, rates.

In its Proposed Order, the Public Staff included $13,097,509 in working capital for stored natural gas. The difference of $1,990,039 ($15,087,548 - $13,097,509) results from the Public Staff's use of the August 1, 1982, weighted unit price derived from pricing of average volumes of natural gas stored as of July 31, 1982.

In order to resolve this issue, the Commission must make the following determinations:

1. The proper volume level of natural gas stored;

2. Proper unit (per dt) price and components of unit price;

3. Date at which unit (per dt) price is to be calculated; and

4. Proper allocation percentage between North and South Carolina.

Both parties agree that the average total Company stored volumes for the 12 months ended July 31, 1982, of 5,287,547 dt are the proper base for determining working capital required for stored natural gas. Therefore, the Commission concludes that total Company 5,287,547 dt is the proper base for calculating the stored gas component of working capital.

The parties disagree on the components of the unit (per dt) price for natural gas stored. The Company used a weighted CD-2 and DS-1 price including a demand charge component in its original exhibits as well as in its update to July 31, 1982; however, in its final exhibits, the Company used a weighted cost excluding demand charges. The Public Staff used a weighted cost calculated in the same way as the Company except that each of the Public Staff's unit costs included a demand charge component.

The Commission believes that the unit price should include a demand charge component. The Company includes a demand charge component in the recorded cost of natural gas stored and a demand charge component has been included in the valuation of stored volumes in prior general rate proceedings as well as purchased gas adjustment applications. The Commission believes that the demand charge is an integral part of the cost of natural gas.

As to the proper date at which the unit (per dt) price is to be calculated, the Commission concludes that recognition should be given to current price levels in effect at the close of the hearing. Hence, the Commission finds the evidence presented by the Company on this point to be persuasive; however, the Commission concludes that the proper rate to be used is the actual rate in effect at the close of the hearing, rather than an estimation, as supported by the Company. Therefore, based on the foregoing, the Commission concludes that the appropriate unit (per dt) price for determining the proper valuation of the Applicant's gas in storage is $3.753 per dt.

Consistent with the findings under Evidence and Conclusions for Finding of Fact No. 10, the Commission further concludes that the proper allocation factor is 77.85%, as presented by the Company. Hence, the Commission finally concludes that the proper amount of working capital to be included in the Applicant's working capital allowance in this proceeding, to support natural gas in storage, is $14,491,407.

Based on all of the foregoing, the Commission concludes that the appropriate level of Piedmont's total working capital allowance to be included in rate base in this proceeding is $18,276,344.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 AND 7

Company witness Guy and Public Staff witnesses Porter and Stevie offered testimony regarding Piedmont's reasonable original cost rate base. The following chart summarizes the amounts which the Company and the Public Staff contend are the proper levels of original cost rate base to be used in this proceeding:

Item	Company	Public Staff
Gas utility plant in service	$167,686,381	$164,156,910
Leasehold improvements, net of amortization	297,620	297,620
Accumulated depreciation	(47,320,658)	(47,320,658)
Customer advances for construction	(681,865)	(681,865)
Allowance for working capital	18,872,485	16,882,446
Cost-free capital - Transco refund (net of tax)	-	(282,327)
Accumulated deferred income taxes	(11,794,604)	(11,794,604)
Total original cost rate base	$127,059,359	$121,257,522

As shown above, the total net difference between the Company and the Public Staff is $5,801,837. The Company and the Public Staff agreed to the appropriate levels of leasehold improvements, accumulated depreciation, customer advances, and accumulated deferred income taxes; therefore, the Commission finds these amounts to be reasonable to use in determining original cost rate base.

The first area of disagreement between the Company and the Public Staff concerns the appropriate level of utility plant in service to include in rate base. The Company contends that it is proper to include $3,529,471 of CWIP in rate base while the Public Staff believes there should be no CWIP included in rate base.

This matter was addressed under Evidence and Conclusions for Finding of Fact No. 4, and therefore, consistent with Evidence and Conclusions for Finding of Fact No. 4, the Commission concludes that $3,078,527 of construction completed and used and useful subsequent to July 31, 1982, and before the end of the hearing should be included in the Applicant's rate base as plant in service but that $450,944 of construction not completed before the end of the hearing should be excluded from the Applicant's rate base. Therefore, the Commission concludes that the Applicant's appropriate end-of-period level of plant in service to be included in rate base is $167,235,437.

The next area of difference concerns the allowance for working capital. The Commission has found in the Evidence and Conclusions for Finding of Fact No. 5 that $18,276,344 is the appropriate level and therefore includes that amount for the allowance for working capital in determining the rate base.

The last difference between the Company and the Public Staff concerns the treatment of Transco refunds as cost-free capital.

This matter is related to the Commission's decision in Docket No. G-100, Sub 37, in which the Commission ordered Piedmont to refund to its customers monies received from Transco. Piedmont appealed this decision to the Court of Appeals. The Court reversed the Commission's decision. State ex rel. Utilities Commission v. Public Service Co., 56 N.C. App. 448 (1982). The Appeals Court decision is now before the North Carolina Supreme Court for final disposition. No. 216 P82, argued November 10, 1982. Piedmont is currently retaining the refunds and is accruing interest on the balance pending final disposition by the Supreme Court. The Commission concludes that consistent with its final decision in Docket No. G-100, Sub 237, these monies should not be treated as cost-free capital, as long as the matter of refund to Piedmont's customers is before the Supreme Court. Thus, it is only appropriate here for the Commission's actions in this proceeding to be supportive and consistent with the decision in Docket No. G-100, Sub 37.

Based upon the foregoing, the Commission concludes that the appropriate original cost rate base for use in setting rates in this proceeding is $126,012,274.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence supporting this finding is contained in the testimony and exhibits of Public Staff witness Garrison and Company witness Schiefer.

A determination of the reasonable annual level of the North Carolina volume sales which Piedmont can reasonably be expected to make must be made by the Commission in order to determine the annual level of revenues appropriate for use in this case.

Both the Public Staff and the Company agreed that the Company's actual North Carolina sales volumes during the test period were 49,585,967 dt. Moreover, both the Company and the Public Staff agreed that an adjustment to normalize the actual test period sales volumes for the effects of normal weather was appropriate. The total North Carolina test period sales volumes after the Company's weather normalization adjustment, which the Public Staff adopted, was 48,709,326 dt.

However, Public Staff witness Garrison calculates Piedmont's reasonable annual level of North Carolina sales volumes to be 49,267,357 dt, whereas Company witness Schiefer's calculation produces a reasonable annual level of North Carolina sales volumes of 49,086,490 dt.

This difference arises primarily out of differences in the methodology used by each witness in making a further adjustment to the Company's weather normalized test year sales volumes. This adjustment is the annualization of test year sales volumes to reflect the additional volumes which will be sold by Piedmont due to customers added during the course of the test year. In addition, Company witness Schiefer made a further adjustment to sales volumes to reflect a change in the use per customer.

The Commission will first consider the annualization of the weather normalized test year sales volumes made by witnesses Garrison and Schiefer. The methodologies of both witness Garrison and witness Schiefer assume that one-half of the customer additions occurred in the last half of the test year. Both methodologies also calculated a separate factor for seven different categories of the Company's customers on the residential and commercial rate schedules. In addition, witness Garrison calculated three factors for the Company's industrial customers but only applied one of those factors to the weather normalized test year sales volumes. That factor pertained to the Company's industrial process customers.

One significant difference in the methodologies used by witnesses Garrison and Schiefer, other than the number of customers categories used, concerns the determination of the factor to be used in increasing the weather normalized test year sales volumes. Witness Garrison determined the average number of customers billed each month for the 12 months immediately preceding the test year. This was then divided into the number of customer additions to get the percent increase in the number of customers. This percent increase was then divided by two to reflect the addition of customers throughout the test year. This is consistent with the method employed by the Public Staff in the Company's last general rate case, Docket No. G-9, Sub 212. It is also consistent with the method found fair and reasonable by this Commission in that case.

The method used by witness Schiefer in his revised filing is based on the average use of customers in determining the factor for increasing the weather normalized test year sales volumes. Witness Schiefer determined the "daily average customers" for the test period by adding the number of customers at the end of the test period to the computed number of customers at the beginning of the test period and dividing by two. The customers at the beginning of the period are determined by subtracting 365/366ths of the number of added customers from the customers at the end of the test period. The weather-normalized test year sales volumes are then divided by the calculated "daily average customers" to obtain an average use per customer. The average use per customer is then multiplied by 364/365ths of the number of added customers to obtain the increased use of the added customers. The increased use is then divided by the weather-normalized test year sales volumes to obtain the percent increase in sales volumes. To reflect the addition of customers throughout the year, witness Schiefer then divided the percent increase in sales volumes by two to obtain the factor for annualizing the weather normalized test year sales volumes. After careful consideration of

the record, the Commission concludes, consistent with its decision in Docket No. G-9, Sub 212, that the customer growth adjustment methodology, as sponsored by the Public Staff and applied to the Applicant's rate Schedules 101 and 102 customers is appropriate for determining fair and reasonable rates in this proceeding.

Witness Schiefer made no adjustment for the addition of industrial customers added throughout the test year, whereas witness Garrisson applied his growth adjustment to the Company's rate Schedule 103 customers. Company witness Schiefer testified that during the test period Piedmont added some rate Schedule 103 customers and lost some rate Schedule 103 customers but that the customers lost used more gas than the customers added. The Company further presented evidence that the economic conditions surrounding this class of customers is not presently conducive to increased gas demand. Therefore, the Commission concludes that a customer growth adjustment should not be applied to the weather normalized volumes related to Piedmont's rate Schedule 103 customers.

Company witness Schiefer also made an adjustment to reflect a change in the average use per customer in rate Schedules 101 and 102. To support this adjustment, witness Schiefer sponsored several exhibits, one of which showed a decline in the monthly use per customer over the past 10 years. One aspect of these exhibits, however, is the fact that the average monthly usage for rate Schedule 101 customers has not always declined during this period, for during this time frame there were periods of extremely sharp declines and even periods when the usage increased. This indicates that while usage is declining over a period of years the Commission should exercise great care when adjusting volumes on the basis of two points on this line because these points may or may not be indicative of this long-term decline. Based on this, and a careful study of the record, the Commission concludes that the appropriate customer usage adjustment for rate Schedule 101 is (62,712) dt. The Commission further concludes that the Company's customer usage adjustment to rate Schedule 102 is appropriate.

Based on all of the foregoing, the Commission concludes that the appropriate level of sales volumes to be used in calculating the Company's end-of-period gas sales revenues is 49,151,145 dt.

A determination of the total Company supply requirements is necessary in order to find the cost of gas applicable to North Carolina's customers. This Commission concurs with the allocation methodology of the Company as it relates to the CD-2 Commodity and Demand, DS-1 Commodity, and Piedmont E and D elements of the cost of gas calculation. This concurrence, coupled with the Commission's conclusion that the actual test year unaccounted for volumes, as presented by the Company, should be adopted, and consistent with the other Commission decisions concerning the Company's supply volumes contained elsewhere herein, leads the Commission to conclude that the appropriate level of total Company supply requirements in this proceeding is 68,073,759 dt.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Public Staff witnesses Garrison and Porter and Company witnesses Schiefer and Guy presented testimony concerning the representative end-of-period level of operating revenues. The Commission has previously concluded that the end-of-period level of natural gas sales volumes appropriate for inclusion in

this proceeding is one calculated by the Commission by making appropriate adjustments, discussed elsewhere herein, to natural gas sales volumes presented by the parties at the hearing. Therefore, the Commission concludes that the appropriate sales volumes, on which is based the Company's end-of-period level of gross gas sales revenues, is 49,151,145 dt, as presented in Evidence and Conclusions for Finding of Fact No. 8. These sales volumes, priced at the appropriately related rates at August 1, 1982, yield the Applicant's fair and reasonable level of end-of-period gas sales revenues under present rates of $244,836,140. This amount added to the other revenue level of $572,278 agreed to by the parties yields the Applicant's appropriate end-of-period total revenue level of $245,408,418.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding of fact is found in the testimony and exhibits of Company witnesses Maxheim, Guy, and Schiefer and Public Staff witnesses Porter and Garrison. The following chart sets forth the amounts proposed by the Company and the Public Staff.

Item	Company	Public Staff
Cost of gas	$178,756,455	$178,577,913
O & M expenses	24,530,246	24,173,062
Depreciation	4,708,688	4,708,688
Taxes other than income	16,862,334	16,913,030
State income taxes	960,801	928,122
Federal income taxes	6,910,282	6,674,767
Amortization of ITC	(205,340)	(205,340)
Total revenue deductions	$232,523,466	$231,770,242

The $357,184 difference in O & M expenses is reconciled as follows:

Item	Amount
Public Staff adjustments:	
Adjustment to officers' salaries	(146,658)
Elimination of Company's PNG propane adjustment	(108,274)
Adjustment to uncollectibles expense	(100,974)
NRRI contribution	(1,278)
Total	($357,184)

Company witness Guy and Public Staff witness Porter agreed that the appropriate level of depreciation expense is $4,708,688 and that the appropriate level of amortization of investment tax credit is $205,340; therefore, the Commission concludes that these amounts are reasonable to use in determining the appropriate level of operating revenue deductions in this proceeding.

The first item of difference in the operating revenue deductions concerns the cost of gas. The difference between the Company and the Public Staff is $178,542.

To find the cost of purchased gas, several determinations must be made. First, the total Company cost of purchased gas must be found. In order to find the total Company cost of purchased gas, the total Company gas supply requirement must be computed. This amount, 68,073,759 dt, has already been found reasonable in Finding of Fact No. 8. Next, the volumes from the supply

sources must be determined. With the exception of the Transco CD-2 volumes, the Company and the Public Staff agreed on the volumes applicable to each source of supply. The difference relating to the CD-2 volumes is caused by the difference in the supply requirement used by the Company and the Public Staff. Consistent with the Commission's previous decisions, contained elsewhere herein, concerning Piedmont's supply requirements, the Commission concludes that the appropriate level of CD-2 volumes to be used in calculating Piedmont's cost of gas is 63,574,275 dt. The only other differences between the levels of cost of gas presented by the parties relate to withdrawals of WSS volumes and the LNG processing costs. Witness Garrison presented testimony based on the actual withdrawn WSS volumes in determining the withdrawal costs of WSS volumes. Witness Garrison also presented testimony that he used the actual LNG processing costs. Witness Schiefer presented no testimony to justify his level of LNG processing costs or the costs associated with withdrawing WSS volumes. The Commission therefore concludes that the LNG processing costs and the costs associated with the withdrawal of WSS volumes used by witness Garrison are just and reasonable. Thus, the total Company cost of gas is found to be $242,515,900.

Finding the total Company cost of gas allows the determination of North Carolina's portion of that cost. The parties differ on the proper allocation factor associated with the remaining costs which consist of winter storage services. The Public Staff allocated these costs on the basis of total winter sales while the Company used an allocation based on the winter sales of priorities 1 and 2. The Company's reasoning is that its method is consistent with past practice and will enable the Company to remain "whole." The Commission concludes that the Company's allocation factors are reasonable and that therefore the Company's North Carolina end-of-period cost of gas is $178,750,457.

The first difference in O&M expense is due to the Public Staff's reduction of $146,658 to exclude one-half of the salaries of officers who make over $50,000 annually. Witness Porter stated she made this adjustment for two reasons: to provide incentive for shareholders to keep officers' salary increases reasonable and to recognize that a portion of officers' time is spent to benefit not only the ratepayers but also the stockholders.

Company witness Maxheim stated during cross-examination that the officers' salaries were reasonable and were lower than those paid for similar experience and expertise by most comparable companies.

The Commission has given this issue much consideration and has considered the salaries and responsibilities of each of these officers, and therefore concludes that for purposes of establishing the Applicant's fair and reasonable cost-of-service level in this proceeding, this adjustment by the Public Staff should be rejected.

The next difference in O&M expense is due to the Public Staff's elimination of $108,274 related to propane purchases. Witness Garrison testified that this expense should be placed in the deferred account 253 and recovered as a result of a filing with the Commission, upon subsequent usage of the propane. The Commission concludes that this item of the Company's cost of service warrants monitoring by the Commission and the Public Staff, but that based on the evidence in this proceeding and consistent with the decision in Docket No. G-9, Sub 212, the Company should be allowed to include the $108,274 in its cost of service in this proceeding.

The Company and the Public Staff agree that the proper uncollectibles rate to be used is .3509%. The difference in uncollectibles expense is attributable to the different levels of operating revenues presented by the parties. More precisely, the Company has included a level of uncollectibles based in part on a revenue level resulting from the current PGA increases occurring subsequent to August 1, 1982. The Commission concludes, consistent with the evidence under Evidence and Conclusions for Finding of Fact No. 5, that this methodology is appropriate, in that the PGA increases allow the Company to collect the related gross receipts taxes but do not allow for recovery of any associated uncollectibles. However, the Commission concludes that the rates in effect at the close of the hearing should be used to determine the appropppriate uncollectible level, and not the rates employed by Piedmont in its uncollectible calculation.

The final difference between the parties concerning operation and maintenance expenses relates to the Company's inclusion of its estimated contribution to the National Regulatory Research Institute. Consistent with Evidence and Conclusions for Finding of Fact No. 16 the Commission concludes that $1,288 for this item should be included in Piedmont's cost of service.

The Public Staff and the Company presented different levels of taxes other than income due to their proposals of different levels of end-of-period revenues. Since the Commission found in Finding of Fact No. 9 that the appropriate level of gas sales revenues for the test year is $244,836,140, the Commission concludes that the appropriate level of taxes other than income for use herein is $16,882,963.

Consistent with the Commission's decisions related to the components of Piedmont's taxable income, the Commission concludes that state income tax expense of $985,088 and federal income tax expense of $7,085,309 are appropriate for determining cost of service in this proceeding.

The conclusion contained herein above concerning the Applicant's fair and reasonable level of income tax expense is based in part on the Commission's conclusion to adopt the Company's treatment of accumulated job development investment tax credit in the calculation of end-of-period income tax expense. This treatment is mandated by Section 1.46-6 of the Internal Revenue Code and has been consistenly applied by the Commission in general rate case proceedings.

Based on the entire record in this proceeding, the Commission concludes that the proper level of operating revenue deductions for use herein under present rates is $232,684,360.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The evidence for this finding is found primarily in the testimony and exhibits of Company witness Guy and Public Staff witness Porter. Consistent with Evidence and Conclusions for Findings of Fact Nos. 4 and 6 and the matching concept of utility regulation, the Commission concludes that a net income adjustment should be added to the Applicant's net income for return. This conclusion is warranted by the Commission's decision under Evidence and Conclusions for Findings of Fact Nos. 4 and 6 to include in the Applicant's plant in service construction completed subsequent to the end of the update

period of July 31, 1982. Therefore, based on the foregoing, and the percentage increase in Piedmont's customers between July 31, 1982, and the time of the hearing, the Commission concludes that a net income growth adjustment of $59,803 is appropriate for this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 AND 13

Three witnesses were originally presented in the area of cost of capital and capital structure. The Company offered the testimony of Barry L. Guy, Controller of Piedmont, and Eugene W. Meyer, a Vice President and Director of Kidder, Peabody & Co., Incorporated. The Public Staff offered the testimony of Dr. Richard G. Stevie, Director of the Economic Research Division.

Witness Guy testified that the Company should be granted the opportunity to earn an overall return of at least 12.20%. His recommendation, in his original testimony, was based upon Piedmont's estimated July 31, 1982, capital structure consisting of 45.03% debt at a cost of 7.66%, 1.55% preferred stock at a cost of 5.12%, and 53.42% common equity at a cost of 16.24%. He chose an equity cost of 16.24% because that was the equity return allowed by the Commission in Piedmont's previous general rate case. In witness Guy's updated testimony, he lowered the Company's requested rate of return to 12.19% based upon the Company's actual July 31, 1982, capital structure composed of 45.22% long-term debt at a cost of 7.66%, 1.56% preferred stock at a cost of 5.12%, and 53.22% common equity at a cost of 16.24%. Witness Guy also testified that Dr. Stevie underestimated the flotation cost associated with new common stock issues because he did not include some underwriting commissions.

Witness Meyer testified on current capital market conditions from the viewpoint of the investor and the resulting cost of equity for Piedmont. Through his analysis, he determined an equity cost to Piedmont of 18.3% in his original testimony. At the time of the hearing, he updated this to 18.4%.

Dr. Stevie testified that the Company should be granted the opportunity to earn an overall return of at least 11.96%. His recommendation in his prefiled testimony was derived using Piedmont's average capital structure, including short-term debt, for the 12 months ended July 31, 1982. Dr. Stevie employed an average capital structure because Piedmont's capital structure ratios fluctuate up and down over the year due to the seasonality in their cash flow. Their equity ratio tends to rise in the winter and spring and then decline in the summer and fall. Dr. Stevie also testified that short-term debt should be included in the capital structure since it represented a major portion of the Company's financing and because the average balance of short-term debt exceeded the amount of capital used to finance CWIP. In his original testimony Dr. Stevie presents the Applicant's average capital structure composed of 38.29% long-term debt at a cost of 8.01%, 15.56% short-term debt at a cost of 12.46%, 1.25% preferred stock at a cost of 5.10%, and 44.90% common equity at a cost of 15.35%. He derived his equity cost estimate using the DCF model and the Capital Asset Pricing Model (CAPM). With the DCF model, he developed an equity cost of 15.44%. Using the CAPM, he estimated the cost of equity to be 15.21%. After adjusting these estimates for flotation cost, Dr. Stevie testified that 15.25% to 15.45% was a reasonable range to the cost of equity. From this range, Dr. Stevie concluded that the Applicant's fair and reasonable cost of equity was 15.35%. Upon cross-examination, it was discovered that Piedmont's beta used in the CAPM had changed. Incorporating this factor, Dr. Stevie adjusted his equity cost range to from 14.9% to 15.3%, after flotation cost, with a midpoint of 15.10%.

Combining this equity cost with the previously discussed capital structure and embedded cost rates produces a 11.85% overall rate of return.

After considering all the evidence presented by the parties and the entire record in this docket, the Commission concludes that the appropriate capital structure to be used in this proceeding is as follows:

Item	Percent
Long-term debt	45.35%
Preferred stock	1.48%
Common equity	53.17%
Total	100.00%

This capital structure does not recognize short-term debt. The Commission concludes that this position is most appropriate for this proceeding and properly reflects the financial risk associated with Piedmont Natural Gas Company, Inc. However, the Commission further concludes that the Commission and the Public Staff should monitor the short-term debt balances maintained by Piedmont, for consideration in future proceedings before this Commission.

Further, the Commission concludes that the Applicant's appropriate reasonable embedded costs of long-term debt and preferred stock are 7.66% and 5.12%, respectively.

The determination of the appropriate fair rate of return for the Company is of great importance and must be made with great care because whatever return is allowed will have an immediate impact on the Company, its stockholders, and its customers. In the final analysis, the determination of a fair rate of return must be made by this Commission, using its own impartial judgment and guided by the testimony of expert witnesses and other evidence of record. 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 fair to its customers and to its existing investors."

The return allowed must not burden ratepayers any more 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 maybe 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. 277, 206 S.E. 2d 269 (1974).

The nature of the evidence in a case such as this makes it extremely difficult to balance all of 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. The Commission has considered carefully all of the relevant evidence presented in this case, with the constant reminder that whatever return is allowed will have an immediate impact on the Company, its stockholders, and its customers. The Commission must use its impartial judgment to ensure that all the parties involved are treated fairly and equitably.

Based upon the foregoing and the entire record in this docket, the Commission finds and concludes that the fair rate of return that Piedmont Natural Gas should have the opportunity to earn on the original costs of its rate base is 11.87%. Such fair rate of return will yield a fair return on common equity of approximately 15.65%.

The Commission cannot guarantee that the Company will, in fact, achieve the level of returns 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 in order to achieve the utmost in operational and managerial efficiency. The Commission believes, and thus concludes, that the level of returns approved herein will afford 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 Commission has previously discussed its findings and conclusions regarding the fair rate of return which Piedmont Natural Gas Company, Inc., should be afforded an opportunity to earn.

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 determinations made herein. Such schedules, illustrating the Company's gross revenue requirements, incorporate the findings and the conclusions heretofore and herein made by the Commission.

SCHEDULE I
PIEDMONT NATURAL GAS COMPANY, INC.
STATEMENT OF OPERATING INCOME
For the Test Year Ended December 31, 1981

Item	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Sale of gas	$244,836,140	$4,573,724	$249,409,864
Other revenues	572,278	-	572,278
Total operating revenues	245,408,418	4,573,724	249,982,142
Operating Revenue Deductions:			
Cost of gas	178,750,457	-	178,750,457
Operating and maintenance expenses	24,477,195	16,049	24,493,244
Depreciation	4,708,688	-	4,708,688
Taxes other than income	16,882,963	273,461	17,156,424
State income taxes	985,088	257,053	1,242,141
Federal income taxes	7,085,309	1,852,494	8,937,803
Amortization of ITC	(205,340)	-	(205,340)
Total operating revenue deductions	232,684,360	2,399,057	235,083,417
Net income growth adjustment	59,803	-	59,803
Net operating income for return	$ 12,783,861	$2,174,667	$ 14,958,528

SCHEDULE II
PIEDMONT NATURAL GAS COMPANY, INC.
STATEMENT OF RATE CASE AND RATE OF RETURN
For the Test Year Ended December 31, 1981

Item	Present Rates	After Approved Rates
Gas utility plant in service	$167,235,437	$167,235,437
Leasehold improvements net of amortization	297,620	297,620
Less: Accumulated depreciation	(47,320,658)	(47,320,658)
Customer advances for construction	(681,865)	(681,865)
Accumulated deferred income taxes	(11,794,604)	(11,794,604)
Allowance for working capital	18,276,344	18,276,344
Original cost rate base	$126,012,274	$126,012,274
Rate of return	10.14%	11.87%

SCHEDULE III
PIEDMONT NATURAL GAS COMPANY, INC.
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended December 31, 1981

	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
		Present Rates - Original Cost Rate Base		
Long-term debt	45.35	$ 57,146,566	7.66	$ 4,377,427
Preferred stock	1.48	1,864,982	5.12	95,487
Common equity	53.17	67,000,726	12.12	8,310,947
Total	100.00	126,012,274		12,783,861
		Approved Rates - Original Cost Rate Base		
Long-term debt	45.35	57,146,566	7.66	4,377,427
Preferred stock	1.48	1,864,982	5.12	95,487
Common equity	53.17	67,000,726	15.65	10,485,614
Total	100.00	$126,012,274		$14,958,528

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 witness Schiefer and Public Staff witness Garrison. Aside from the differences caused by different revenue requirements and sales volumes, there were no material differences between the Company's proposed rate design and that proposed by the Public Staff. Therefore, the Commission concludes that the method of designing rates used by the Public Staff is just and reasonable, except as they relate to the rate Schedules 101 and 102 heating only customers. The Commission concludes, based on the entire record, that in this proceeding it is appropriate to increase the rate Schedules 101 and 102 heating only winter customers by five (5) percent more than the increase to the other winter customers in these schedules. The Commission notes that this increase differential is less than that supported by the Company and the Public Staff, but is appropriate for this proceeding.

Witness Garrison also presented testimony concerning a notice to be sent to the heating only customers on rate Schedules 101 and 102. The Company also agreed that these customers should be notified. The Commission concludes that the notice attached as Appendix B should be sent to Piedmont's customers.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The evidence on which this finding is based is found in the testimony and exhibit of Commission witness Hoover. The National Regulatory Research

Institute was established by the National Association of Regulatory Utility Commissioners (NARUC) on November 18, 1976, and is located on the Columbus campus of the Ohio State University, Columbus, Ohio. The Institute's fundamental organizational objective is to provide state utility regulatory bodies with educational programs, technical assistance, and timely, expert policy research on regulatory issues.

Since inception, the Institute has received the preponderance of its research funding from the United States Department of Energy (DOE). However, in view of the current administration's present fiscal policies, it is a virtual certainty that such funding will soon terminate. It is this eventuality that has precipitated the need and witness Hoover's recommendation that Piedmont be permitted to participate in the funding of the Institute. This recommendation is consistent with recommendations set forth in the 1981 Report of the Ad Hoc Committee on Funding, presented at the 93rd Annual Convention of NARUC. Further, such recommendation is consistent with the resolution adopted by NARUC in this regard. Moreover, this funding proposal is consistent with the funding mechanism approved by this Commission during its weekly agenda conference of September 25, 1982.

Generally speaking, the funding plan adopted by NARUC envisions participation by most, if not all, public utilities (electric, gas, telephone, water). The amount of Piedmont's fair share contribution was estimated by witness Hoover to be approximately $1,288.

IT IS, THEREFORE, ORDERED as follows:

1. That Piedmont Natural Gas Company, Inc., be, and is hereby, allowed to increase its rates and charges so as to produce an annual level of revenue of $245,982,142 from its North Carolina customers based on the Company's level of test year operations. Such amount represents an increase of $4,573,724 above the level of revenue that would have resulted from rates in effect in August 1982, based upon the test year level of operations.

2. That the base rates attached hereto as Appendix A be, and the same are hereby, approved effective for service rendered on and after the date of this Order.

3. That Piedmont shall file appropriate tariffs in conformity with the base rates set forth in Appendix A, in accordance with the provisions of this Order not later than five (5) days from the date of this Order, and reflective of all approved rate adjustments since August 1, 1982.

4. That Piedmont shall send the notice attached as Appendix B to its customers as a bill insert in its next billing cycle.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of November 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sharon Credle Miller, Deputy Clerk

(SEAL)

APPENDIX A
BASE RATES
Docket No. G-9, Sub 219

Rate Schedule	Base Rate
101 - Facilities Charge	$4.05 per month
Heat Only - Winter (Nov. - Mar.)	.54907 per therm
Heat Only - Summer (Apr. - Oct.)	.49457 per therm
All Other - Winter (Nov. - Mar.)	.54631 per therm
All Other - Summer (Apr. - Oct.)	.49457 per therm
102 - Facilities Charge	$8.00 per month
Heat Only - Winter (Nov. - Mar.)	.54907 per therm
Heat Only - Summer (Apr. - Oct.)	.49457 per therm
All Other - Winter (Nov. - Mar.)	.54631 per therm
All Other - Summer (Apr. - Oct.)	.49457 per therm
103 - Facilities Charge	$100.00 per month
Winter (Nov. - Mar.)	.46731 per therm
Summer (Apr. - Oct.)	.44231 per therm
104 - Facilities Charge	$200.00 per month
First 15,00 therms -	
Winter (Nov. - Mar.)	.47061 per therm
Next 30,000 therms -	
Winter (Nov. - Mar.)	.46061 per therm
Next 90,000 therms -	
Winter (Nov. - Mar.)	.45061 per therm
All Over 135,000 therms -	
Winter (Nov. - Mar.)	.44061 per therm
First 15,000 therms -	
Summer (Apr. - Oct.)	.45061 per therm
Next 30,000 therms -	
Summer (Apr. - Oct.)	.44061 per therm
Next 90,000 therms -	
Summer (Apr. - Oct.)	.42561 per therm
Next 165,000 therms -	
Summer (Apr. - Oct.)	.41561 per therm
All Over 300,000 therms -	
Summer (Apr. - Oct.)	.40561 per therm
105 - Facilities Charge	$7.50 per month
Special Sales -	
Winter (Nov. - Mar.)	$.71951 per therm
Summer (Apr. - Oct.)	.71951 per therm

APPENDIX B
NOTICE
DOCKET NO. G-9, SUB 219

On November 30, 1982, after a lengthy investigation and hearing, the North Carolina Utilities Commission approved $4.6 million of Piedmont's request of $6.2 million, which was revised by the Company, after investigation of the

Public Staff - North Carolina Utilities Commission, during the hearing from $10 million.

The Company filed for an increase of approximately $10 million on April 30, 1982. After investigation of the Public Staff, the Company revised its requested increase to $6.2 million. The Commission's decision results in the Company receiving approximately 46% of the originally filed rate increase and 74.19% of the amended rate increase request. The approved increase results in an approximately 3.5% to 4.0% increase in residential service rates. Heating only customers will be increased by the 4% figure. Customers who are unsure of their classification should contact Piedmont.

In allowing the increase, the Commission ruled that the approved rates would allow Piedmont, under efficient management, an opportunity to earn an approximate 11.87% rate of return on rate base used in providing service in North Carolina.

The Commission stated that Piedmont's total rate base devoted to providing public utility service in North Carolina is $126,012,274. Thus operating income of approximately $14,958,528 is required to produce the 11.87% rate of return found fair by the Commission. Of the $14,958,528 operating income allowed Piedmont, $4,377,427 is required to cover the embedded cost of long-term debt, $95,487 is required to cover the embedded cost of preferred stock, and $10,485,614 is required to cover the cost of common equity. That portion of operating income available for common equity ($10,485,614) will allow the Company the opportunity to earn a return on common equity of approximately 15.65%. The Commission found that the rate increase was the minimum that could be granted and still have Piedmont maintain good service.

DOCKET NO. G-5, SUB 166
DOCKET NO. G-5, SUB 168

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 GRANTING PARTIAL INCREASE IN RATES

HEARD IN: Buncombe County Courthouse, Asheville, North Carolina, on March 16, 1982; City Council Chambers, City Hall, Gastonia, North Carolina, on March 17, 1982; and Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, on March 18, 19, 23, 24, and 25, 1982.

BEFORE: Commissioner Leigh H. Hammond, Presiding; and Commissioners John W. Winters and Edward B. Hipp

APPEARANCES:

For the Applicant:

J. Mack Holland, Mullen, Holland & Cooper, P.A., 316 S. Marietta Street., P.O. Box 488, Gastonia, North Carolina 28052 F. Kent Burns

and James M. Day, Boyce, Mitchell, Burns & Smith, P.A., P.O. Box 2479, Raleigh, North Carolina 27602

For the Intervenor:

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For: North Carolina Textile Manufacturers Association, Inc.

For the Public Staff:

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For: The Using and Consuming Public

BY THE COMMISSION: On October 20, 1981, Public Service Company of North Carolina, Inc. (hereinafter Public Service, Applicant, or the Company), filed an application with this Commission seeking authority to adjust its rates and charges for retail natural gas service in North Carolina. Previously, on July 17, 1981, the Company had filed an application pursuant to NCUC Rule R6-80 to approve revised depreciation rates. This application was set for hearing at the same time as the application for adjustment of rates by Order dated October 14, 1981.

On November 10, 1981, the Commission issued an Order consolidating the depreciation application with the general rate case application, suspending the proposed rates for a period of 270 days from the proposed effective date of November 19, 1981, setting hearings and requiring that public notice be given.

On February 1, 1981, a Petition to Intervene and Protest was filed with the Commission by the North Carolina Textile Manufacturers Association, Inc. (hereinafter NCTMA). This Petition was allowed by Order dated February 8, 1982.

On February 24, 1982, Public Service moved that the Order dated November 10, 1981, be amended to provide that no Company witnesses be called at the Asheville hearing. This Motion was allowed by Order dated March 1, 1982.

The Public Staff filed its Notice of Intervention on March 5, 1982.

The matter came on for hearing as scheduled.

No public witnesses appeared at the hearing in Asheville on March 16, 1982.

At the public hearing in Gastonia on March 17, 1982, Mayor T. Jeffers of Gastonia and Jim Story appeared.

Arthur Eckels testified as a public witness at the hearing in Raleigh on March 18, 1982.

The Company presented the testimony and exhibits of the following witnesses in support of its application:

Charles E. Zeigler, President and Chief Executive Officer of the Company, testified about the Company's service area, organization, customers, its shareholders, and its need for rate relief.

Joseph F. Noon, Senior Vice President of the Company, testified about the Company's construction program, its budget and the impact of inflation.

C. Marshall Dickey, Vice President of the Company, testified about the Company's gas supply, market requirements, competition, allocated cost of service, rate design, and the weather adjustment.

Allen J. Schock, Vice President of the Company, testified about the Company's accounting exhibits.

E. L. Flanagan, Jr., Senior Vice President and Treasurer, testified about the Company's financing, the financial condition of the Company, future financing needs, and the Company's need for rate relief.

Robert S. Jackson, Senior Vice President of Stone & Webster Management Consultants, Inc., testified as to the proper capital structure, cost of capital, and required rate of return for Public Service.

Franklin D. Sanders, Managing Director of The First Boston Corporation, testified about the financial standing of the Company, its ability to attract capital, and adequacy of the proposed return on equity.

John D. Russell, President of John D. Russell Associates, Inc., testified as to proper depreciation rates for the Company.

The NCTMA presented the testimony of Charles McLoud, Fuel Administrator for Burlington Industries, Inc., who testified as to the minimum bill provision under Rate Schedule 70 and the need for rates based on cost of service, and H. Eugene Lollis, Manager of Energy Service of Cone Mills Corporation, who also testified as to the minimum bill for boiler fuel customers and the need for cost-based rates.

The Public Staff offered the testimony and exhibits of the following witnesses:

Eugene H. Curtis, Jr., Public Utilities Engineer, Public Staff, testified as to sales volumes, growth factor, cost of gas purchased, and rate design.

John T. Garrison, Jr., Engineer of the Natural Gas Division, Public Staff, testified as to cost of service.

Raymond J. Nery, Director of the Natural Gas Division, Public Staff, testified as to depreciation rates for the Company.

William W. Winters, Supervisor of the Electric Division of the Public Staff Accounting Division, testified as to amount of interest expenses to be used in determining income taxes.

David Kirby, Staff Accountant of the Public Staff, testified as to the accounting exhibits of the Public Staff.

Hsin-Mei C. Hsu, Economist with the Economic Research Division of the Public Staff, testified as to the cost of capital and suggested rate of return for Public Service.

Donald R. Hoover, Chief Accountant of the Commission Staff, testified as to the propriety of Public Service's participation in the funding of the National Regulatory Research Institute.

Following receipt of all testimony and exhibits, it was agreed that Briefs and proposed Orders could be filed by all parties and the record was closed.

Based upon a careful consideration of the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Public Service is a corporation organized and existing under the laws of the State of North Carolina and is a franchised public utility providing natural gas service in 77 cities, towns, and communities in North Carolina. It is properly before the Commission in this proceeding for a determination of the justness and reasonableness of its proposed rates and charges under Chapter 62 of the General Statutes of North Carolina.

2. The test period established by the Commission and utilized by all parties is the 12 months ended June 30, 1981.

3. The gross revenues increase sought by Public Service, as amended during the hearing and in the Applicant's proposed order, was $14,321,602.

4. Public Service is providing adequate natural gas service to its existing customers.

5. The original cost of Public Service's plant in service used and useful in providing natural gas service in North Carolina is $164,522,982. To this amount should be added construction work in progress of $551,602 and from this amount should be deducted accumulated depreciation of $48,420,875, resulting in a reasonable original cost net gas plant in service of $116,653,709.

6. The appropriate amount of accumulated deferred income taxes is $12,080,008.

7. The reasonable allowance for working capital for use in this case for Public Service is $12,764,166.

8. The reasonable original cost less depreciation of the natural gas plant in service of Public Service of $116,653,709, less the appropriate amount of accumulated deferred income taxes of $12,080,008, plus the reasonable allowance for working capital of $12,764,166 yields an original cost net investment used and useful in providing service to the public in this State of $117,337,867.

9. Public Service's operating revenues after appropriate accounting and pro forma adjustments under present rates are $211,519,920 and under the Company's proposed gross revenue increase, as amended, would have been $225,841,522.

10. Public Service's end of period cost of gas for the test year is $161,348,810.

11. The test period level of Public Service's operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $203,080,960 which includes the amount of $4,819,169 for actual investment currently consumed through reasonable actual depreciation.

12. The capital structure which is proper for use in this proceeding is the following:

Item	Percent
Long-term debt	46.15
Preferred stock	9.59
Common equity	44.26
Total	100.00

13. The Company's embedded cost of debt and preferred stock is 7.61% and 7.16% respectively. The rate of return which should be applied to Public Service's original cost rate base is 11.19%. This return is reasonable and will allow the Company the opportunity to earn a return on its common equity of 15.8% after recovery of the embedded cost of debt and preferred stock. This return on common equity is also just and reasonable.

14. Public Service's pro forma return on its rate base at the end of the test year under present rates was 7.19% which is less than the Commission has determined to be just and reasonable. Therefore, in order to have the opportunity to earn the returns which the Commission has determined to be just and reasonable, Public Service should be allowed to increase its rates and charges so as to produce an additional $9,867,575 of revenues based on its end-of-period level of test year operations. The Commission finds that given efficient management, this amount of additional gross revenues will afford the Company an opportunity to earn the returns on rate base and on common equity which the Commission has found to be fair and reasonable both to the Company and to its customers.

15. The rates set forth in Appendix A attached hereto and approved herein will generate the appropriate level of revenue and afford the Company a fair and reasonable opportunity to achieve the overall return of 11.19% approved herein.

16. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of the National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of federal funding. It is reasonable and appropriate for Public Service to contribute to the funding of the Institute.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 4.

The evidence for these findings of fact is contained in the verified application, the Commission Order Setting Hearing and Investigation, the testimony of Company witnesses Zeigler and Schock and Public Staff witness

Kirby, and the Company's proposed order. The evidence was uncontradicted and uncontested. These findings are essentially informational, procedural, and jurisdictional in nature.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5 - 8.

The evidence for these findings of fact is found in the testimony and exhibits of Company witness Schock and Public Staff witness Kirby. The following table sets forth the original cost rate base as presented in the parties respective proposed orders:

Item	Company	Public Staff	Difference
Plant in service	$164,522,982	$164,522,982	-
Accumulated depreciation	(49,273,057)	(48,226,265)	$1,046,792
Net plant in service	$115,249,925	$116,296,717	$1,046,792
Construction work in progress	551,602	551,602	-
Allowance for working capital	12,764,166	12,764,166	-
Deferred income taxes	(12,080,008)	(12,080,008)	-
Original cost rate base	$116,485,685	$117,532,477	$1,046,792

The Company and the Public Staff agree that the proper amount for plant in service is $164,522,982, that the proper allowance for working capital is $12,764,166, that the proper amount of deferred income taxes is $12,080,008, and that the proper amount of construction work in progress is $551,602. There being no evidence to the contrary, the Commission concludes that these amounts are reasonable and proper.

The only controverted matter in regard to the rate base is the amount to be deducted for accumulated depreciation on the basis of plant in service at December 31, 1981. The difference is solely accounted for by the Company's use of the depreciation rates recommended by Company witness Russell and the use by the Public Staff of the existing depreciation rates as recommended by Public Staff witness Nery. Since, as will be discussed in the Evidence and Conclusions for Finding of Fact No. 11, the Commission has approved neither of the depreciation rates recommended by the respective witnesses, it follows that the Commission must determine the appropriate accumulated depreciation balance consistent with its conclusions under Evidence and Conclusions for Finding of Fact No. 11. Therefore, the Commission concludes that the appropriate level of accumulated depreciation to be used in determining rates in this proceeding is $48,420,875.

Based upon the foregoing, the Commission finds and concludes that the appropriate level of original cost rate base for use in this proceeding is $117,337,867.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 AND 10

The evidence for these findings of fact is contained in the original and revised testimony and exhibits of Company witnesses Dickey and Schock and Public Staff witnesses Curtis and Kirby. The Company and the Public Staff have offered into evidence different levels of both revenues and cost of gas under test year end-of-period operations. The major difference in the level of revenues results from the Public Staff's inclusion of the effects of the March 1, 1982, Transco rate increase. Public Staff witness Curtis included in his calculations the March 1, 1982, Public Service Purchased Gas Adjustment in calculating his end-of-period revenues and in the proposed level of rates.

The Company is in agreement that the Purchase Gas Adjustment (PGA) should be included, and therefore, the Commission concludes that the March 1, 1982, Transco rate increase should be reflected in the Applicant's end-of-period revenue level.

Another difference in the level of end-of-period revenues between the two parties relates to the different levels of sales volumes used by the parties. The difference in annualized sales volume as utilized by witness Curtis and witness Dickey arises primarily out of the use by witness Curtis of a growth factor for Rate Schedules 50 and 55 and a difference in the level of sales loss in Rate Schedules 65 and 70.

In calculating the sales volume, Public Staff witness Curtis utilized a growth factor in Rate Schedules 50 and 55 to reflect the additional number of customers added during the test year. For those customers who came on during the test year, a growth factor is necessary to reflect the proper number of bills and volume applicable to these customers. In order to make the calculation of the growth in bills and volume, witness Curtis took the number of bills at the end of the annual period and subtracted from that the number of bills at the beginning of the annual period. In so doing, and by taking 50% of this quantity of bills, a growth factor was applied to all bills and volumes in those rate schedules where growth had occurred during the annual period. Company witness Dickey made no such calculation. The Commission concludes that it is appropriate to reflect customer growth during the test period through the growth factor applied by witness Curtis.

In regard to the level of sales loss in Rate Schedules 65 and 70, Company witness Dickey testified that due to plant closings and the general economy, a total of 2,573,241 dekatherms would be lost by Public Service during the annual period ended June 30, 1981. Public Staff witness Curtis determined that in bringing forward the annual period by six months to December 31, 1981, a reduced sales loss volume of approximately 1,035,572 dekatherms would be applicable in setting rates because the actual loss that has occurred has not been as high as the Company estimated. The Commission concludes that the appropriate level of current sales loss in Rate Schedules 65 and 70 is the 1,035,572 dekatherm loss as testified to by witness Curtis and is consistent with the updating of plant to December 31, 1981, as advocated by the Company and approved by the Commission under Evidence and Conclusions for Findings of Fact Nos. 5 - 8.

The final difference between the Public Staff and the Company as to the appropriate level of end-of-period revenues relates to the different sales mix used by the parties. The Company, in the Supplemental Testimony of witness Dickey, asserted that 63,174,690 therms would have been sold under negotiated rates while witness Curtis testified that for the 12 months ended December 31, 1981, there was only 837,829 therms sold by the Company under negotiated rates. The record is replete with testimony that the price of natural gas was above that of certain alternative fuels, particularly that of No. 6 fuel oil and propane, at the time of the hearing in this matter. Despite this, the record is not nearly so clear as to the finite volumes that may be reasonably included as negotiated sales volumes for setting rates in this proceeding. The Commission is acutely aware of the historic relationship between the price of natural gas and alternative fuels, particularly No. 6 fuel oil and propane. After much consideration of this matter, the Commission concludes that the appropriate level of negotiated sales to be used in determining fair

and reasonable rates in this proceeding is 33,000,000 therms. The Commission further concludes that the appropriate price out of these volumes should be achieved by multiplying 12,500,000 therms times .41800, the negotiated rate presented by the Company for customers with propane as the alternate fuel, and 20,500,000 therms times .38900, the negotiated rate presented by the Company for customers with No. 6 fuel oil as the alternate fuel.

Based upon the foregoing, the Commission concludes that the Company's end-of-period revenues under present rates is $211,519,920.

The major difference in the cost of gas calculations of the two parties relates to the Public Staff's use of the most current rates charged by Public Service gas supplier, Transco, and to the different levels of end-of-period supply volumes. Consistent with the calculation of end-of-period revenues approved above, the Commission concludes that the most current Transco rates should be recognized in determining the appropriate end-of-period level of cost of gas.

The supply of gas necessary to generate the end-of-period sales volume of 43,701,150 dekatherms, presented by the Public Staff and approved herein, is greater than the sales volumes due to Company use, loss and unaccounted for volumes, and fuel usage. The appropriate total gas supply necessary to generate the above sales volume is 45,046,412 dekatherms. Therefore, this volume must be used to calculate the proper cost of gas.

The remaining difference in the cost of purchased gas relates to the cost of withdrawal and the fuel used in withdrawal of WSS storage. The Applicant has claimed as a cost of this item the expense of removal of the total storage capacity of 2,794,500 DT ($69,863) and fuel cost based on withdrawal of that volume ($179,262). The Public Staff has included $23,864 of withdrawal expense and $65,234 of fuel cost, both of which are related to withdrawal of 954,549 DT. After careful consideration, the Commission concludes that the appropriate ongoing level of WSS withdrawal expense and related fuel expense to be used in setting fair and reasonable rates in this proceeding is $33,750 and $92,259, respectively. This calculation is based on the fair and reasonable on-going level of WSS withdrawal of 1,350,000 dekatherms.

Based upon the foregoing, the Commission concludes that the Company's fair and reasonable end-of-period cost of gas is $161,348,810.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Company and the Public Staff recommended the following amounts for operating revenue deductions:

	Company	Public Staff	Difference
Purchased gas	$147,137,171	$161,311,899	$14,174,728
Operation and maintenance	18,286,609	17,694,790	(591,819)
Depreciation	5,671,351	4,624,559	(1,046,792)
Taxes other than income	13,952,832	15,093,989	1,141,157
State income taxes	319,253	626,168	306,915
Federal income taxes	2,021,762	4,233,598	2,211,836
Total	$187,388,978	$203,585,003	$16,196,025

Public Staff witness Curtis and Company witness Dickey testified regarding natural gas volumes and the cost of purchased gas. The Commission has concluded in Finding of Fact Nos. 9 and 10 that the reasonable cost of purchased gas for purposes of this proceeding is $161,348,810.

The next area of disagreement in determining operating revenue deductions is operation and maintenance expense. This difference of $591,819 resulted from the following adjustments proposed by the Public Staff:

Vacation expense	($148,522)
L.P. gas expense	(333,527)
Uncollectibles expense	(109,770)
Total difference	($591,819)

Witness Kirby testified that his adjustment of $333,527 to L.P. gas expense was recommended by Public Staff witness Curtis. Witness Curtis' recommended level of L.P. gas was 27,240 dekatherms which was the level used by the Company during the 12 months ended December 31, 1981. In contrast, the Company used 81,000 dekatherms of L.P. gas to determine the end-of-period level of L.P. gas expense. At the hearing, it was offered into evidence that the amount of L.P. gas utilized by the Applicant in the winter of 1981-1982 was 66,401 dekatherms at a current cost of $411,952. The Commission concludes that the most appropriate level of L.P. gas expense for use in determining fair and reasonable rates in this proceeding is $411,952.

Witness Kirby testified that the amount of operation and maintenance expenses proposed by the Company included a level of vacation expense substantially in excess of the end-of-period level as the result of an accounting adjustment made on the Company's books during the test year. Witness Kirby explained that the accounting adjustment was made pursuant to Statement of Financial Accounting Standards No. 43, "Accounting for Compensated Absences," which requires that vacation costs be accrued when employees earn vacation eligibility, rather than when vacations are actually taken, as under the Company's previous accounting method. This book accounting adjustment represents a one-time, nonrecurring expense, according to witness Kirby, and should, therefore, be deducted from per books operating expenses in order to arrive at the proper end-of-period expense level for rate-making purposes. Witness Kirby further testified that the effect of his adjustment to vacation expense is to set total payroll expenses equal to the end-of-period level based on fifty-two weeks' pay for each end-of-period employee at his end-of-period pay rate. Hence, after considering carefully the evidence presented by both sides, and consistent with the Commission's treatment of this matter in other general rate cases, the Commission concludes that the Public Staff's proposed adjustment to per books vacation expense is proper.

The Company and the Public Staff also disagreed on the proper level of uncollectibles expense. The Company based its rate of .32% on a six-year net write-off rate calculated as follows:

Year	Sales (000's)	Net Write-offs (000's)	Rate
1975	$ 52,276	$ 207	.40%
1976	61,716	196	.32%
1977	72,756	337	.46%
1978	78,626	457	.58%
1979	116,004	313	.27%
1980	160,910	210	.13%
Total	$542,288	$1,720	.32%

Public Staff witness Kirby recommended a .24% rate based on data for the following three years:

Year	Sales (000's)	Net Write-offs (000's)	Rate
1979	$116,004	$ 313	.27%
1980	160,910	210	.13%
1981	210,184	648	.31%
Total	$487,098	$1,171	.24%

Witness Kirby contended that a three-year average ending in 1981 is more representative of the end-of-period level of the uncollectible rate because it is more current.

Based on the economic conditions present in the Applicant's service area and the sharp increase in the Company's experienced uncollectible rate in 1981, as reflected in the table above, the Commission concludes that the Company's uncollectible rate of .32% is appropriate to use for setting rates in this proceeding.

The parties also differ as to depreciation expense. Public Staff witness Kirby recommended $1,046,792 less end-of-period depreciation expense than proposed by the Company because of his use of the depreciation rates recommended by Public Staff witness Nery for accounts 376 - Distribution mains and 380 - Services.

Pursuant to Rule R6-80, the Company filed a set of new proposed depreciation rates which were based on the depreciation study prepared by witness Russell. As a result of this study, the Company included in its test year expenses a level of depreciation expense reflecting the rates proposed by the Company in Docket No. G-5, Sub 166. The Company proposed that the new rates become effective January 1, 1982. Company witness Russell and Public Staff witness Nery agreed on the proposed depreciation rates for all accounts with the exception of account 376 - Mains and account 380 - Services. With regard to these two accounts both witnesses agree on the proposed average service life for account 376 - Mains of 48 years and for account 380 - Services, of 35 years. The difference between the conclusion reached by these witnesses results from the way they determined net salvage. Net salvage equals gross salvage minus cost of removal. Neither witness Russell nor witness Nery made any adjustment to the Company's book figures for gross salvage for the account. The principal difference between them concerns the

determination of future cost of removal, which is the expense of making the retirement. Company witness Russell calculated the net salvage for both accounts by annualizing the data for the past five years and by comparing the original cost of the units retired with the cost of removal inflated to reflect 1981 wage rate levels. Witness Russell made this calculation for each year in the five-year period then averaged the five-year experience. Public Staff witness Nery as reflected in Nery Exhibit No. 2 reviewed the Company's net salvage experienced for the past five years for account 380 - Services. Although there has been a downward trend in the number of services retired over the past five years, witness Nery used the average during that five-year period as a reasonable estimate of the annual number of services to be retired in the future. Witness Nery also reviewed the net salvage cost for account 380 - Services and used the highest unit cost of removal over the past five years. By multiplying these two factors, i.e., number x costs, he derived an estimated future annual cost of net salvage for this account. Hence, witness Nery determined that the proper depreciation rate for account 380 - Services should be 3.38%. However, since the Company had made a depreciation filing just one year earlier which went into effect January 1, 1981, witness Nery recommended that no change be made in the current depreciation rates and that the rate should remain at 3.43% for account 380 - Services.

Witness Nery similarly reviewed the past five years' experience of 1976 through 1980 for account 376 - Mains. Witness Nery's Exhibit No. 1 shows that there likewise has been a downward trend in the amount of footage retired for this account during the past five years. However, in making his determination as to the proper level of estimated future cost of removal, witness Nery used the average number of feet retired per year over the past five years. He also made a determination of the cost for net salvage. To determine the future estimated net salvage he multiplied the 1980 average cost per foot of $1.03, the highest during the five-year period, times the average number of feet retired. This resulted in the estimated annual net salvage cost of $68,006 or a percentage in the overall depreciation rate for the account of .13%. Witness Nery added the .13% to the service life component of 2.08% to arrive at the proper depreciation rate for account 376 of 2.21%.

A review of the testimony of both witnesses Russell and Nery raises the question as to which method is the more appropriate way to determine cost of removal for these two accounts for the future. The Commission feels impelled to make two conclusions concerning this matter. First, the Commission concludes that this matter should be closely monitored by both the Commission and the Public Staff in the future in order to ensure that the cost of removal for these accounts is being neither over- or undercollected. Second, the Commission concludes that based on the entire record in this matter and the Commission's files, the cost of removal rate for these accounts should be increased in order to ensure that future customers are not unfairly burdened with costs that properly should have been recovered from present customers. Therefore, the Commission concludes that for purposes of this proceeding the depreciation rate for account 376 - Mains, should be 2.40% and the depreciation rate for account 380 - Service, should be 3.71%.

The next area of difference between the parties is State and Federal income tax expense. Since the Commission has not adopted all of the components of taxable income proposed by any party, it has made its own calculation of Federal and State income taxes of $3,822,430 and concludes that this is the appropriate amount to include in determining cost of service in this

proceeding. This calculation is based in part on the reduction of interest expense for the applicable JDITC. This is consistent with the Internal Revenue Code and previous Commission decisions concerning appropriate treatment of the JDITC for income tax purposes in determining fair and reasonable rates.

In summary, the Commission concludes that the appropriate level of operating revenue deductions for use in this proceeding is $203,081,210, made up of the following:

Cost of Gas	$161,348,810
Operations and Maintenance	18,102,715
Depreciation	4,819,169
Taxes Other than Income	14,987,836
State Income Taxes	499,828
Federal Income Taxes	3,322,602
Total Operating Revenue Deductions	$203,080,960

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for these findings is contained in the testimony of Company witnesses Schock and Jackson and Public Staff witness Hsu.

Both the Company and the Public Staff used the capital structure at June 30, 1981. Since there was no disagreement between the witnesses on this matter, the Commission concludes in that regard that the proper capitalization ratios for use in the proceedings are 46.15% long-term debt, 9.59% preferred stock, and 44.26% common equity which ratios are calculated as follows:

Item	Amount	Percent (%)
Long-term debt	$45,166,000	46.15
Preferred stock	9,380,000	9.59
Common equity	43,312,064	44.26
Total	$97,858,064	100.00

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence concerning the cost of capital and fair rate of return was presented by Company witness Jackson and Public Staff witness Hsu. Witness Jackson testified that the Company should be granted the opportunity to earn an overall return of 11.94%. Witness Hsu testified that the overall rate of return which the Company should be allowed to earn was 11.28%.

The issues of cost rates for long-term debt and preferred equity are uncontroverted. The following cost rates were presented by both of the parties who offered testimony on this issue:

Long-term debt	7.61%
Preferred stock	7.16%

The Commission therefore concludes that these cost rates are the appropriate levels for use in determining the overall rate of return.

There was disagreement as to what return on common equity the Company should be given an opportunity to earn. Robert S. Jackson, Senior Vice

President of Stone & Webster Management Consultants, Inc., testified that Public Service should be allowed to earn 17.50% on its common equity having adjusted its cost for the Company's stock to sell at a premium over book value. Hsin-Mei Hsu, of the Public Staff, testified that Public Service should be permitted to earn 16.00% on common equity, based on a range of 15.8% to 16.4%.

Company witness Jackson's primary technique in arriving at his recommendation was a discounted cash flow (DCF) analysis of a combination of 10 gas distribution companies and Public Service Company. Witness Jackson also employed a comparable earnings analysis to demonstrate that the current earnings of his group of 10 comparable gas companies and Public Service were below their actual cost of capital.

The DCF method of determining a cost of equity capital has two components, dividend yield and the future growth rate of dividends. From the 10 companies in witness Jackson's sample of the gas distribution industry, he arrived at an average dividend yield of from 9.68% to 11.25% based on the years 1980 and 1981. To determine the growth component, witness Jackson concluded that a weighted growth rate of 4.50% was reasonable.

Witness Jackson then made an adjustment to the dividend yield of the average of the 10 companies based on the following reasoning. The minimum required market/book ratio is currently between 1.10 and 1.20 due to the recognition of selling costs and the pressure allowance. Therefore, after this adjustment the dividend yields necessary to produce a market-to-book ratio of 1.10 to 1.20 for the comparable companies are between 10.76% and 14.06%. Combining these adjusted dividend yields with the growth rate estimate of 4.50% results in the DCF model showing a required rate of return of 15.26% to 18.56% for the 10 comparable companies. Based on the same methodology and a DCF study for Public Service only, witness Jackson concluded a current equity cost range of 15.9% to 19.5% at a market/book of 1.10 to 1.20.

Witness Jackson provided a risk premium analysis in support of his DCF estimate of a fair rate of return. He did so by performing a statistical analysis of the relationship between the risk premium and market-to-book ratio. This method resulted in an estimated cost of common equity of 17.62% at a market/book ratio of 1.10 and 17.99% at a market/book ratio of 1.20.

On cross-examination by the Public Staff, Company witness Jackson stated that the cost of equity capital for Public Service could be obtained by adding his unadjusted estimates of dividend yields and his estimate of growth rate to produce a range of from 14.2% to 16.8%. Witness Jackson stated on cross-examination that the main reason for adjusting dividend yield was to give recognition to flotation costs, out-of-pocket costs, and pressure cost. However, when asked when the Company is going to issue new stock, witness Jackson could not give a definite answer.

Public Staff witness Hsu employed a DCF analysis of a group of 17 natural gas distribution companies which she found comparable in investment risk to Public Service as measured by business risk and beta.

Witness Hsu stated in her testimony that the companies in her sample are comparable to Public Service in that each is in the same business and subject

to the same Federal laws, similar competitive forces, regulatory constraints, and capital requirements. To determine the risk of Public Service relative to the risk of her comparable group, witness Hsu has calculated beta for Public Service based on a least squares regression analysis. The result of the beta estimate for Public Service was 0.65, compared to the mean beta of 0.58 for the comparable companies. Based on this, witness Hsu concluded that Public Service is about the same risk as the average company from her sample.

Based on her DCF analysis of Public Service, witness Hsu concluded that the cost of common equity capital was within the range of 15.8% to 16.4%. Witness Hsu then recommended that the authorized rate of return on book common equity be set no higher than 16.00%

The determination of the appropriate fair rate of return for the Company is of great importance and must be made with great care because whatever return is allowed will have an immediate impact on the Company, its stockholders, and its customers. In the final analysis, the determination of a fair rate of return must be made by this Commission, using its own impartial judgment and guided by the testimony of expert witnesses and other evidence of record. 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 fair to its existing investors."

The return allowed must not burden ratepayers any more 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. 277, 206 S.E. 2d 269 (1974).

The nature of the evidence in a case such as this makes it extremely difficult to balance all of 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. The Commission has considered carefully all of the relevant evidence presented in this case, with the constant reminder that whatever return is allowed will have an immediate impact on the Company, its stockholders, and its customers. The Commission must use its impartial judgment to ensure that all the parties involved are treated fairly and equitably. In coming to a final decision on this matter, the Commission is not unmindful of the unsettled economic conditions present in this country.

Based upon the foregoing and the entire record in this docket, the Commission finds and concludes that the fair rate of return that Public

Service should have the opportunity to earn on its original cost rate base is 11.19%. Such fair rate of return will yield a fair return on common equity of approximately 15.80%.

The Commission cannot guarantee that the Company will, in fact, achieve the level of returns 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, and thus concludes, that the level of returns approved herein will afford 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 Commission has previously discussed its findings and conclusions regarding the fair rate of return which Public Service Company of North Carolina, Inc., should be given the opportunity to earn.

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 rates approved herein. Such schedules, illustrating the Company's gross revenue requirements, incorporate the findings and conclusions heretofore and herein approved by the Commission.

GAS

SCHEDULE I
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
STATEMENT OF OPERATING INCOME FOR RETURN
Twelve Months Ended June 30, 1981

	Present Rates	Approved Increase	After Approved Increase
Operating Revenues			
Total operating revenues	$211,519,920	$ 9,867,575	$221,387,495
Operating Expenses			
Purchased gas	161,348,810	-	161,348,810
Operation and maintenance	18,102,715	31,576	18,134,291
Depreciation	4,819,169	-	4,819,169
Taxes other than income	14,987,836	590,160	15,577,996
State income taxes	499,828	554,750	1,054,578
Federal income taxes	3,322,602	3,997,901	7,320,503
Total operating expenses	203,080,960	5,174,387	208,255,347
Net operating income	$ 8,438,960	$4,693,188	$ 13,132,148

SCHEDULE II
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended June 30, 1981

Original Cost Rate Base	Amount
Utility plant in service	$164,522,982
Construction work in progress	551,602
Accumulated depreciation	(48,420,875)
Accumulated deferred income taxes	(12,080,008)
Working capital	12,764,166
Original cost rate base	$117,337,867
Rate of return - Present rates	7.19%
Rate of return - Approved rates	11.19%

SCHEDULE III
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC.
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended June 30, 1981

	Original Cost Rate Base	Ratio %	Embedded Cost	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	$ 54,151,426	46.15	7.61	$4,120,924
Preferred stock	11,252,701	9.59	7.16	805,693
Common equity	51,933,740	44.26	6.76	3,512,343
Total	$117,337,867	100.00		$8,438,960
	Approved Rates - Original Cost Rate Base			
Long-term debt	$ 54,151,426	46.15	7.61	$ 4,120,924
Preferred stock	11,252,701	9.59	7.16	805,693
Common equity	51,933,740	44.26	15.80	8,205,531
Total	$117,337,867	100.00		$13,132,148

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for this finding of fact is contained in the direct and revised testimony and exhibits of Company witness Dickey and Public Staff witness Curtis.

Sales under Rate Schedule 80 are made only to industrial customers who would or do normally buy natural gas at a negotiated rate level. The Commission has authorized the Company to sell volumes at below the filed tariff rate under this schedule to customers who have an alternative fuel use capability in order to induce them to continue to buy natural gas from the Company rather than switch to their alternative fuel during such periods, if any, when such alternative fuel happens to be lower in price than natural gas sold at the applicable rate schedule. Sales at negotiated rates under Schedule 80 are permitted only under such circumstances. Such sales are made on a short-term basis only, for as soon as the cost differential in the alternative fuel disappears there no longer remains any reason or justification for allowing sales to be made, in effect, at a discount from the rate schedule at which such sales would normally be made. Thus, whether or not there will be any negotiated sales under Rate Schedule 80 in the future is dependent upon the many factors which determine the relative price of natural gas and the alternative to it. It is clear, therefore, that the future level of sales under Rate Schedule 80 cannot be determined with any great degree of specificity or certainty.

Under Evidence and Conclusions for Finding of Fact Nos. 9 and 10, the Commission concluded that the Applicant's end-of-period negotiated sales are approximately 33,000,000 therms. Pricing these volumes at September, 1981 negotiated rates yields an end-of-period revenue level for these volumes of 13,199,500.

The parties disagreed as to whether there should be a difference in the rates charged for Rate Schedules 60 and 65. The Company's rate design, as originally proposed, showed two different rates for these schedules. Company witness Dickey made the change in supplemental testimony and exhibits filed February 24, 1982, and testified that Rate Schedules 60 and 65 (also includes 67) should be priced out at the same rate for all three schedules. Public Staff witness Curtis testified that there should continue to be a difference in rates charged because these classes of customers use entirely different alternative fuels. The Commission concludes that there should continue to be a disparity in rates between Rate Schedules 60 and 65 (also includes 67).

Another area of difference between the parties concerns the continuance by the Company of the minimum bill concept for Rate Schedule 70. The parties agreed that the facilities charges for Rate Schedules 50, 55, 60, and 65 should be increased but disagree as to whether a facilities charge or a minimum bill provision should be placed upon industrial boiler fuel customers using gas under Rate Schedules 70 and 80. Witness Curtis' implementation of a facilities charge for Rate Schedules 70 and 80 was based on a study made by the Company showing that the approximate monthly charge for an industrial boiler fuel customer would be approximately $350.00 per month. The North Carolina Textile Manufacturers Association, Inc., through cross-examination and the testimony of H.E. Lollis, Manager of Energy Service of Cone Mills Corporation, and Charles McLoud, Fuel Administrator for Burlington Industries, Inc., opposed the minimum bill concept. The Commission concludes that the mimimum bill concept as proposed by the Company should be continued at this time, but that the parameters of the charge should be reduced by 50%, resulting in a charge of 10% of the largest bill rendered during the previous 12-month period, but not less than $250.00.

Further, the Commission concludes that the proposed increase in the facilities charge should be limited, resulting in facilities charges as follows:

Rate Schedule	Amount
50	$ 4.50
55	6.50
60, 65, and 67	62.50

Both the Company through witness Dickey and the Public Staff through witness Garrison presented the results of fully allocated cost-of-service studies. Generally, such studies show a rather wide disparity in rates of return for the various customer classes. The rate designs offered by the Company and the Public Staff generally narrow the gap between the rates of return as calculated for the various customer classes and increase the rates to those particular classes of customers which are generating below the overall rate of return as shown in the respective cost-of-service studies. In setting proper rate levels, one must look at a combination of cost-of-service studies, alternative energy prices, historical rates, value of service, and any other combination of factors which may affect proper rate design. The

Commission concludes that Public Staff witness Curtis' rate design as proposed in his revised exhibits is proper for setting rates in this general rate case application by Public Service Company of North Carolina, but that it should be uniformly adjusted for the rate design changes spoken to above, and for the Commission's approved gross revenue increase, but that the rates proposed by witness Curtis for Rate Schedule 60 and 70 should be adopted in recognition of the fact that further increases on these schedules are not warranted due to the price of applicable alternative fuels.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

Donald R. Hoover, Chief Accountant of the Commission Staff, testified as to the propriety of Public Service's participation in the funding of the National Regulatory Research Institue.

The National Regulatory Research Institute was established by the National Association of Regulatory Utility Commissioners (NARUC) on November 18, 1976, and is located on the Columbus campus of the Ohio State University, Columbus, Ohio. The Institute's fundamental organizational objective is to provide state utility regulatory bodies with educational programs, technical assistance, and timely, expert policy research on regulatory issues.

Since inception, the Institute has received the preponderance of its research funding from the United States Department of Energy (DOE). However, in view of the current administration's present fiscal policies, it is a virtual certainty that such funding will soon terminate. It is this eventuality that has precipitated the need for alternative funding of the Institute. Recommendations for alternative funding by regulated utilities were set forth in the 1981 Report of the Ad Hoc Committee on NRRI Funding, presented at the 93rd Annual Convention of NARUC.

Generally speaking, the funding plan adopted by NARUC envisions participation by most, if not all, public utilities (electric, gas, telecommunications, and water) under the respective jurisdiction of each of the 50 states and the District of Columbia. The annual uniform fair share amount to be contributed by each utility engaged in the sale of natural gas, for example, may be determined by multiplying the contribution factor, as suggested by NARUC, times the respective utility's annual level of Mcf sales. For Public Service, this amount would be approximately $2,813.

Based on the foregoing the Commission concludes that the National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research, technical assistance, and educational programs and there is a need for the member states of NARUC to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of Federal funding. The Commission therefore finds it reasonable and appropriate for Public Service to contribute to the funding of the Institute upon approval of the full Commission.

IT IS, THEREFORE, ORDERED as follows:

1. That Public Service Company of North Carolina, Inc., be, and is hereby, authorized to adjust and increase its rates and charges based upon the Company's level of test year operations by $9,867,575.

2. That the base rates attached hereto as Appendix A be, and the same are hereby, approved effective for service rendered on or after the date of this Order.

3. That Public Service shall file appropriate tariffs in conformity with the base rates set forth in Appendix A appropriately adjusted for the recently approved tariff decrease resulting from Transco's reduction in cost of gas and in conformity with the provisions of this Order not later than ten (10) days from the date of this Order.

4. That Public Service shall notify its customers of the increased rates approved herein by appropriate bill insert in the next billing cycle following the effective date of the new tariffs.

5. That in the event Transco reimposes curtailment and credits Public Service's account with demand adjustments, such reductions shall be placed in the deferred account pending further Order by the Commission.

6. That the depreciation rates proposed by Public Service herein be and hereby are approved and effective January 1, 1982, with the exception of those for account 376 - Mains and 380 - Services. The approved rates for these two accounts are 2.40% and 3.71%, respectively.

7. That Public Service shall file a report on a monthly basis, which reflects by customer the number of therms sold, price per therm, total billing, and an explanation of the need for each negotiated sale pursuant to Rate Schedule 80.

8. That upon approval by the full Commission, Public Service shall be authorized to contribute no more than $2,813 annually to the National Regulatory Research Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of May 1982.

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

GAS

APPENDIX A

Rate Schedule	Number Bills	Facilities Charge	Sales Volume (Th.)	Approved Rate ($/Th.)	Gas Sales Total Revenue
50	1,396,189	4.50	-		$ 6,282,851
50			108,676,570	.53130	57,739,862
55	174,044	6.50	-		1,131,286
55			70,960,311	.52208	37,046,959
60	1,350	62.50	-		84,375
60			45,588,277	.49089	22,378,829
65 & 67	2,668	62.50	-		166,750
65 & 67			88,675,874	.48552	43,052,910
70	899		-		
70			90,091,310	.44098	39,728,466
6					
80	12		-		
80		Propane	12,500,000	.41800	5,225,000
		#6 Fuel Oil	20,500,000	.38900	7,974,500
85	570		-		-
85			19,153		8,368
Totals	1,575,732		437,011,495 Therms		$220,821,156

DOCKET NO. G-5, SUB 166
DOCKET NO. G-5, SUB 168

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of)
North Carolina, Inc., for an Adjustment of) ERRATA ORDER
Its Rates and Charges)

BY THE COMMISSION: After a review of the Order Granting Partial Increase in Rates issued on May 14, 1982, in this docket, the Commission concludes that Appendix A attached thereto should be amended to accurately reflect two items. First, miscellaneous revenues of $567,328 should be deducted from the Commission's approved level of end-of-period revenues to derive the amount of $220,820,167. This is the amount that should be achieved by the rates contained in Amended Appendix A. To best achieve this level of revenues, the rates included on Amended Appendix A, attached hereto, are appropriate. This Amended Appendix A properly reflects the effects of the level of miscellaneous revenues supported by both the Public Staff and the Company, and encompasses an increase in reconnection charges from $15 to $20, approved herein. In addition, Amended Appendix A reflects the appropriate level of end-of-period revenues under approved rates for rate schedule 70 of $39,728,466. Further, and in the interest of clarity, and consistent with the treatment accorded certain items of cost in determining the proper level of income tax expense in the Company's cost of service, the Commission wishes to acknowledge that the said tax treatment reflects normalization of the use of the Accelerated Cost Recovery System.

IT IS, THEREFORE, ORDERED as follows:

1. That Appendix A attached to the Order of May 14, 1982, in this docket, be, and hereby is, void.

2. That Public Service shall file appropriate tariffs in conformity with the base rates set forth in Amended Appendix A appropriately adjusted for the recently approved tariff decrease resulting from Transco's reduction in the cost of gas and in conformity with the provisions of this Order not later than ten (10) days from the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of May 1982.

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

AMENDED
APPENDIX A

Rate Schedule	Number Bills	Facilities Charge	Sales Volume (Th.)	Approved Rate ($/Th.)	Gas Sales Total Revenue
50	1,396,189	4.50	-		$ 6,282,851
50			108,676,570	.53130	57,739,862
55	174,044	6.50	-		1,131,286
55			70,960,311	.52208	37,046,959
60	1,350	62.50	-		84,375
60			45,588,277	.49089	22,378,829
65 & 67	2,668	62.50	-		166,750
65 & 67			88,675,874	.48552	43,053,910
70	899		-		
70			90,091,310	.44098	39,728,466
80	12		-		
80		Propane	12,500,000	.41800	5,225,000
		#6 Fuel Oil	20,500,000	.38900	7,974,500
85	570		-		-
85			19,153		8,368
Totals	1,575,732		437,011,495 Therms		$220,821,156

DOCKET NO. B-209, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

LaVonda Bullock, Bonita Cates, Teresa Cates, Anne Sheppard, and Durham Citizens Roundtable Coalition, on Behalf of Themselves and all Others Similarly Situated, Complainants	ORDER CONTINUING RESTORATION OF BUS SERVICE AND SCHEDULING HEARING
vs.	
Duke Power Company and the City of Durham, Defendants	

BY THE COMMISSION: On February 17, 1982, LaVonda Bullock, Bonita Cates, Teresa Cates, Anne Sheppard, and the Durham Citizens Roundtable Coalition filed a complaint against Duke Power Company and the City of Durham. The Complainants requested the Commission to take jurisdiction of the matter; to immediately order Duke to restore the cuts in bus service that went into effect in the City of Durham on February 1, 1982, respecting rush hour service and on February 15 respecting night service; and, after a full evidentiary hearing, to order Duke to restore bus service in the City of Durham to the level that existed in 1973.

Also on February 17, 1982, the Complainants filed a Motion for a Preliminary Order Suspending the Termination of Night Bus Service and the Reduction in Service on Routes One and Three During Rush Hours in the City of Durham. In its motion the Complainants requested the Commission to order Duke to immediately restore the night bus service that was terminated February 15, 1982, and the rush hour service that was decreased February 2, 1982; if the Commission were not disposed to grant the relief, the Commission was requested to grant an expedited hearing on the motion.

In a letter accompanying the complaint and motion, counsel for the Complainants requested expedited determination on the jurisdiction of the Commission to hear this matter and on the motion to have certain bus service restored pending a full evidentiary hearing and final decision.

On February 18, 1982, the Commission issued an Order serving the motion and complaint on Duke and the City of Durham and giving these parties ten (10) days to answer the complaint. The Order also directed Duke to immediately restore the night bus service and the rush hour service on routes one and three pending oral argument and hearing upon affidavit before the Commission on Monday, February 22, 1982, at 9:00 a.m. to determine whether or not the restoration of bus service ordered therein should continue until the final determination of the Complaint.

On Monday, February 22, 1982, the Complainants, Duke Power Company, the City of Durham, and the Public Staff presented oral argument and hearing upon affidavits before the full Commission. On Monday afternoon the Commission orally continued in effect the Order of February 18, 1982, pending the issuance of a written Order on Tuesday.

Upon consideration of the Complaint, the affidavits of the parties, the oral argument of counsel, and the entire record in this docket, the Commission makes the following

FINDINGS OF FACT

1. The complaining individuals Bullock, Cates, and Sheppard are residents of the City of Durham who use the bus service maintained and operated by Duke Power Company in the City of Durham. The Complainant Durham Citizens Roundtable Coalition is composed of residents of the City of Durham and representatives of religious and civic groups opposed to the termination of night bus service and the general decreasing level of bus service in Durham.

2. Duke Power Company maintains and operates a bus transportation system in the City of Durham, under the City's supervision, pursuant to a grant of authority contained in a Franchise Agreement between Duke Power Company and the City of Durham dated June 19, 1973. Duke is a public utiliy subject to the jurisidction of this Commission.

3. On or about December 21, 1981, the Durham City Council approved the request of Duke Power to terminate its night bus service and to reduce its pea (rush) hour bus service on routes one and three. The reduction in peak hour service became effective February 1, 1982, and the termination of night bus service became effective February 15, 1982.

4. The Complainants state that they are largely dependent on the bus system for transportation to and from jobs, schools, doctors, hospitals, shopping facilities, public facilities, and to and from relatives, friends, and churches. The Complainants have low incomes and may not be able to afford a significant increase in bus fare. Several of the Complainants use the peak hour and the night schedules to get to and from work. One Complainant is medically disabled. The Complainants who would be forced to walk to and from work at night may face physical danger.

5. The City of Durham has inaugurated a plan to provide transportation during the evening hours in Durham. The City has contracted with three taxicab companies to provide a "Taxi-Bus" service at night along the same routes, at the same times, and utilizing the same stops that were provided by Duke's bus service. The fare for the Taxi-Bus service is $1.00 per passenger, except that passengers 65 years of age or older are charged $ .50 and children six years of age or younger are charged no fare. The service became effective February 15, 1982.

CONCLUSIONS

1. The Commission has jurisdiction to hear and determine the complaint filed in this docket on February 17, 1982. The applicable statute is G.S. 62-260, subsection (a)(8) of which exempts from regulation the transporation of passengers "when the movement is within a municipality exclusively . . ." Subsection (b) provides, however, that the Commission shall have jurisdiction to fix the rates of carriers transporting passengers as described in subsection (a)(8), and "shall have jurisdiction to hear and determine controversies with respect to extensions and services . . ." In Winston-Salem v. Coach Lines, 245 N.C. 179 (1956), wherein the City sought in Superior Court to restrain the local bus company from putting into effect the

curtailment of bus service within the corporate limits of Winston-Salem, the Supreme Court interpreted this statute, formerly G.S. 62-121.47(1), as follows:

> "We interpret G.S. 62-121.47(1) to mean that the Utilities Commission is not vested with power to require the operators of services enumerated therein to obtain a franchise from it and does not have any supervision or jurisdiction over such operation, except the operations set forth in subsections (e) and (h), and as to them it retains `jurisdiction to fix rates and charges,' and `to hear and determine controversies with respect to extensions and services.'" (citation omitted).
>
> "In our opinion the Utilities Commission has exclusive jurisdiction to hear and determine the controversy involved in this proceeding, . . ." 245 N.C. at 184.

An examination of the Complaint discloses that the Complainants seek the restoration of bus service in the City of Durham to the level that existed in 1973 and also the immediate restoration of night service that was terminated by Duke on February 15, 1982, and of rush hour service that was decreased on February 1. The Complaint contains numerous allegations with respect to the decline in bus service since 1973 and the failure of Duke to provide adequate and reliable service to the riders of the system. The Complaint also alleges the effect that such decline and reduction in service has had upon the Complainants and other users of the service. The Complaint further alleges that the decline and reduction in service violates certain rights secured to all Complainants by the contract entered into between Duke and the City of Durham regarding the bus operations of Duke within the City of Durham.

The Commission, therefore, concludes that a controversy exists with respect to the bus service provided by Duke Power Company in the City of Durham and that the Commission has jurisdiction to hear and determine the complaint.

2. The night bus service and the rush hour service on routes one and three that were ordered restored by the Commission on February 18, 1982, should continue in effect until the final determination of the complaint.

The affidavits submitted by the Complainants in this proceeding show that the Complainants may suffer irreparable hardship unless the night bus service and the rush hour service restored by Commission Order on February 18 is continued in effect pending the final determination of this matter. The Complainants are low income individuals who depend upon the bus service to go to and from their jobs, schools, doctors, shopping facilities and other places. The Complainants especially use the peak hour and night bus service to go to and from work and they may suffer the possibility of physical danger if they were forced to walk. Moreover, they may not be able to pay a significant increase in transportation fare.

The affidavits submitted by Duke Power Company disclose that the Company would face some problems if the restored service were continued to a final determination. It appears from an examination of these affidavits and the argument of Duke counsel that the Company would face little difficulty in restoring the rush hour service. With respect to the night bus service, the Company states that as a result of the curtailment of night service, Duke

"laid off" three bus drivers and that these drivers are no longer employees of the Company. Duke further states that some of its present drivers will have to work overtime, thereby increasing costs. Moreover, Duke discloses that the City of Durham has inaugurated a plan to provide transportation during the evening hours in Durham. The City has entered into contracts with three taxicab companies to provide a "Taxi-Bus" service at night along the same routes, at the same times, and utilizing the same stops that were provided by Duke. Duke contends that the restoration of its night service would materially affect the "Taxi-Bus" plan.

The Commission has carefully weighed the affidavits, the motions, and the oral argument of all parties, and must conclude that the Complainants have made a clear showing that they may suffer irreparable hardship unless the service restored on February 18, 1982, is continued in effect pending the final determination of the complaint. Duke, on the other hand, has failed to show that it will be unduly harmed by the continuation of the restored bus service pending the final determination of this matter. The Commission is setting the hearing on the Complaint on an expedited basis. Moreover, this Order will allow Duke to provide night bus service by an alternative method if the Company so elects: Duke may request the City of Durham to continue the Taxi-Bus plan inaugurated by the City of Durham pursuant to the written contract with three local taxicab companies; the fares for such Taxi-Bus service shall be the same as the fares contained in Duke's local bus tariff for Durham. Duke shall pay to the City (or to the taxicab companies) the difference between the fares contained in the written contract and the fares contained in Duke's tariff.

IT IS, THEREFORE, ORDERED:

1. That the Commission has jurisdiction to hear and determine the Complaint filed in this docket on February 17, 1982.

2. That Duke Power Company shall continue in effect, pending final determination of the Complaint, the night bus service and the peak hour service on routes one and three that were restored by the Commission's Order of February 18, 1982. Provided, however, that Duke Power Company may use the following alternative method to provide night bus service, if the Company so elects: Duke may request the City of Durham to continue the Taxi-Bus plan inaugurated by the City of Durham pursuant to the written contract between the City and the three taxicab companies; the fares for such Taxi-Bus service shall be the same as the fares contained in the local passenger tariff of Duke Power Company for bus service in the City of Durham (NCUC No. 24 and supplements thereto). Duke shall pay to the City or to the taxicab companies, for each passenger transported in the Taxi-Bus service, the difference between the fares contained in the written contract between the City and the taxicab companies and the fares contained in Duke's tariff for bus service.

3. That the Complaint be scheduled for hearing on Thursday, March 25, 1982, at 10:00 a.m. and at 7:00 p.m. in the Council Chambers, City Hall, 101 City Hall Plaza, Durham, North Carolina.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

Commissioners Tate and Campbell dissent.

MOTOR BUSES

DOCKET NO. B-15, SUB 186

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Carolina Coach Company - Suspension and Investigation of Proposed Increases in Intercity Bus Passenger Fares, Bus Package Service Rates, and Intercity Passenger Charter Rates and Charges, Scheduled to Become Effective on July 9, 1982	) ORDER GRANTING) PARTIAL INCREASE) IN RATES

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on October 19, 1982

BEFORE: Commissioner Douglas P. Leary, Presiding; and Commissioner Leigh H. Hammond and Chairman Robert K. Koger

APPEARANCES:

For the Applicant:

Joseph W. Eason, Allen, Steed & Allen, P.A., P.O. Box 2058, Raleigh, North Carolina 27602

For the Public Staff:

Theodore C. Brown, Jr., Acting Chief Counsel, 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 1, 1982, National Bus Traffic Association, Inc. (NBTA), for and on behalf of Carolina Coach Company (Carolina Coach, Company, or Respondent) filed Application No. 61 and various tariff publications proposing to increase North Carolina intrastate intercity passenger fares, package express rates, and the charter coach charges. The application proposed that passenger fares increase by 20%, express rates increase by 33%, and charter coach fares increase by 19%.

The general increases were scheduled to become effective upon North Carolina intrastate traffic on July 9, 1982.

The Commission, by Order issued June 30, 1982, declared the application to be a general rate case, suspended the application for a period of up to 270 days from July 9, 1982, and scheduled the hearing to begin on October 19, 1982.

On September 2, 1982, the Commission received a letter (treated as a motion) from Carolina Coach Company requesting the Commission to establish a procedure for determining what, if any, minutes of the meetings of the Board of Directors of Carolina Coach Company should be produced for examination by agents of the Public Staff of the North Carolina Utilities Commission.

The Public Staff filed a Notice of Intervention on September 10, 1982, and filed a Reply to Carolina Coach's Motion on September 14, 1982. On

September 15, 1982, the Commission issued an Order Allowing Inspection of Minutes of all the meetings of the Board of Directors of Carolina Coach for the years 1980, 1981, and 1982.

On September 17, 1982, Carolina Coach filed a Motion requesting a Protective Order from the Commission with respect to information obtained from the inspection of their minutes. The Public Staff filed its response to Carolina Coach's Motion on September 22, 1982, and Carolina Coach filed a response again requesting a Protective Order. On September 29, 1982, the Commission issued a Protective Order.

On October 13, 1982, Carolina Coach filed Objections and Motion to Strike Portions of Testimony filed by James C. Turner of the Public Staff.

At the hearing, Carolina Coach presented evidence through witnesses A.R. Guthrie, Vice President - Marketing of Carolina Coach Company and Robert E. Brown, Treasurer of Carolina Coach Company of Raleigh, North Carolina.

The Public Staff presented testimony through James C. Turner, Supervisor and Phillip W. Cooke, Rate Specialist, both with the Transportation Rates Division of the Public Staff.

Based upon the evidence produced at the hearing, the testimony and exhibits introduced at the hearing, and the entire record, the Commission makes the following

FINDINGS OF FACT

1. That the Respondent in this proceeding is Carolina Coach Company.

2. That Carolina Coach is engaged in the intercity transportation of passengers and express shipments for compensation in North Carolina intrastate commerce and is subject to the jurisdiction of this Commission under the Public Utilities Act.

3. That the tariffs submitted on June 1, 1982, in connection with the application, were scheduled to become effective on North Carolina intrastate traffic on July 9, 1982.

4. That the tariffs provided for increases as follows:

   a. Passenger fares increased by 20%, adjusted to the nearest "0" or "5";

   b. Express rates increased by approximately 33%; and

   c. Charter coach charges increased by approximately 19.4%.

5. That Carolina Coach did not follow the procedures prescribed by the Commission for allocation of actual system expenses to the North Carolina intrastate actual expense level.

6. That the increase proposed by the Respondent will result in approximately $933,764 in additional revenues broken down as follows:

a.	Passenger	- $461,823
b.	Express	- 349,726
c.	Charter	- 122,215
	Total	$933,764

7. That Respondent's present level North Carolina intrastate operating ratios, after Public Staff corrections and adjustments to update the test year results, were:

a.	Passenger/Express	- 100.9%
b.	Charter	- 104.9%
	Total	- 101.5%

8. That the Respondent's proposed increase in passenger fares and express rates results in an 83.4% proposed operating ratio.

9. That the Respondent's proposed increase in charter coach charges results in an 87.9% proposed operating ratio.

10. That the Respondent's proposed increase in passenger fares, express rates, and charter coach charges results in a composite 84.0% proposed operating ratio.

11. That the Public Staff recommended proposed increases that will result in approximately $375,797 additional revenues broken down as follows:

			% Increase
a.	Passenger	- $205,511	8.9%
b.	Express	- 93,377	8.9%
c.	Charter	- 76,909	12.2%
	Total	$375,797	9.4%

12. That the resulting Public Staff recommended proposed increase in passenger fares and express rates results in a 93.5% proposed operating ratio.

13. That the resulting Public Staff recommended proposed increase in charter coach charges results in a 93.5% proposed operating ratio.

14. That the resulting Public Staff recommended proposed increase in passenger fares, express rates, and charter coach charges results in a composite 93.5% proposed operating ratio.

15. That the Applicant's fair and reasonable operating ratio is 89%.

16. That the Applicant's fair and reasonable operating ratio of 89% results in the following gross revenue increases:

	Item	Amount	% Increase
a.	Passenger	$351,216	15.21%
b.	Express	159,580	15.21%
c.	Charter	112,651	17.88%
	Total	$623,447	15.63%

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 4

The evidence for these findings comes from the verified application and the pertinent North Carolina General Statutes. These findings are essentially informational, procedural, and jurisdictional in nature and were not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The cost allocation methodology used by Carolina Coach did not follow the procedures prescribed by the Commission for allocation of actual system expense to the North Carolina intrastate actual expense level. The Commission takes judicial notice of the Report of the Public Staff in Docket No. B-105, Sub 38, wherein it states that "...the passenger mile ratio is to be construed as the composite ratio of total North Carolina intrastate passenger miles to total North Carolina (or N.C. division) passenger miles." The ratio used by Carolina Coach for state to intrastate actual expense allocation was determined by dividing a passenger mile ratio (North Carolina intrastate passenger miles ÷ system passenger miles) by a bus mile ratio (determined by dividing North Carolina regular route bus miles by system regular route bus miles) which does not produce the passenger mile ratio prescribed by the Commission.

Further, witness Brown admitted that his passenger mile ratio was not computed by using strictly North Carolina divisions. To be in conformity with B-105, Sub 38, guidelines and procedures, only North Carolina divisions are to be used in constructing the passenger mile ratio for allocation of the State of North Carolina expenses to the North Carolina intrastate level.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The total additional North Carolina intrastate revenues sought by Respondent amounts to approximately $933,764 which is made up by the following:

Passenger	- $461,823	or 20.0%
Express	- 349,726	or 33.3%
Charter	- 122,215	or 19.4%
Total	$933,764	or 23.4%

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

Based on Carolina Coach's filing, the Public Staff's correction to the Carrier's updating of passenger and express revenue and the Public Staff's calculation of the North Carolina intrastate actual expense allocation factor and passenger mile ratio, the test year present level North Carolina passenger

and express intrastate operating ratio was 100.9%. Witness Turner testified to the 100.9%. No other operating ratio was offered by Carolina Coach in rebuttal to the 100.9%. Witness Turner also testified that the test year North Carolina intrastate present level charter operating ratio was 104.9%, and no other operating ratio was offered by Carolina Coach in rebuttal to the 104.9%. Also, the total North Carolina present level test year operating ratio for passenger, express, and charter operations of 101.5% was offered in testimony by witness Turner which was not contested by Carolina Coach.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Witness Turner testified that the Respondent's proposed increase in passenger fares and express rates results in an 83.4% operating ratio, which was uncontested by Carolina Coach.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Witness Turner also testified that the Respondent's proposed increase in charter coach charges results in an 87.9% operating ratio, which was uncontested by Carolina Coach.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

Witness Cooke testified that the Respondent's proposed increase in passenger fares, express rates, and charter coach charges results in a composite 84.0% proposed operating ratio, which was uncontested by Carolina Coach.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11 - 14

Witness Turner testified that the Public Staff recommended proposed increases which result in approximately $375,797 in additional revenues, resulting in proposed increases by traffic class as follows:

Passenger -	8.9% or	$205,511
Express -	8.9% or	93,377
Charter -	12.2% or	76,909
Total	9.4% or	$375,797

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 15 AND 16

The determination of the appropriate operating ratio for the Company is of great importance and must be made with great care because whatever operating ratio is allowed will have an immediate impact on the Company, its stockholders, and its customers. In the final analysis, the determination of a fair and reasonable operating ratio must be made by the Commission, using its own impartial judgment and guided by the testimony of expert witnesses and other evidence of record.

The nature of the evidence in a case such as this makes it extremely difficult to balance all of 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 Company and the capital markets. The Commission must use its impartial judgment to ensure that all the parties involved are treated fairly and equitably. The Commission therefore concludes that the

Company's fair and reasonable operating ratio on which to base rates in this proceeding is 89%.

In order to achieve the 89% operating ratio found to be reasonable and based on the testimony and exhibits of Public Staff witness Turner, the Commission concludes that the Company should be allowed to increase its passenger rates by $351,216, increase its express rates by $159,580, and to increase its charter rates by $112,651, resulting in a total increase in operating revenues under approved rates of $564,550. This level of increases will afford the Company, through efficient management, a fair and reasonable ratio of 89%.

IT IS, THEREFORE, ORDERED as follows:

1. That the Respondent be, and same hereby is, authorized to increase North Carolina intrastate rates and charges in the following manner:

	Item	Amount
1.	Passenger Service	$351,216
2.	Express Service	159,580
3.	Charter Service	112,651
	Total	$623,447

2. That the Commission Order of Suspension and Investigation in this proceeding be, and the same hereby is, vacated and set aside.

3. That the Respondent hereby is authorized to publish appropriate tariff schedules providing for the increase set forth in Ordering Paragraph 1 above to become effective on five days' notice to the Commission and the general public.

4. That upon the publications herein authorized having been made, the investigation in this matter be discontinued and the docket closed.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of December 1982.

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

DOCKET NO. B-79, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Seashore Transportation Company - Suspension and Investigation of Proposed Increases in Intercity Bus Passenger Fares, Bus Package Service Rates, and Charter Rates and Charges) RECOMMENDED ORDER) APPROVING INCREASE) IN RATES AND CHARGES)

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on September 23, 1982

BEFORE: Hearing Examiner Jim Panton

APPEARANCES:

For the Applicant:

David L. Ward, Jr., Ward and Smith, P.A., Attorneys at Law, P.O. Box 867, New Bern, North Carolina 28560

For the Public Staff:

Theodore Brown, Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

PANTON, HEARING EXAMINER: On June 1, 1982, the National Bus Traffic Association, Inc., on behalf of Seashore Transportation Company (Seashore, Respondent), filed Application 62, for an increase in Respondent's rates and charges applicable on the transportation of North Carolina Intrastate Motor Bus Passenger, Express, and Charter services. In addition, the Respondent prefiled the testimony and exhibits of R. C. O'Bryan, Vice President and General Manager of Seashore, and Vann R. Rogerson, Controller of Seashore. This matter was declared a general rate case by Commission Order of June 30, 1982, and public hearing was set for September 23, 1982. In addition, the Commission Order of June 30, 1982, suspended Respondent's proposed rates.

The Public Staff filed its Notice of Intervention on July 28, 1982. On August 23, 1982, the Public Staff prefiled the testimony of Martha G. Cobb, Rate Specialist - Transportation Rates Division.

The matter came on for hearing as scheduled on September 23, 1982. No public witnesses appeared at the hearing. The Company offered the testimony of R. C. O'Bryan and Vann Rogerson. At the public hearing, the parties stipulated and agreed that Seashore would file within ten (10) days supplemental test year information using matching data for consideration by the Commission. The Public Staff was granted an additional thirty (30) days from the date Seashore furnished such information to evaluate and investigate the supplemental data filed by Seashore.

On September 29, 1982, Seashore made its filing pursuant to the stipulation reached at the public hearing and on October 29, 1982, the Public Staff filed the Verified Statement of Martha G. Cobb.

Based upon the verified application and all evidence of record, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. That Seashore Transportation Company has proper authority from this Commission for the transportation of passenger, express, and charter service on an intrastate basis in its service area in North Carolina.

2. That the appropriate test year for the proceeding is the 12 months ended June 30, 1982.

3. That the Respondent's cost allocation procedures are appropriate.

4. That the Respondent's quality of service is adequate.

5. That the Respondent's proposed increase in rates and charges will result in the following percentage increases over present rates:

Item	% Increase
Passenger service	25.00%
Express service	25.00%
Charter service	9.03%

6. That the Respondent's proposed increase in rates and charges will result in the following increase in annual gross revenues:

Item	Amount
Passenger service	$257,010
Express service	64,013
Charter service	38,329
Total	$359,352

7. That the Respondent's fair and reasonable level of end-of-period operating revenue deductions for use in determining the proper operating ratio is $2,011,421.

8. That the Respondent's fair and reasonable level of end-of-period revenues under present rates is $1,714,487 and under proposed rates is $2,073,839.

9. That the Respondent's end-of-period operating ratio under the rates approved herein is 96.99%.

10. That the Respondent's proposed rates are approved and will produce a fair and reasonable operating ratio of 96.99%.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 10

The evidence for these findings is found primarily in the testimony of Company witnesses O'Bryan and Rogerson and the Respondent's September 29, 1982, filing and the October 29, 1982, Verified Statement of Martha G. Cobb. More specifically, the Verified Statement of Martha G. Cobb states agreement to financial data presented by the Respondent in its filing of September 29, 1982. This agreement is culminated by the statement that the "Public Staff does not wish to oppose Applicant's filing in this proceeding." Based on the foregoing and the fact that no party of record opposes the Respondent's proposed increase, the Hearing Examiner concludes that the proposed rates and charges should be approved and that the resulting operating ratio of 96.99% is appropriate.

IT IS, THEREFORE, ORDERED as follows:

1. That Seashore Transportation Company's application to increase passenger service rates by 25%, express service rates by 25%, and charter service rates by 9.03%, as contained in Application 62, be, and hereby is, approved upon the effective date of this Order and appropriate tariff filing.

2. That the tariff filed pursuant to Ordering Paragraph No. 1 above be, and hereby is, allowed to be effective upon one day's notice to the public, subsequent to the effective date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of November 1982.

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

DOCKET NO. B-69, SUB 133

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Trailways Southeastern Lines, Inc., - Suspension and Investigation of Proposed Increases in Intercity Bus Passenger Fares, Bus Package Service Rates, and Intercity Bus Passenger Charter Rates and Charges, Scheduled to Become Effective March 1, 1982	)))))	ORDER GRANTING PARTIAL INCREASE IN RATES

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on May 20, 1982

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Douglas P. Leary and A. Hartwell Campbell

APPEARANCES:

For the Respondent:

Edward S. Finley, Jr., Hunton & Williams, Attorneys-at-Law, P.O. Box 109, Raleigh, North Carolina 27602

For the Public Staff:

Theodore C. Brown, Jr., Acting Chief Counsel, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: On January 26, 1982, National Bus Traffic Association, Inc. (NBTA), for and on behalf of Trailways Southeastern Lines, Inc. (Trailways, Company, Respondent), filed Application No. 59 and various tariff publications proposing to increase North Carolina intrastate intercity passenger fares, package express rates, and the charter coach charges. The application proposed that passenger fares increase by 20%, express rates increase by 50.2%, and charter coach fares increase by 3.1%.

The general increases were scheduled to become effective upon North Carolina intrastate traffic on March 1, 1982.

On February 23, 1982, the Commission, being of the opinion that the proposed revisions in the bus passenger, express, and charter tariff schedules were a matter affecting the public interest, issued its Order which, among other things, suspended the tariff schedules, instituted an investigation into

and concerning the lawfulness of the tariff schedules, declared a general rate case, required notice to the public, and set a hearing for May 20, 1982, at 10:00 a.m., in the Commission Hearing Room, Raleigh, North Carolina.

The Public Staff, on March 4, 1982, filed Notice of Intervention in this docket and that intervention was deemed recognized by the Commission.

At the hearing, Trailways presented evidence through John Bushong, Assistant Controller, Financial Reporting and Analysis, and Clint Polk, District Manager of North Carolina and South Carolina for Trailways Southeastern Lines, Inc.

The Public Staff presented testimony through David A. Poole, Staff Accountant-Transportation Rates.

Based upon the evidence produced at the hearing, the testimony and exhibits introduced at the hearing, and the entire record, the Commission makes the following

FINDINGS OF FACT

1. That the Respondent, Trailways Southeastern Lines, Inc., is engaged in the intercity transportation of passengers for compensation in North Carolina Intrastate Commerce and is subject to the jurisdiction of this Commission under the Public Utilities Act.

2. That the test period in this docket is the 12 months ended September 30, 1981, adjusted for known changes occurring through the close of the hearing.

3. That the test period North Carolina Intrastate issue traffic expenses of the Company are $3,836,737 under present rates.

4. That the total test period North Carolina Intrastate issue traffic revenues under present rates are $3,403,212, consisting of passenger revenues of $2,310,025, special bus revenues of $245,126, mail revenues of $2,055, express revenues of $818,091, newspaper revenues of $100, miscellaneous station revenues of $16,759, and other revenues of $11,056. When added to the proposed increase in revenues of $880,286, test period revenues after the proposed increase become $4,283,498.

5. That the test period operating ratio prior to the proposed increase is 112.74% and the operating ratio after the approved increase in rates and charges for all rates and charges will be 93.5%, which does not exceed that which is just and reasonable.

6. That the rate increases approved herein will afford the Company a fair and reasonable opportunity to earn the 93.5% overall rate of return.

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

The evidence for these findings comes from the verified application. The findings are essentially informational, procedural and jurisdictional in nature and are not contested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The only dispute between the parties with respect to operating expenses concerns the factor to be applied to expenses to bring them to an ongoing level. Witness Bushong, testifying on behalf of Trailways, computed a 13.6% factor which he applied to test year expenses. He determined the total system expenses and expenses per bus mile for each year from 1977 through 1980, from which he determined that the average percentage increase in the unit price (cost per bus mile) from 1977 through 1980 was 13.6%. The 13.6% average unit cost increase was then applied to the actual test year expenses to determine the end-of-period level of expenses for purposes of this case.

Witness Poole, for the Public Staff, took issue with the 13.6% factor computed by Trailways. Witness Poole divided the cost per bus mile at March 31, 1982, of $1.8731 by the cost per bus mile at September 30, 1981, of $1.6738 to calculate an adjustment of 11.9%.

In his testimony, witness Poole stated that the 13.6% factor utilized by Trailways is improper for three reasons. First, common knowledge of current economic trends indicates that the three-year average rate used by witness Bushong is considerably higher than current economic trends. Second, Trailways was granted rate relief in Docket No. B-105, Sub 39, in an Order dated January 22, 1981, and thus, Trailways has already been granted rate relief that has covered prior years included in the 13.6% inflation rate calculation. Third, the 13.6% inflation adjustment factor was not applied to the depreciation account or the operating rents account. These accounts had credit instead of debit balances during the test year.

Based on the foregoing, the Commission concludes that the 11.9% factor is more appropriate than a 13.6% factor to be used in determining a fair and reasonable level of end-of-period operating expenses to be included in the Company's cost of service. Therefore, the Commission concludes that the Company's proper end-of-period level of operating expenses is $3,836,737, under present rates.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence supporting Finding of Fact No. 4 is contained in the testimony of Company witness Bushong and Public Staff witness Poole. The Company indicated that it had incorrectly computed the amount of increase in charter revenues granted in Docket No. B-105, Sub 39, in annualizing revenues and therefore adjusted the proper level of charter revenues to reflect a level of $245,126. With this adjustment by the Company, the level of issue traffic revenues is not disputed and the Commission concludes that the appropriate level of end-of-period operating revenues under present rates is $3,403,212.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Based upon the Commission's findings and conclusions under Findings of Fact Nos. 3 and 4, the Commission concludes that Trailways' end-of-test-period operating ratio under present rates is 112.74% and that the operating ratio after the Company's proposed increase in rates and charges would be 91.11%.

Both Company witness Bushong and Public Staff witness Poole testified as to the Company's operating ratio for total operations under proposed rates.

While the Company proposed an operating ratio of 93.2%, the Public Staff limited the bulk of its evidence on this matter to reporting what operating ratios resulted from the Company's proposed increases in rates and charges.

The determination of the appropriate operating ratio for the Company is of great importance and must be made with great care because whatever operating ratio is allowed will have an immediate impact on the Company, its stockholders, and its customers. In the final analysis, the determination of a fair and reasonable operating ratio must be made by the Commission, using its own impartial judgment and guided by the testimony of expert witnesses and other evidence of record.

The nature of the evidence in a case such as this makes it extremely difficult to balance all of 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 Company and the capital markets. The Commission must use its impartial judgment to ensure that all the parties involved are treated fairly and equitably. The Commission therefore concludes that the Company's fair and reasonable operating ratio on which to base rates in this proceeding is 93.5%.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

In order to achieve the fair and reasonable operating ratio found to be reasonable elsewhere herein and based upon the testimony of Company witness Bushong, the Commission concludes that the Company should be allowed to increase its Charter rates by $7,599, increase its Passenger rates by $462,005, and increase its Express rates by $291,666, resulting in a total increase in operating revenues under approved rates of $761,270. This level of increases will afford the Company, through efficient management, a fair and reasonable opportunity to achieve the proper operating ratio of 93.5%.

Inherent in the Commission's decisions to increase express rates by $291,666 is the rejection of the Public Staff's position that the Company should not be allowed to increase express rates, based largely on the fact that the Company has not presented separate financial justification for the proposed increase on this segment of the Company's total operations. In fact, the Public Staff's position proports to show that a 99.5% operating ratio for the Company's Passenger and Express operations, after allowing only the proposed increase in passenger service, is not unreasonable. The Commission disagrees with this position and finds it appropriate to point out here that the revenue increases allowed herein, when coupled with the end-of-period operating expenses using the same methodology presented by the Public Staff result in the fair and reasonable operating ratio of 93.5%.

IT IS, THEREFORE, ORDERED as follows:

1. That the Respondent be, and the same hereby is, authorized to increase North Carolina Intrastate rates and charges in the following manner:

1. Passenger Service - $462,005
2. Express Service - $291,666
3. Charter Service - $7,599

2. That the Commission Order of Suspension and Investigation in this proceeding be, and the same hereby is, vacated and set aside, as they pertain to Passenger Service and Charter Service.

3. That the Respondent hereby is authorized to publish appropriate tariff schedules providing for the increase set forth in ordering paragraph 1 above, as they pertain to Passenger and Charter Service.

4. That the publications may be made effective on one day's notice to the Commission and the public, as they pertain to Passenger and Charter Service.

5. That the appropriate tariffs reflecting increase in the Express Service approved in ordering paragraph 1 be, and hereby are, ordered to be filed with this Commission within five working days.

6. That the tariffs reflecting the approved revenue increase in Express Service shall be approved upon further Order of this Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 1st day of September 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

MOTOR BUSES

DOCKET NO. B-69, SUB 133

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Trailways Southeastern Lines, Inc. - Suspension and Investigation of Proposed Increase in Intercity Bus Passenger Fares, Bus Package Service Rates, and Intercity Bus Passenger Charter Rates and Charges, Scheduled to Become Effective March 1, 1982	)	ORDER APPROVING EXPRESS TARIFFS

BY THE COMMISSION: Pursuant to the Commission Order of September 1, 1982, Trailways Southeastern Lines, Inc., filed express rates on September 27, 1982. After review, the Commission finds these rates to be in conformity with the Commission Order of September 1, 1982, and that, therefore, they should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission Order of Suspension and Investigation in this proceeding be, and the same hereby is, vacated and set aside, as they pertain to Express Service.

2. That the Respondent hereby is authorized to publish appropriate tariff schedules providing for the increase set forth in Ordering Paragraph No. 1 of the Commission Order of September 1, 1982, as they pertain to express service.

3. That the publication may be made effective on one day's notice to the Commission and the public.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of October 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. T-2197

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Henry Louis Freeman, Plymouth, North Carolina 27962 - Application for Authority to Transport Group 21, Mobile Homes, Within the Counties of Washington, Dare, Hyde, Martin, Beaufort, Bertie, Chowan, and Tyrrell	)	RECOMMENDED ORDER DENYING APPLICATION

HEARD IN: Commission Hearing Room No. 2, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Wednesday, May 12, 1982, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Howard P. Neumann, Hutchins, Cockrell and Neumann, P.A., Attorneys at Law, P. O. Box 1085, Plymouth, North Carolina 27962
Appearing for: Henry Louis Freeman

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27602
Appearing for: Jimmy Robert Council, d/b/a Jimmy Council Roy W. O'Neal, d/b/a O'Neal's Trailer Sales Pop's Trailer Towing Company, Inc. Norman Arlington Spruill Harold Wayne Williamson, d/b/a Williamson Mobile Home Transport

BENNINK, HEARING EXAMINER: By application filed on March 18, 1982, Henry Louis Freeman (Applicant) seeks a common carrier certificate authorizing transportation of:

"Group 21, Mobile Homes, within the Counties of Washington, Dare, Hyde, Martin, Beaufort, Bertie, Chowan, and Tyrrell."

The application was listed on the Commission's Calendar of Hearings dated April 6, 1982, and was thereby scheduled for hearing on May 12, 1982, at 9:30 a.m.

Protests and motions for intervention were filed on April 30, 1982, by Jimmy Robert Council, d/b/a Jimmy Council; Roy Wayne O'Neal, d/b/a O'Neal Trailer Sales; Pop's Trailer Towing Company, Inc. (Pop's); Norman Arlington Spruill and Harold Wayne Williamson, d/b/a Williamson Mobile Home Transport.

By Commission Order dated May 6, 1982, the Protestants were permitted to intervene in this proceeding.

Upon call of the matter for hearing at the appointed time and place, Applicant and Protestants were present and represented by counsel. Mr. Freeman testified and offered in support of his application the testimony of the following witnesses: Jim Whitehurst, Sheriff of Washington County; James Earl Ainsley, owner of Earl's Trailer Park; and J. C. Morris, owner of three trailer parks in Washington County.

Protestants then offered the testimony of the following witnesses: Jimmy Robert Council, Norman Arlington Spruill, Harold Wayne Williamson, Patricia Ferguson Williamson, wife of Harold Wayne Williamson and bookkeeper for his business, and Jerry Underwood, representative of Pop's.

Based upon a careful consideration of the testimony and evidence presented at the hearing, the documents and exhibits received in evidence and judicially noticed, and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Applicant has been engaged in mobile home sales for the past 15 years in Plymouth, North Carolina.

2. Applicant owns a mobile home park in Martin County and approximately half of the 32 mobile homes in that park. Applicant also owns two mobile home parks in Washington County. Most of the lots in those two parks are occupied by privately owned mobile homes.

3. Applicant, who is also a mobile home dealer, has averaged one mobile home sale per week for the last 15 years, and has moved 95% of the trailers that he has sold.

4. By this application, Applicant proposes to engage in the transportation of Group 21, mobile homes, within the Counties of Washington, Martin, Beaufort, Bertie, Chowan, Tyrrell, Dare, and Hyde.

5. Applicant operates two International tractors. The tractors were not manufactured to transport mobile homes, but have been adapted to do so.

6. Applicant has three employees who deliver and set up mobile homes.

7. Applicant is financially able to furnish the proposed service.

8. Since 1948 Applicant has held Exemption Certificate E-1468. During the period Applicant has been an exempt carrier, there have been instances where he has been reported for making illegal hauls, and on at least one occasion he has been cited for failing to properly mark his equipment. Applicant acknowledges that there were occasions as recently as 1981 when he transported mobile homes that did not belong to him.

9. On occasion Applicant calls authorized carriers on behalf of tenants who are moving to or from lots in one of his parks. He referred tenants to the Protestants Spruill and Council during 1981 and cannot recall any instance when they did not respond promptly and efficiently.

10. In 1981, one of Aplicant's mobile homes was damaged while being moved by Applicant's employees. Protestant Spruill was called to move the damaged mobile home. Mr. Spruill arrived that day and performed the service requested.

11. Jim Whitehurst has been Sheriff of Washington County for 2 years. Mr. Whitehurst has known Applicant for 22 years and states that Applicant's reputation in the community is good.

12. Earl Ainsley has owned and operated Earl's Trailer Park in Plymouth for about 9 years. Mr. Ainsley owns 10 lots in his 50-space park; the other 40 are privately owned.

13. There is considerable turnover in Mr. Ainsley's mobile home park, and Mr. Ainsley can recall no recent instance of a tenant's mobile home not being promptly moved off its lot after the tenant had made arrangements to have it transported.

14. J. C. Morris owns three small mobile home parks in Washington County.

15. Mr. Morris owns most of the mobile homes in his parks and rents them to tenants. He moves the mobile homes back and forth between the three parks according to demand.

16. Mr. Morris has used carriers from Elizabeth City, Robersonville, Williamston, and Washington to move his mobile homes and has generally been satisfied with those movers' services.

17. The last authorized carrier to move a mobile home for Mr. Morris was Protestant Spruill in 1980. Mr. Morris had no complaint with Mr. Spruill's service.

18. Jimmy Robert Council, who lives in Williamston, is an authorized mobile home carrier operating under Certificate No. C-913. He also owns and operates a garage and a trailer park. Mr. Council is authorized to transport mobile homes in all of the counties involved in this application.

19. Mr. Council maintains two trucks built solely for the purpose of transporting mobile homes. The trucks feature special equipment such as expanding mirrors, rotating beacons and tapered fenders with mud flaps. Both trucks are licensed, but are not operated all of the time because there is not enough business to keep both busy.

20. Mr. Council maintains listings in both the alphabetical and yellow page sections of the most recent phone directory covering the cities of Columbia, Creswell, Hamilton, Plymouth, Roberson, Williamston, and Windsor. Mr. Council also advertises in the local newspaper which covers Bertie, Chowan, Hertford, Gates, and Northampton counties.

21. Mr. Council moved four mobile homes at the request of the Applicant in 1981 and received no complaints.

22. Mr. Council made a total of 64 moves during calendar year 1981 for a net profit of $5,130.00.

23. It takes Mr. Council 25 to 30 minutes to travel from Williamston to Plymouth to make a move. Normally, he is not required to move a mobile home on less than a day's notice.

24. Norman Arlington Spruill, who lives in Elizabeth City, is an authorized mobile home carrier operating under Certificate Number C-906 which authorizes transportation of mobile homes statewide. Mr. Spruill maintains telephone listings in the Albemarle area and Williamston directories.

25. Mr. Spruill owns two trucks that are equipped for the transportation of mobile homes. At present only one of those trucks is licensed and in use because of lack of business.

26. Mr. Spruill moved about 125 mobile homes in 1981 and has moved approximately 30 mobile homes so far this year. Thirteen of the 30 moves Mr. Spruill has made during 1982 have been within the area involved in this application.

27. Mr. Spruill's net profit in 1981 from his mobile home moving business was approximately $9,000.00. He is not operating at a profit so far in 1982.

28. Harold Wayne Williamson is a licensed mobile home carrier in Pitt and Beaufort Counties operating under Certificate No. C-1109.

29. Mr. Williamson owns one licensed truck that was built to haul mobile homes, and owns two other trucks which are suitable for the transportation of mobile homes.

30. In 1981 Mr. Williamson's profit on his mobile home moving business was approximately $1,000.00.

31. Mr. Williamson moved 66 mobile homes in 1981 and has moved approximately 20 to 25 mobile homes to date this year.

32. Mr. Williamson advertises in the Washington telephone directory and in the Washington newspaper.

33. Pop's is an authorized carrier of mobile homes operating under Certificate No. C-810.

34. Pop's employs 28 owner/operators, two of whom are domiciled within the area of this application -- one in Craven County and the other in Pitt County.

35. Pop's suffered a loss of approximately $15,000.00 in 1981, and its business is down approximately 20% over the past two years.

36. Pop's trucks are presently operating at about 50% capacity.

37. Pop's advertises in telephone directories statewide, using the main Greensboro call-collect telephone number. Also, Pop's owner/operators expend their own funds for local advertising in directories and newspapers.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

This application for a common carrier certificate is governed by G.S. 62-262(e) which imposes upon the Applicant the burden of proving the following to the satisfaction of the Commission:

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation services, and

2. That Applicant is fit, willing and able to properly perform the proposed service, and

3. That Applicant is solvent and financially able to furnish adequate service on a continuing basis.

The evidence in this record under the third statutory criterion is not conflicting. Applicant has established that he is solvent and financially able to furnish adequate service on a continuing basis.

Consideration of the first statutory criterion requires definition of "public convenience and necessity." Utilities Commission v. Queen City Coach Company, 4 N.C. App. 116, 123 and 124, 166 S.E. 2d 441 (1969), defined the phrase as follows:

> "[1] Our Supreme Court has said many times that what constitutes 'public convenience and necessity' is primarily an administrative question with a number of imponderables to be taken into consideration; e.g., whether there is a substantial public need for the service; whether the existing carriers can reasonably meet this need, and whether it would endanger or impair the operations of existing carriers contrary to the public interest. Utilities Commission v. Trucking Co., 223 N.C. 687, 28 S.E. 2d 201; Utilities Commission v. Ray, 236 N.C. 692, 73 S.E. 2d 870; Utilities Commission v. Coach Co., and Utilities Commisison v. Greyhound Corp., 260 N.C. 43, 132 S.E. 2d 249.
>
> "[2] We are not inadvertent to the fact that the factors denominated as imponderables, to wit: whether the existing carriers can reasonably meet the need for the service and whether the granting of the application would endanger or impair the operations of existing carriers contrary to the public interest, are not solely determinative of the right of the Commission to grant the Application. Both are directed to the question of public convenience and necessity. Utilities Commission v. Coach Co., 233 N.C. 119, 63 S.E. 2d 113. Nevertheless, if the proposed operation under the certificate sought would seriously endanger or impair the operations of existing carriers contrary to the public interest, the certificate should not be issued. Utilities Commission v. Coach Co., supra."

Applicant's evidence under the first statutory criterion, public convenience and necessity, does not establish any substantial deficiency in existing authorized service. Although Applicant makes several allegations concerning delays in transportation by authorized mobile home carriers, he

cannot cite any instance when any of the Protestants have not responded promptly and efficiently to requests for transportation of mobile homes. One of Applicant's shipper witnesses has no need for the transportation of mobile homes, and the other two have no complaints with existing service. Consequently, the Hearing Examiner concludes that the Applicant has not sustained his burden of proof of establishing that there is a public demand and need for the proposed service.

Another element of public convenience and necessity, which must be considered, is whether the proposed operation would impair the operations of the Protestants and other existing carriers contrary to the public interest. Protestants' evidence establishes that the volume of mobile home transportation by authorized carriers (the Protestants) has diminished over the last two years and that the Protestants are not utilizing their trucks and employees to full capacity. In 1981, the Protestant Pop's operated at a loss and the operations of the other testifying Protestants were only marginally profitable. In view of this evidence and of the absence of any stated public demand and need for the proposed service, it is apparent that a grant of authority to the Applicant would impair the operations of the Protestants contrary to the public interest. Any traffic that the Applicant might divert from the Protestants would have a potentially ruinous effect upon them.

IT IS, THEREFORE, ORDERED that the application of Henry Louis Freeman as more fully described above be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of July 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

DOCKET NO. T-2162

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Larry F. Price, Route 10, Box 467, Monroe, North Carolina - Application For Authority to Transport Group 21, Mobile Homes, Statewide) RECOMMENDED ORDER) DENYING APPLICATION

HEARD IN: Union County Court House, Monroe, North Carolina 28110, on February 11, 1982

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Bobby H. Griffin, Clark & Griffin, Attorneys at Law, 209 E. Jefferson Street, Box 308, Monroe, North Carolina 28110

For the Protestant:

William P. Farthing, Jr., Grier, Parker, Poe, Thompson, Bernstein, Gage & Preston, Attorneys at Law, 1100 Cameron-Brown Building, Charlotte, North Carolina 28209
For: Doug's Mobile Home Towing, Inc.

PARTIN, HEARING EXAMINER: On October 5, 1981, Larry F. Price (Applicant), Route 10, Box 967, Monroe, North Carolina, filed an application for the following irregular route common carrier authority: mobile homes, to, from and between points and places (a) within Union County, and (b) Statewide.

The application was noticed in the Commission's Calendar of Hearings issued December 21, 1981.

On December 28, 1981, Doug's Mobile Home Towing, Inc. (Doug's or Protestant), filed Protest and Motion for Intervention in this docket.

On December 30, 1981, the Commission issued an Order Granting Intervention to Doug's Mobile Home Towing, Inc., as a Protestant Party.

On January 9, 1982, the Applicant filed a Motion requesting the removal of this hearing to Union County. On January 5, 1982, the Protestant filed a Reply In Opposition to the Motion for Removal.

On January 13, 1982, the Commission issued an Order rescheduling the hearing to Union County on February 11, 1982.

On January 19, 1982, counsel for the Protestant, Doug's Mobile Home Towing, Inc., informed the Commission that he was withdrawing as counsel and that thereafter the Protestant would be represented by William P. Farthing, Jr., of Charlotte.

The proceeding came on for hearing on February 11, 1982, in Monroe. The Applicant and the Protestant were present and represented by counsel. The Applicant presented the testimony of Larry F. Price, the Applicant; Charles Dennis Simpson, of Family Housing Center, a mobile home dealer in Union County; Ira McDonald Flowe, manager of Colonial Mobile Homes in Monroe; Leola Baucom Goodall, the owner and operator of a dealership for Conner Mobile Homes; and W. Steve Lowder, the owner of Brookhaven Mobile Home Park.

The Protestant presented the testimony of Walter Douglas Aldridge, the President of Doug's Mobile Home Towing, Inc.

Upon consideration of the testimony and exhibits presented at the hearing and the entire record in this docket, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Larry F. Price, Route 10, Box 467, Monroe, North Carolina, has filed an application with the Commission seeking common carrier authority to transport Group 21, Mobile Homes, to, from and between points and places (a) within Union County and (b) Statewide.

2. Mr. Price owns Price's Gulf Service in Monroe. He does not hold any common or contract carrier authority from this Commission.

3. Doug's Mobile Home Towing, Inc., is located in Monroe, Union County, and holds Certificate No. C-991 from this Commission to engage in the following irregular route common carrier authority:

(1) Transportation of Group 21, to wit, Mobile Homes, and Modular Homes:

Between all points and places in Union County and from all points and places in Union County to all points and places in North Carolina and from all points and places in North Carolina to all points and places in Union County; provided, that there shall be no authority to transport mobile homes and modular homes in the aforedescribed territory from any point of manufacture or from any manufacturer of such mobile homes and modular homes.

(2) Transportation of mobile homes, i.e., house trailers, whether for residence, mobile offices, mobile special equipment, mobile display purposes and any and all other purposes for which mobile homes (house trailers) may be lawfully used, and accessories to mobile homes between points and places in North Carolina west of U.S. Highway 220 and from points west of U.S. Highway 220 to points east of U.S. Highway 220.

4. The Protestant Doug's obtained the authority set forth in paragraph 1 above in 1974; the authority set forth in paragraph 2 above was obtained in 1978.

5. The Protestant Doug's has eight trucks available to serve the public under its Certificate. This equipment was underutilized at the time of the hearing because of a lack of business.

6. Doug's has six drivers. One driver is currently unemployed. The remaining drivers are idle two to three days a week because of the lack of business.

7. Doug's can meet the needs of the mobile home shipping public on 48-hour notice at least 98% of the time.

8. Within the year prior to the hearing, Doug's was unable to meet only one request for service; that request was made at 4:30 p.m., for the move of a mobile home the same day.

9. The employee of Doug's who handles calls from the public has received no complaints from shippers concerning Doug's inabliity to provide equipment for the moving of mobile homes.

10. Three of the four witnesses who testified for the Applicant Price expresed satisfaction with Doug's service. The fourth witness testified that he has never directly called Doug's for service, although he has used the services of Doug's lease-operator, Paul Helms. The Applicant Price himself testified that he had heard no complaints concerning Doug's fitness, ability, and willingness to move mobile homes.

11. Doug's has a lease-operator, Paul Helms, who is available to move mobile homes under Doug's certificate. Other mobile home carriers have authority to enter Union County to transport mobile homes; some of these carriers are located in nearby Charlotte.

12. The public convenience and necessity do not require the Applicant's proposed service in addition to the existing authorized service.

13. The granting of the Application herein would impair the ability of Doug's to perform efficient public service, in that Doug's would have to lay off additional drivers and possibly sell equipment.

CONCLUSIONS

Under the provisions of G.S. 62-262(e), the Applicant has the burden of proof with respect to its application for common carrier authority to show to the satisfaction of this Commission:

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation service,

2. That the Applicant is fit, willing, and able to properly perform the proposed service, and

3. That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

The type of proof required to show public convenience and necessity within the meaning of G.S. 62-262(e) is further explained by Rule R2-15 of this Commission which provides that the Applicant must establish proof that a "public demand and need exists" for the proposed service in addition to existing authorized service. The Supreme Court of North Carolina and the Court of Appeals have in several decisions stated the elements which constitute "public convenience and necessity," pointing out that they include such questions as "whether there is a substantial public need for the service"; "whether the existing carriers can reasonable meet this need"; and "whether it would endanger or impair the operations of existing carriers contrary to the public interest." Utilities Commission v. Carolina Coach Company, 260 N.C. 43, 132 S.E.2d 249 (1963); Utilities Commission v. Trucking Company, 223 N.C. 687, 28 S.E.2d 201 (1943); Utilities Commission v. Southern Coach Company, 19 N.C.App. 597, 199 S.E.2d 731 (1973); Utilities Commission v. Queen City Coach Company, 4 N.C.App. 116, 166 S.E.2d 441 (1969).

Based upon a careful review of the evidence presented in this proceeding, the record as a whole, and the foregoing findings of fact, the Hearing Examiner is of the opinion, and therefore concludes, that the Applicant has failed to carry the burden of proof to show that public convenience and necessity require its proposed service in addition to the existing authorized transportation service. In this regard the Examiner believes that the Applicant has failed to offer sufficient evidence which would indicate that there exists a substantial public need for the proposed common carrier service in the area covered by the Application at issue.

Although the Applicant and his witnesses spoke in general terms of the need for an additional mobile home carrier located in Union County, they failed to establish that the existing carrier in Union County, which is Doug's, was unable to reasonably meet the transportation needs of shippers. In fact, the Applicant's witnesses expressed satisfaction with Doug's service. The Applicant Price was not aware of any complaints concerning Doug's service (R28). Charles Simpson, a mobile home dealer, testified that Doug's was never unable to meet his needs when he called him (R49). Leola Goodall, a dealer for Conner Mobile Homes, testified that she has used Doug's exclusively since she has been in business and that "Doug is good at his work" and that Doug's has reasonably met the needs of her business (R73, 81). Ira McDonald Flowe, another dealer, testified that he uses Doug's "when I've got a problem that I can't solve today myself with our own people," that he has no complaints about Doug's service, that Doug's has adequately met his needs, and that his requests to Doug's for "on the moment" service was probably "unreasonable," (R65, 70). The fourth witness, Steve Lowder, testified that he has used Paul Helms, Doug's lease-operator, 30 to 35 times in the past year; and that he has had to wait at least a week for approximately 30% of the moves (R90). He testified on cross-examination, however, that he has never asked Doug's to provide him service directly without the use of Mr. Helms. (R98).

The evidence also supports a finding and conclusion in this proceeding that the granting of the Application herein would "endanger or impair the operations of existing carriers contrary to the public interest." The testimony of the Protestant Doug's discloses that it has made a sizeable investment in equipment since it first received authority in 1974. Doug's has eight trucks available to provide service. It has six drivers, one of whom is presently on unemployment. Doug's equipment is underutilized at the present time. If the application were granted, Doug's would possibly have to sell some equipment and lay off more drivers.

The evidence in this proceeding discloses that Doug's provides good service to the shipping public and that it can reasonably meet the needs of the shippers in its certificated area. The Examiner so finds and concludes.

Accordingly, for all the reasons set forth above, the Hearing Examiner concludes that the Applicant has failed to carry the burden of proof in this proceeding to show that the public convenience and necessity require the Applicant's proposed common carrier service in addition to existing authorized transportation service.

IT IS, THEREFORE, ORDERED that the Application filed in this docket on October 5, 1981, be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of July 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

MOTOR TRUCKS

DOCKET NO. T-2148

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of L. W. Roach Co., 1356 Chattachoochee Avenue, N.W., Atlanta, Georgia 30318 - Application for Common Carrier Authority to Transport Group 21, Corn Syrup, Liquid Sugar, etc., between Mecklenburg County and Points in North Carolina	) FINAL ORDER) OVERRULING EXCEPTIONS) AND AFFIRMING) RECOMMENDED ORDER

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, February 15, 1982, at 2:00 p.m.

BEFORE: Commissioner Douglas P. Leary, Presiding, and Commissioners Sarah Lindsay Tate, John W. Winters, Edward B. Hipp

APPEARANCES:

For the Applicant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina
For the Protestant:

Thomas W. Steed, Jr., Allen, Steed & Allen, P. A., Attorneys at Law, P. O. Box 2058, Raleigh, North Carolina

BY THE COMMISSION: On December 22, 1981, Hearing Examiner Carolyn Johnson entered a Recommended Order in this docket entitled "Recommended Order Denying Application."

On December 31, 1981, counsel for and on behalf of L. W. Roach Co., the Applicant herein, filed "Exceptions to Recommended Order."

Oral Argument on Exceptions was subsequently held by the Commission on February 15, 1982, with both the Applicant and Protestant having been represented by counsel.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds, and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated December 22, 1981, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the Exceptions to the Recommended Order filed herein on December 31, 1981, by L. W. Roach Co., the Applicant, be, and each is hereby, overruled and denied.

2. That the Recommended Order in this docket dated December 22, 1981, be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

Chairman Koger and Commissioners Hammond and Campbell did not participate.

MOTOR TRUCKS

DOCKET NO. T-2123, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
S.K.H., Inc., d/b/a Aircare Cartage Company, 4101 W.) RECOMMENDED ORDER
Blvd., Suite C-15, Charlotte, North Carolina 28219 -) CANCELLING
Termination of Liability Insurance Coverage) OPERATING AUTHORITY

HEARD IN: Commission Hearing Room No. 2, Dobbs Building, 430 North Salisbury Street, on Wednesday, April 28, 1982, at 9:30 a.m.

BEFORE: Wilson B. Partin, Hearing Examiner

APPEARANCES:

For the Respondent: None

PARTIN, HEARING EXAMINER: On March 12, 1982, the North Carolina Utilities Commission issued an Order in this docket requiring Respondent to appear before the Commission on April 28, 1982, and show cause, if any it had, why its operating authority should not be revoked for willful failure to maintain on file with the Commission evidence of appropriate security for the protection of the public as required by G.S. 62-268 and Rule R2-36 of the Commission Rules and Regulations.

Upon call of the matter for hearing, Respondent was neither present nor represented by counsel.

Danny Stallings, Chief, Motor Carrier Registration and Insurance Section of the Commission's Transportation Division, testified that Respondent's liability insurance was cancelled effective February 23, 1982; that the Commission issued an Order suspending Respondent's operating authority on February 22, 1982; that Order to Show Cause was issued by the Commission on March 12, 1982; and that Transportation Inspector Jimmy Eanes of the Commission's Staff attempted to serve the Show Cause Order on Respondent at its last known address but was unable to locate Respondent.

Witness Stallings testified further that Respondent has had no public liability insurance on file with the Commission as required by law from February 23, 1982, up to and including the date of the hearing.

Based upon the pertinent records of the Commission, of which the Hearing Examiner takes judicial notice, the Respondent's file, and the competent evidence adduced at the hearing, the Hearing Examiner makes the following

FINDING OF FACT

1. That Respondent is the holder of Contract Carrier Permit No. P-375, issued by the North Carolina Utilities Commission.

2. That the Transportation Division of the Commission is the official custodian of insurance records of all motor carriers regulated by the Commission, including Respondent's liability insurance; that said liability insurance was cancelled by Respondent's insurer, effective February 23, 1982;

that an Order suspending Respondent's operating authority effective February 23, 1982, was issued on February 22, 1982; that on March 12, 1982, an Order to Show Cause was issued by the Commission directing the Respondent to appear before the Commission and show cause, if any it had, why its operating authority should not be cancelled by reason of its failure to keep appropriate insurance in force and on file as required by law; and that on March 15, 1982, Transportation Inspector Jimmy Eanes attempted to serve said Order on Respondent at its last known address but was unable to locate Respondent.

3. That Respondent did not appear at the hearing on April 28, 1982, nor did anyone appear on its behalf.

4. That the required insurance has not been reinstated, nor has Respondent made any effort to comply with the Commission's insurance requirements.

CONCLUSIONS

G.S. 62-268 provides that no contract carrier permit shall be issued or remain in force until the Applicant shall have procured and filed with the Commission such insurance for the protection of the public as the Commission shall require. Rule R2-36 requires all contract carriers of property to obtain and keep in force at all times public liability and property damage insurance issued by a company authorized to do business in North Carolina. G.S. 62-112 provides for the revocation of a franchise after notice and hearing for failure to provide and keep in force at all times insurance for the protection of the public.

IT IS, THEREFORE, ORDERED as follows:

1. That Contract Carrier Permit No. P-375, heretofore issued to S.K.H., Inc., d/b/a Aircare Cartage Company, be, and the same is hereby, revoked and cancelled.

ISSUED BY ORDER OF THE COMMISSION.
This the 29th day of June 1982.

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

DOCKET NO. T-2024, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
William Sprite Bailey, d/b/a Bailey's Delivery Service, 705 N. Wedgewood Avenue, Zebulon, North Carolina 27597 - Termination of Liability Insurance Coverage) RECOMMENDED ORDER CANCELLING OPERATING AUTHORITY

HEARD IN: Commission Hearing Room No. 2, Dobbs Building, 430 North Salisbury Street, on Friday, March 19, 1982, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Respondent: None

BENNINK, HEARING EXAMINER: On February 15, 1982, the North Carolina Utilities Commission issued an Order in this docket requiring Respondent to appear before the Commission on March 19, 1982, and show cause, if any it had, why its operating authority should not be revoked for willful failure to maintain on file with the Commission evidence of appropriate security for the protection of the public as required by G.S. 62-268 and Rule R2-36 of the Commission Rules and Regulations.

Upon call of the matter for hearing, Respondent was neither present nor represented by counsel.

Danny Stallings, Chief, Motor Carrier Registration and Insurance Section of the Commission's Transportation Division, testified that Respondent's liability insurnace was cancelled effective January 8, 1982; that the Commission issued an Order suspending Respondent's operating authority on January 5, 1982; and that Order to Show Cause was issued by the Commission on February 15, 1982.

Witness Stallings testified further that Respondent has had no public liability insurance on file with the Commission as required by law from January 8, 1982, up to and including the date of the hearing.

Based upon the pertinent records of the Commission, of which the Hearing Examiner takes judicial notice, the Respondent's file, and the competent evidence adduced at the hearing, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That Respondent is the holder of Contract Carrier Permit No. P-348, issued by the North Carolina Utilities Commission.

2. That the Transportation Division of the Commission is the official custodian of insurance records of all motor carriers regulated by the Commission, including Respondent's liability insurance; that said liability insurance was cancelled by Respondent's insurer, effective January 8, 1982; that an Order suspending Respondent's operating authority effective January 8, 1982, was issued on January 5, 1982; and that on February 15, 1982, an Order to Show Cause was issued by the Commission directing the Respondent to appear before the Commission and show cause, if any it had, why its operating authority should not be cancelled by reason of its failure to keep appropriate insurance in force and on file as required by law.

3. That Respondent did not appear at the hearing on March 19, 1982, nor did anyone appear on its behalf.

4. That the required insurance has not been reinstated, nor has Respondent made any effort to comply with the Commission's insurance requirements.

CONCLUSIONS

G.S. 62-268 provides that no contract carrier permit shall be issued or remain in force until the Applicant shall have procured and filed with the Commission such insurance for the protection of the public as the Commission shall require. Rule R2-36 requires all common carriers of property to obtain and keep in force at all times public liability and property damage insurance issued by a company authorized to do business in North Carolina. G.S. 62-112 provides for the revocation of a franchise after notice and hearing for failure to provide and keep in force at all times insurance for the protection of the public.

IT IS, THEREFORE, ORDERED as follows:

1. That Contract Carrier Permit No. P-348 heretofore issued to William Sprite Bailey, d/b/a Bailey's Delivery Service, be, and the same is hereby, revoked and cancelled.

2. That a copy of this Order be sent to Respondent by Certified Mail, Return Receipt Requested, and that a copy also be sent to the North Carolina Division of Motor Vehicles.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of March 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. T-1647, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Iredell Milk Transportation, Inc., Common Carrier, Group 21, Food and Related Food Products in Bulk, in Tank Vehicles, Statewide	)))	RECOMMENDED ORDER GRANTING APPLICATION IN PART

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, December 18, 1981, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr.

APPEARANCES:

For the Applicant:

William E. Anderson, Teague, Campbell, Conely & Dennis, Attorneys at Law, P. O. Box 2447, Raleigh, North Carolina 27602

and

Walter Jones, Jr., Holmesley, Jones, Gaines & Fields, Attorneys at Law, P. O. Box 1235, Mooresville, North Carolina 28115
For: Iredell Milk Transportation, Inc.

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P. O. Box 2246, Raleigh, North Carolina 27602
For: Central Transport, Inc., and Fleet Transport Company, Inc.

BENNINK, HEARING EXAMINER: By application filed on September 23, 1981, Iredell Milk Transportation, Inc. (Iredell or Applicant), seeks authority to operate as a common carrier transporting

"Group 21, food and related food products, in bulk in tank vehicles, in and between points in North Carolina."

The application was listed in the Commission's Calendar of Hearings dated October 2, 1981, and was thereby scheduled for hearing on Friday, December 18, 1981, at 9:30 a.m.

Protests and motions for intervention were filed by Central Transport, Inc. (Central), on October 16, 1981, and Fleet Transport Company, Inc. (Fleet), on November 16, 1981.

By Commission Orders issued October 21, 1981, and November 19, 1981, Central and Fleet were allowed to intervene in this proceeding.

Upon call of the matter for hearing at the appointed time and place, the Applicant and the Protestants were present and represented by counsel. Applicant offered the testimony of Wyatt Fesperman, Applicant's President and

owner; Norville Williams, Assistant Manager of Transportation, Industrial Products for A. E. Staley Manufacturing Company (Staley); and David Logsdon, Charlotte Plant Manager for C & T Refinery, Inc. (C & T). Fleet presented the testimony of its Director of Commerce and Traffic, Russell E. Stone, and Central presented the testimony of Ben H. Keller, III, its Traffic Manager.

Based upon a careful consideration of the testimony and evidence presented at the hearing, the documents and exhibits received in evidence and judicially noticed, and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Applicant is an authorized carrier operating under Certificate/Permit CP-5 issued by this Commission which authorizes transportation of milk and vinegar as a contract carrier and milk and ice cream as a common carrier.

2. By this application, Applicant proposes to enlarge its common carrier authority so that it will authorize transportation of food and related food products in bulk, statewide.

3. Staley, which is headquartered in Decatur, Illinois, is a producer of products from corn and soybeans. It has plants at Decatur, Illinois, Lafayette, Indiana, and Morrisville, Pennsylvania. A new plant under construction at Loudon, Tennessee, will serve the southeastern region of the country, including portions of North Carolina.

4. Staley supplies its customers in North Carolina from production plants and storage points outside the state. Some of its North Carolina customers are served by direct rail and truck shipments, which are interstate in character. Others are served by truck from storage points adjacent to railroad facilities at Marion and Lexington. Products are shipped into Marion and Lexington by rail, unloaded, stored and then moved by truck to Staley's customers.

5. The facility at Marion is operated for Staley by Sucorn - an independent company. Ace Trucking Company is the primary carrier for that facility with Fleet serving as a back-up carrier. There have been some problems with Fleet's picking up and delivering on time.

6. The Lexington facility is operated by Fleet, and Fleet is the primary carrier. Service provided by Fleet at Lexington has generally been satisfactory.

7. From Lexington and Marion, Staley ships corn syrup and liquid corn sugars in bulk, in tank trucks, to customers throughout the state.

8. C & T processes vegetable oils from soybeans, corn, cottonseed, and peanuts. It operates a plant at Charlotte which produces 22 to 25 million pounds of vegetable oils per month.

9. C & T ships 25 to 40 truckloads of vegetable oils from Charlotte to customers throughout North Carolina each week. Truck Service is provided by Fleet as the primary carrier and, on occasion, Kenan Transport Company.

10. C & T has had problems of one type or another with approximately 10% of the loads handled for it by Fleet.

11. The Protestant, Fleet Transport Company, Inc., is an authorized common carrier operating under Certificate/Permit No. CP-39 which authorizes inter alia, the transportation of liquid commodities in bulk, in tank trucks, statewide.

12. The Protestant Central is an authorized common carrier operating under Certificate No. C-543, which authorizes inter alia, the transporation of liquid commodities in bulk, in tank trucks, statewide.

13. Applicant maintains its offices and a terminal with garage and complete cleaning facility near Mooresville in Iredell County.

14. Applicant has substantial assets which exceed its liabilities, is operating at a profit, and annually reports on its financial condition to this Commission.

15. Applicant maintains a fleet of equipment suitable for the transportation of liquid food products.

16. Applicant has the resources with which to acquire additional rolling equipment as necessary to provide adequate and continuing service to the public.

WHEREUPON, the Hearing Examiner reaches the following

CONCLUSIONS

This application for additional common carrier authority is governed by G.S. 62-262(e), which imposes upon the Applicant the burden of proving the following to the satisfaction of this 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.

Consideration of the first statutory criterion required definition of "public convenience and necessity." Utilities Commission v. Queen City Coach Company, 4 N.C. App. 116, 123 and 124, 166 S.E. 2d 441 (1969), defined the phrase as follows:

"[1] Our Supreme Court has said many times that what constitutes `public convenience and necessity' is primarily an administrative question with a number of imponderables to be taken into consideration, e.g., whether there is a substantial public need for the service; whether the existing carriers can reasonably meet this need, and whether it would endanger or impair the operations of

existing carriers contrary to the public interest. Utilities Commission v. Trucking Co., 223 N.C. 687, 28 S.E.2d 201; Utilities Commission v. Ray, 236 N.C. 692, 73 S.E. 2d 870; Utilities Commission v. Coach Co. and Utilities Commission v. Greyhound Corp., 260 N.C. 43, 132 S.E. 2d 249."

"[2] We are not inadvertent to the fact that the factors denominated as imponderables, to wit: whether the existing carriers can reasonably meet the need for the service and whether the granting of the application would endanger or impair the operations of existing carriers contrary to the public interest, are not solely determinative of the right of the Commission to grant the application. Both are directed to the question of public convenience and necessity. Utilities Commission v. Coach Co., 233 N.C. 119, 63 S.E. 2d 113. Nevertheless, if the proposed operation under the certificate sought would seriously endanger or impair the operations of existing carriers contrary to the public interest, the certificate should not be issued. Utilities Commission v. Coach Co., supra."

"Necessity" was defined as follows in Utilities Commission v. Greyhound Corporation, 260 N.C. 43, 52, 132 S.E. 2d 249 (1963):

" . . . 'Necessity' means reasonably necessary and not absolutely imperative. Utilities Commission v. R.R., 254 N.C. 73, 79, 118 S.E. 2d 21. 'Any service or improvement which is desirable for the public welfare and highly important to the public convenience may be properly regarded as necessary.' And if a new service is necessary, and if there are carriers already in the field, there is always the vital question (in determining convenience and necessity) whether the new service should be rendered by the existing carriers or by the new applicant. Mulcahy v. Public Service Commission, 117 P. 2d 298 (Utah 1941); 73 C.J.S., Public Utilities, S. 42, pp. 1099, 1100."

1. Considering the evidence in view of the criterion of public convenience and necessity, it appears that the supporting shippers have stated a demand and need for only part of the proposed service. Staley ships corn syrup and liquid corn sugars from Marion and Lexington to points throughout the State. Service from Lexington, which is provided by Fleet, has generally been satisfactory, but there have been problems with the back-up service provided by Fleet at Marion. C & T ships vegetable oils in bulk from Charlotte to points throughout the State. Fleet is its primary carrier and C & T expresses dissatisfaction with 10% of the movements performed by Fleet. Both shippers have urged that the Applicant be given the opportunity to serve them. Their desire for Applicant's service coupled with their dissatisfaction with present service is sufficient to constitute a demand and need for the proposed service in the bulk transporation of corn syrup and liquid corn sugars from the facilities of Staley at Marion to points in the State and vegetable oils from the facilities of C & T at Charlotte to points in the State. With respect to the remainder of the service proposed by this application - statewide transportation of food and related food products in bulk - the Hearing Examiner notes that no other origin points have been named; that no dry bulk food products have been mentioned by any supporting shippers; and that many liquid bulk food products, including citrus products, animal oils, vinegar,

etc., have not been mentioned by any shipper. Accordingly, the Hearing Examiner concludes that the Applicant has sustained its burden of proof in this proceeding only to the extent of the operating authority set forth and described in Exhibit B attached hereto.

The second element of public convenience and necessity which must be considered is whether the proposed operation would impair the operations of the Protestants and other existing carriers contrary to the public interest. There is no evidence in this record to support a findings that the service authorized by Exhibit B attached hererto would have a ruinous competitive effect upon other authorized carriers. The mere fact that a grant of operating authority to the Applicant would authorize it to compete with the Protestants is certainly not sufficient to establish that such competition would be harmful or ruinous. "There is no public policy condemning competition as such in the field of public utilities; the public policy only condemns unfair or destructive competition." Utilities Commission v. Queen City Coach Company, 261 N.C. 384, 134 S.E. 2d 689 (1964).

Accordingly, the Hearing Examiner concludes that the public convenience and necessity require the service proposed by Applicant in addition to the existing services provided by Protestants and other authorized carriers to the extent set forth and described in Exhibit B attached hereto.

2. Applicant is an authorized carrier of bulk commodities. It maintains a terminal, a substantial fleet of equipment, and a complement of experienced drivers with which it serves the shipping public.

Therefore, the Hearing Examiner concludes that the Applicant is fit, willing, and able to properly perform the service authorized by Exhibit B attached hereto.

3. The third and final statutory criterion pertains to solvency and financial ability to furnish adequate service on a continuing basis. On the basis of Applicant's financial information submitted with this application and on file with this Commission and the testimony offered at the hearing, there can be no question that Applicant is financially sound and has the resources to purchase additional equipment and facilities as needed.

The Hearing Examiner concludes that Applicant is solvent and financially able to furnish adequate service on a continuing basis.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Iredell Milk Transportation, Inc., for authority to amend its Certificate/Permit No. CP-5 be, and the same is hereby, granted in accordance with Exhibit B attached hereto and made a part hereof.

2. That Iredell Milk Transportation, Inc., shall file with the Commission, to the extent it has not already done so, evidence of required insurance, a list of equipment, 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 Recommended Order becomes effective and final.

3. That unless Iredell Milk Transportation, Inc., complies with the requirements set forth in Decretal Paragraph 2 above and begins operations as authorized within a period of thirty days after this Recommended Order becomes final, unless such time is extended by the Commission upon written request, the operating authority granted herein shall cease and determine.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of March 1982.

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

EXHIBIT B

DOCKET NO. T-1647, SUB 4

IREDELL MILK TRANSPORTATION, INC.
Route 5, Box 242
Mooresville, North Carolina 28115

IRREGULAR ROUTE COMMON CARRIER AUTHORITY

EXHIBIT B (3) Transportation of liquid corn syrup and liquid corn sugars in bulk, in tank trucks, from the facilities of A. E. Staley Manufacturing Company, or its agents, at Marion to points in the State.

(4) Transportation of vegetable oils in bulk, in tank trucks, from the facilities of C & T Refinery, Inc., at Charlotte to points in the State.

DOCKET NO. T-2218

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Jerry T. Johnson and Wife, Helen H. Johnson, d/b/a Jerry Johnson Mobile Home Movers, 1870 Garland Street, Henderson, North Carolina 27536 - Application for Common Carrier Authority, Group 21, Mobile Homes, Bulk Barns and Mobile Offices	)	RECOMMENDED ORDER GRANTING APPLICATION IN PART

HEARD IN: Commissioners' Meeting Room at the Vance County Courthouse, Henderson, North Carolina, at 9:30 a.m. on August 20, 1982.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicants:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, P.A., Attorneys at Law, P. O. Box 2479, Raleigh, North Carolina 27602
For: Jerry T. Johnson and wife, Helen H. Johnson, d/b/a Jerry Johnson Mobile Home Movers

For the Protestants:

Robert K. Catherwood, Edmundson & Catherwood, Attorneys at Law, P.O. Box 428, Oxford, North Carolina 27565
For: Joe Lewis, t/a Joe Lewis Mobile Home Moving Service and Pop's Trailer Towing Company, Inc.

PARTIN, HEARING EXAMINER: By application filed on June 30, 1982, Jerry T. Johnson and wife, Helen H. Johnson, d/b/a Jerry Johnson Mobile Home Movers, seek authority to transport Group 21, mobile homes, bulk barns, and mobile offices (1) between all points and places in the Counties of Vance, Granville, Franklin, and Warren, North Carolina, and (2) from all points and places in Granville, Vance, Franklin, and Warren Counties to all points and places in North Carolina and from all points and places in North Carolina to the aforesaid four counties.

The application was listed on the Commission's Calendar of Hearings dated June 30, 1982, and thereby scheduled for hearing.

On July 8, 1982, a Protest and Motion to Intervene was filed in this proceeding on behalf of Joe Lewis, t/a Joe Lewis Mobile Home Moving Service (Lewis or Protestant).

On July 14, 1982, a Protest was filed in this proceeding on behalf of Pop's Trailer Towing Company, Inc. (Pop's or Protestant).

By Commission Orders issued August 17, 1982, Lewis and Pop's were permitted to intervene in this proceeding as Protestants. Also, by Order dated August 17, 1982, the hearing was rescheduled to the time and place set forth above.

Upon call of this matter for hearing at the scheduled time and place, Applicant and Protestants were present and represented by counsel. Applicant offered the testimony of Robert Newton, George N. Dickerson, Alvin Johnson, Tom Marshall, Tex Coghill, Larry Ayscue, Curtis Powell, and Jerry T. Johnson, in support of the application. Protestants offered the testimony of Joe Lewis, owner of Lewis, and Jerry Underwood, Vice President and General Manager of Pop's, in opposition to the application.

At the hearing, the Applicant, Jerry T. Johnson, testified that he has been engaged in the wrecker business for 25 years; that he has moved damaged and burned mobile homes to his place of business for repairs; that he has moved mobile homes for himself and his family; that he has not charged for these movements; that he has a wrecker which is suitable for use in the movement of mobile homes and will purchase an additional piece of equipment for use in carrying out the proposed authority if it is granted; that he has assets of

$290,000 and liabilities of $15,700; that he will file evidence of insurance, process agent, and rates for the service as required by the Commission's Rules; that there are 3,000 mobile homes in Vance County and three major manufacturers of mobile homes; that he has turned down requests to move mobile homes because he did not have authority.

Robert Newton testified that Sambo Robertson (later identified as being an owner-operator associated with Pop's Trailer Towing Company) moved a mobile home for him; that the mobile home was extensively damaged in the move; that he asked about getting insurance to pay for the damage, but he was not paid nor was his mobile home fixed; that Sambo was to hook up the water and level the mobile home, but did not do so; and that he believes there is a need for an additional mobile home mover in the area.

George Dickerson of Route 4, Henderson, North Carolina, testified that he bought a mobile home on July 16, 1982, and turned it over to Sambo Robertson on July 24th to move; that in spite of repeated promises, the mobile home had not been moved by the date of the hearing on August 20, 1982; that he contacted Joe Lewis who wanted to charge $195 compared to the Robertson price of $100; and that Robertson and Lewis are the only two movers he knows about.

Alvin Johnson testified that he is a house mover and gets one call every two weeks on the average from people wanting him to move mobile homes, but he refers these people to the Protestants.

Tom Marshall testified that he operates two mobile home parks in Franklin County; that Pop's Mobile Home moved a mobile home into his parks from Henderson; that the operator Sambo Robertson had difficulty moving the home and tore up the ground in the mobile home park; that it was about a week before the mobile home was set up with blocks, leveled and water and sewer installed; that there is only one authorized mover in Franklin County, who is sales agent for Connor Homes and who moved homes for individuals as he gets to them; and that that person stays busy.

Tex Coghill of Route 1, Henderson, North Carolina, testified that he works for Tri-County Homes in Henderson as a mobile home salesman, which has its own set up department; that he has difficulty once in a while getting mobile homes moved; and that this delays getting his money.

Larry Ayscue of Henderson, North Carolina, testified that he is employed by Family Housing as a salesman; that his Company has its own towers and drivers, but occasionally he needs outside movers; that he has occasional delays in getting homes moved which impacts the times his company and he are paid; that he believes there is a need for an additional mobile home mover in Vance County.

Curtis Powell of Route 1, Henderson, North Carolina, testified that he sells mobile homes and has occasions when he cannot get mobile homes moved; that the delays run from two to three days; that customers have complained to him about the way mobile homes are moved by Pop's and by Joe Lewis; and that in his opinion another mobile home mover is needed.

In opposition to the application, Louis Edwards testified that he is electrical inspector and inspector of mobile home set ups for Vance County; that he inspects all mobile home set ups; and that an average of 21 mobile homes per month are set up in Vance County.

Joe Lewis testified that he has authority to transport mobile homes in a ten-county area, including Vance and Franklin, statewide, and from points in the state back to the ten-county area; that he has three pickup trucks and two mobile home toters, one of which has a winch; that he drives and has other employees; that he moved a mobile home this week; his trucks may not operate at better than 90% capacity; that his equipment differs from that of Mr. Johnson; that if the application were granted it would almost force him to shut down; there are other carriers who have authority to operate in Vance and Franklin Counties; that he charges under his tariff; that his rates and Pop's rates are not the same, his rates being higher than Pop's; and that his trucks sometimes leave the state on interstate moves.

Jerry Underwood testified that he is General Manager of Pop's Trailer Towing Company; that he has nine trucks operating in and around Franklin County; that Sambo Robertson is leased to him and operates under his authority; that he does not exercise his authority to schedule drivers; that he is not busy at this time; that business is terrible; that putting another carrier in the area would lessen the business of existing carriers; that his operation in Vance County is marginal; that his business may be marginal because his operator Sambo is not moving trailers as requested; that he heard people testify they had difficulty getting mobile homes moved; that if his service is not good, it could affect his business; that he does not know if Sambo has a driver's license; that quoting one rate and trying to charge another could affect his business; and that if his company gets a reputation for bad service it could affect his business.

Upon completion of the testimony for the Applicants, the Protestants through their attorney of record moved that so much of the application concerning authority within the Counties of Warren and Granville be denied due to a lack of testimony concerning the need in these areas; this motion was granted. A similar motion regarding that portion of the application with respect to Vance and Franklin Counties insofar as it related to other points and places in the State of North Carolina was denied. The motion was renewed at the conclusion of all of the evidence, at which time the Hearing Officer deferred ruling.

Based upon a careful consideration of the testimony and evidence presented at the hearing, the documents judicially noticed, and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Applicant has been engaged for twenty-five (25) years in the wrecker business and has transported mobile homes for his family.

2. Applicant has equipment suitable for moving mobile homes and will purchase additional equipment if the authority sought is granted.

3. Applicant has substantial assets exceeding his liabilities.

4. Applicant is fit, willing, and able to properly perform its proposed transportation service.

5. Applicant is financially able to furnish the proposed service on a continuing basis.

6. Witnesses for the Applicant who live in Vance and Franklin Counties have experienced difficulties in getting their mobile homes moved. These difficulties include the refusal of the existing carriers (including Pop's and Lewis) to move the mobile homes; unreasonable and costly delays in getting the mobile homes moved; damage to the mobile homes when moved by the existing carriers; no effort by existing carriers to correct the damage to mobile homes or to pay damage claims; mobile homes that are not set up properly.

7. There are approximately 3,000 mobile homes on the Vance County tax records; there are 6 mobile home dealers and three mobile home manufacturers within Vance County.

8. The witnesses who werre knowledgeable about the mobile business (dealers and mobile home park owners) agreed that there was a need for another mobile home carrier in Vance and Franklin Counties.

9. Both Protestants, Pop's and Lewis, are existing authorized carriers operating under certificates which authorize the transportation of the commodities sought and within the area sought by Applicant.

10. There is a substantial public need for the service proposed by Applicant in Vance and Franklin Counties in addition to existing authorized service.

11. The granting of a certificate authorizing Applicant to transport mobile homes in Vance and Franklin Counties will not unreasonably affect the operation of existing carriers contrary to the public interest.

12. Public convenience and necessity require the granting of additional authority to the Applicant to transport mobile homes between points and places in Vance and Franklin Counties, North Carolina, in addition to existing authorized transportation services.

CONCLUSIONS

This application for common carrier authority is governed by G.S. 62-262(e) which imposes upon the Applicant the burden of proving to the satisfaction of the Commission the following:

1. Public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

2. Applicant is fit, willing, and able to properly perform the proposed service, and

3. Applicant is solvent and financially able to furnish adequate service on a continuing basis.

The second and third criterion set out above are not seriously contested by the Protestants and the evidence supports the conclusion that Applicant has met the burden of proof as to these issues. Protestants do strenuously contend that the Applicant has not shown the public need for the service proposed in addition to the existing authorized service.

Determination of the question of public convenience and necessity is primarily an administrative question with a number of inponderables to be taken into consideration; e.g., whether there is a substantial public need for the service, whether existing carriers can reasonably meet this need and whether it would endanger or impair the operations of existing carriers contrary to the public interest. Utilities Commission v. Great Southern Trucking Co., 223 N.C. 687; Utilities Commission v. Ray, 236 N.C. 692; Utilities Commission v. Carolina Coach Company, 260 N.C. 43.

The public testimony in this case clearly establishes that the service that is available to the public in Vance and Franklin Counties does not meet the public's needs. Frequent and unexplained difficulties in getting mobile homes moved at the time when needed by the public appear in the testimony from the public witnesses. Such service as is available is less than satisfactory in that, among other things, damages to mobile homes occur without efforts of the existing carriers to correct the damage, mobile homes are not properly set up, insurance claims are unresolved, and one rate is quoted and another charged. Based upon experience with the existing carriers, the public witnesses expressed a need for additional service beyond that which is presently authorized in Vance and Franklin Counties.

Simply because other service is presently authorized does not mean that the needs of the public are being met. If that service is often unavailable when needed or the service is not satisfactory when performed, this is sufficient justification for authorizing additional service because the needs of the public are not being met. Nor should existing carriers be heard to complain of the financial impact on them of the proposed service when the evidence establishes that they are not taking care of the business that is being tendered to them in a reasonably efficient manner.

The Hearing Examiner concludes that the evidence justifies and requires a finding that public convenience and necessity require that the Applicant be granted a certificate to transport mobile homes in Vance and Franklin Counties. As to other matters sought in the application and other areas sought, there is no evidence justifying such a certificate.

IT IS, THEREFORE, ORDERED:

1. That the application is hereby granted to the extent set forth in Exhibit B attached hereto.

2. That the application in all other respects not set forth in Exhibit B attached is denied.

3. That the Applicant shall file with the Commission, within thirty (30) days after the date of this Order, evidence of the required insurance, a list of equipment, a tariff schedule of rates and charges, designation of a process agent, and shall otherwise comply with the rules and regulations of the Commission.

4. That unless the Applicant complies with the requirements set forth in Ordering Paragraph 2 above and begins operating as herein authorized within thirty (30) days after the date of this Order, unless such time is extended by the Commission upon written request for such extension, the operating authority granted herein will cease.

5. That the Applicant shall maintain its books and records in such a manner that all of the applicable items of information required in its prescribed Annual Report to the Commission can be used by the Applicant in the preparation of such Annual Report. A copy of the Annual Report form shall be furnished to the Applicant upon request made to the Accounting Division, Public Staff, North Carolina Utilities Commission.

6. That this Order shall constitute a certificate until a formal certificate has been issued and transmitted to the Applicant authorizing the common carrier transportation described and set forth in Exhibit B attached hereto.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of November 1982.

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

DOCKET NO. T-2218

JERRY T. JOHNSON and wife,
HELEN H. JOHNSON, d/b/a
JERRY JOHNSON MOBILE HOME MOVERS
1870 Garland Street
Henderson, North Carolina 27536

IRREGULAR ROUTE COMMON CARRIER

EXHIBIT B

Transportation of Mobile Homes between points and places in Vance and Franklin Counties, North Carolina.

DOCKET NO. T-2185

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Ernest Broughton Tharrington and Early Pugh Tharrington, d/b/a Tharrington Brothers, Route 3, Box 199-G, Wake Forest, North Carolina 27587 - Application for Common Carrier Authority) RECOMMENDED ORDER GRANTING APPLICATION IN PART

HEARD IN: Commission Hearing Room 537 on April 8, 1982, at 9:30 a.m. and Commission Hearing Room 217 on May 27, 1982, at 9:30 a.m., Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicants:

Malcolm E. Harris, Harris, Cheshire, Leager & Southern, Attorneys at Law, P. O. Drawer 2417, Raleigh, North Carolina 27602
For: Ernest Broughton Tharrington and Early Pugh Tharrington, d/b/a Tharrington Brothers

For the Protestants:

Robert K. Catherwood, Edmundson and Catherwood, Attorneys at Law, P.O. Box 428, Oxford, North Carolina 27565
For: Joe Lewis, t/a Joe Lewis Mobile Home Moving Service

Ronald L. Perkinson, Staton, Perkinson, West, and Doster, Attorneys at Law, P. O. Box 1320, Sanford, North Carolina 27330
For: Home Transportation, Inc.
Pop's Trailer Towing Company, Inc.

BENNINK, HEARING EXAMINER: By application filed on February 9, 1982, Ernest Broughton Tharrington and Early Pugh Tharrington, d/b/a Tharrington Brothers (Tharrington Brothers or Applicant), seek authority to transport Group 21, mobile homes (1) between all points and places in the Counties of Wake, Durham, and Franklin, North Carolina, and (2) from all points and places in Wake, Durham, and Franklin Counties to all points and places in North Carolina.

The application was listed on the Commission's Calendar of Hearings dated February 17, 1982, and was thereby scheduled for hearing.

On March 30, 1982, a protest and motion to intervene was filed in this proceeding on behalf of Joe Lewis, t/a Joe Lewis Mobile Home Service (Lewis or Protestant).

On March 30, 1982, a protest was filed in this proceeding on behalf of Home Transportation, Inc. (Home or Protestant) and Pop's Trailer Towing Company, Inc. (Pop's or Protestant).

By Commission Orders issued April 5, 1982, Lewis, Home and Pop's were permitted to intervene in this proceeding as protestant parties.

Upon call of this matter for hearing at the apponted time and place and as continued on May 27, 1982, at the appointed time and place, Applicant and Protestants were present and represented by counsel. Applicant offered the testimony of Warren Yeargan (Yeargan), Yeargan Homes, Incorporated; Charles Cash, part owner of Big Country Mobile Homes (Big Country); Early Pugh Tharrington and Ernest Broughton Tharrington, Applicants; and Norris Montjoy, manager of Wellington Mobile Home Park (Wellington). Protestant offered the testimony of Jerry Underwood, Vice President and General Manager of Pop's; Bob Phillips, Regional Manager of Home; Joe Lewis, owner of Lewis; and Ernest Pugh Tharrington, Applicant.

Based upon a careful consideration of the testimony and evidence presented at the hearing, the documents judicially noticed, and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Applicants are residents of Wake County, North Carolina.

2. Applicant Ernest Broughton Tharrington has been engaged in the business of mobile home transportation and set up of mobile homes for seven years under authority belonging to others, but has not done so since December 1981.

3. Applicant Early Pugh Tharrington has engaged in the business of mobile home transportation and set up of mobile homes for six or seven years under authority belonging to Pop's.

4. Applicants own equipment suitable for the transportation of Group 21, mobile homes.

5. Applicants have substantial assets which exceed their liabilities and have the resources with which to provide adequate and continuing service to the public in the Counties of Wake, Durham, and Franklin, North Carolina.

6. Protestant Pop's is an authorized common carrier operating under Certificate No. C-810, which authorizes transportation of mobile homes to all points and places within North Carolina.

7. Protestant Home is an authorized common carrier operating under Certificate No. C-896, which authorizes transportation of mobile homes to all points and places within North Carolina.

8. Protestant Lewis is an authorized common carrier operating under Certificate No. C-1133, which authorizes transportation of mobile homes within ten (10) specified counties, including Wake, Durham, and Franklin, and from said ten counties to all points and places within North Carolina and from all points and places within North Carolina to said ten counties.

9. By this application, Applicants propose to engage in the transportation of mobile homes between all points and places in the Counties of Wake, Durham, and Franklin, North Carolina, and from all points and places in these counties to all points and places in North Carolina.

10. The application is supported by two dealers or sellers of mobile homes in Durham and Franklin Counties, North Carolina, and by the manager of a mobile home park in Wake County, North Carolina. All three have the need for transportation of mobile homes within the Counties of Durham, Franklin, and Wake, North Carolina.

11. Over the years, Applicants have, under authority belonging to others, provided the same services within North Carolina, and specifically within the Counties of Wake, Durham, and Franklin, that they now propose to provide under their own authority.

12. Yeargan operates his business, retail sales of mobile homes, in Durham County with most of his sales being transported to points and places in

Durham, Orange, Person, and Wake Counties. He has had difficulty getting his mobile homes transported within the promised delivery dates and delivered and set up by reliable persons.

13. In his business, Yeargan finances his mobile homes until they are sold and often until they are set up to the purchaser's satisfaction. The person who transports and sets up his mobile homes is a reflection on him and his company.

14. Yeargan has used four of the carriers in his area and has attempted on some occasions to call all of those listed in the Durham telephone directory. If he cannot get the Tharrington Brothers to transport and set up his mobile homes, Yeargan testified that he is better off delaying a move until Applicants are available, even though he may incur increased interest costs.

15. Big Country is engaged in the business of retail sales of mobile homes in Youngville, Franklin County, North Carolina, and its mobile homes are transported to wherever the customer desires. Most of Big Country's sales are transported to Franklin, Wake, and Granville Counties.

16. Most of Big Country's business is in the sale of double wide mobile homes. Mr. Cash has had difficulty in finding reliable help capable of transporting and properly setting up double wide mobile homes.

17. Because of the complaints he has had from his customers when he has used other movers, Mr. Cash has only used the Tharrington Brothers to transport and set up his mobile homes during the past year.

18. Wellington is located in Wake Forest, Wake County, North Carolina. It is a mobile home park and most of its tenants are students at the Baptist Seminary in Wake Forest. These students come from and return to most of the areas in North Carolina and some come from and return to other states.

19. Mr. Montjoy, as manager of Wellington, observes the work of all of the movers who transport mobile homes into and out of his park. He has observed the work performed by the Tharrington Brothers and has found them to be very professional and capable.

20. Mr. Montjoy has found that many of his tenants have limited financial resources and that the two local Wake Forest movers, including the Applicant Ernest Tharrington, would transport their mobile homes at a lower rate than the other available movers. On the occasions when his tenants have had difficulty in locating movers who can do the job on a timely basis, Mr. Montjoy had been able to get the Applicant Ernest Tharrington, when he was operating under rights belonging to others, to move the mobile homes within the dates needed by the tenants.

21. Delays in the transportation of mobile homes can result in significant monetary losses to dealers in increased interest charges, and can also affect purchasers, especially if the delay comes at a time when interest rates are rising.

22. Protestants testified that they are not operating at full capacity, but neither Mr. Underwood with Pop's nor Mr. Phillips with Home are involved in the scheduling of transporting mobile homes and, therefore, could not

specifically testify as to whether the public is actually being inconvenienced. Mr. Lewis has transportation rights in the three counties which the Applicants propose to service, but he has not advertised in Franklin or Durham Counties and to date has only advertised in the Wake Forest telephone directory and not the Raleigh telephone directory.

23. The uncontradicted testimony was that Pop's does approximately 50% of the mobile home transportation business in the Wake, Durham, and Franklin County area. Mr. Underwood testified that Pop's could continue to provide the service demanded of it even if Applicants are granted the requested certificate.

24. Mr. Underwood admitted that he did not know if some people in the Wake, Durham, and Franklin County area are having delays in getting mobile homes transported.

25. Home does not have any drivers stationed in this three county area. Their closest drivers are in Randleman and Liberty, Randolph County, North Carolina.

26. Mr. Phillips testified that there were from 12 to 15 licensed movers in this three county area, but admitted that he was unfamiliar with the volume of service in the area and that Home does not solicit business in the area.

27. Lewis only does a very limited amount of business in the three county area. Mr. Lewis testified that he received an average of one call a week from this area, but admitted that the number of moves he makes in that area is substantially less than the number of inquiries.

WHEREUPON, the Hearing Examiner reaches the following

CONCLUSIONS

This application for common carrier authority is governed by G.S. 62-262(e) which imposes upon Applicants the burden of proving the following to the satisfaction of this Commission:

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation service; and

2. That the Applicants are fit, willing, and able to properly perform the proposed service; and

3. That the Applicants are solvent and financially able to furnish adequate service on a continuing basis.

Consideration of the first statutory criterion requires definition of "public convenience and necessity." Utilities Commission v. Queen City Coach Company, 4 N.C. App. 116, 123 and 124, 166 S.E. 2d 441 (1969), defined the phrase as follows:

> "[1] Our Supreme Court has said many times that what constitutes 'public convenience and necessity' is primarily an administrative question with a number of imponderables to be taken into consideration; e.g., whether there is a substantial public need for

the service; whether the existing carriers can reasonably meet this need, and whether it would endanger or impair the operations of existing carriers contrary to the public interest. Utilities Commission v. Trucking Co., 223 N.C. 687, 28 S.E. 2d 201; Utilities Commission v. Coach Co. and Utilities Commission v. Greyhound Corp., 260 N.C. 43, 132 S.E. 2d 249.

"[2] We are not inadvertent to the fact that the factors denominated as imponderables, to wit: whether the existing carriers can reasonably meet the need for the service and whether the granting of the application would endanger or impair the operations of existing carriers contrary to the public interest, are not solely determinative of the right of the Commission to grant the application. Utilities Commission v. Coach Co., 233 N.C. 119, 63 S.E. 2d 113. Nevertheless, if the proposed operation under the certificate sought would seriously endanger or impair the operations of existing carriers contrary to the public interest, the certificate should not be issued. Utilities Commission v. Coach Co., supra."

"Necessity" was defined as follows in Utilities Commission v. Greyhound Corporation, 260 N.C. 43, 52, 132 S.E. 2d 249 (1963):

". . . `Necessity' means reasonably necessary and not absolutely imperative. Utilities Commission v. R.R., 254 N.C. 73, 379, 118 S.E. 2d 21. `Any service or improvement which is desirable for the public welfare and highly important to the public convenience may be properly regarded as necessary.' And if a new service is necessary, and if there are carriers already in the field, there is always the vital question (in determining convenience and necessity) whether the new service should be rendered by the existing carriers or by the new applicant. Mulcahy v. Public Service Commission, 117 P. 2d 298 (Utah 1941); 73 C.J.S., Public Utilities, S. 42, pp. 1099, 1100."

1. Considering the evidence offered in this case in view of the statutory criterion of public convenience and necessity as interpreted by our courts, it is clear that the supporting witnesses have stated both a demand and a need for a partial grant of common carrier operating authority to the Applicants which would authorize the transportation of Group 21, mobile homes, between all points and places in the Counties of Wake, Durham, and Franklin, North Carolina. There is a deficiency in prompt and reliable service in the three county area set forth above. The Protestants provide service in this area but there is a need for additional service. Furthermore, Applicants' service within the proposed three county area has convinced the supporting witnesses that they can depend upon the Applicants for the prompt and reliable service which they need and desire.

Applicants are experienced common carriers with ample resources who profess to be ready, willing, and able to provide service. The supporting witnesses have strongly urged that the Applicants be given the opportunity to serve them under their own operating rights. Accordingly, the Hearing Examiner concludes that the Applicants have sustained the burden of proof in this proceeding to the extent of the operating authority set forth in Exhibit B attached hereto.

The Hearing Examiner further concludes, however, that the Applicants have failed to carry the burden of proof in showing a public demand and need for the transportation of mobile homes from all points and places in Wake, Durham, and Franklin Counties to all points and places in North Carolina. In this regard, none of the supporting witnesses stated a substantial present need for the transportation of mobile homes outside of the Counties of Wake, Durham, and Franklin. Thus, the Hearing Examiner concludes that this portion of the application for common carrier operating authority must be denied for the simple reason that the Applicants have failed to carry the requisite burden of proof.

The second element of public convenience and necessity which must be considered is whether the proposed operation would impair the operations of Protestants and other existing carriers contrary to the public interest. There is no evidence in this record to support a finding that the service authorized by Exhibit B attached hereto would have a ruinous competitive effect upon other authorized carriers. Furthermore, the mere fact that a partial grant of operating authority to the Applicants would authorize them to compete with Protestants to some degree is certainly not sufficient to establish that such competition would be harmful or ruinous. "There is no public policy condemning competition as such in the field of public utilities; the public policy only condemns unfair or destructive competition." Utilities Commission v. Queen City Coach Company, 261 N.C. 384, 134 S.E. 2d 689 (1964).

Accordingly, the Hearing Examiner concludes that the public convenience and necessity require the service proposed by Applicants in addition to the existing services provided by Protestants and other authorized carriers only to the extent set forth and described in Exhibit B attached hereto.

2. The evidence in this record establishes that the Applicants are fit, willing, and able to properly perform the proposed service to the extent set forth in Exhibit B attached hereto. Applicants have been engaged in the business of transporting mobile homes for at least six or seven years. They own and operate equipment with which they have served the shipping public.

Therefore, the Hearing Examiner concludes that Applicants are fit, willing, and able to properly perform the service authorized by Exhibit B attached hereto.

3. The third and final statutory criterion pertains to solvency and financial ability to furnish adequate service on a continuing basis. On the basis of Applicants' financial information submitted with this application and on file with this Commission and the testimony offered at the hearing, it has been shown that Applicants are financially sound and have the resources to provide and to continue to provide the authorized service as needed.

The Hearing Examiner concludes that Applicants are solvent and financially able to furnish adequate service on a continuing basis.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Tharrington Brothers for a common carrier Certificate of Public Convenience and Necessity be, and the same is hereby, granted in part and denied in part in accordance with Exhibit B attached hereto and made a part hereof.

2. That Tharrington Brothers shall file with the Commission evidence of required insurance, a list of equipment, and otherwise comply with the rules and regulations of the Commission, not later than thirty (30) days after the effective date of this Recommended Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of September 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

EXHIBIT B

DOCKET NO. T-2185

ERNEST BROUGHTON THARRINGTON, and
EARLY PUGH THARRINGTON, d/b/a
THARRINGTON BROTHERS
Route 3, Box 199-G
Wake Forest, North Carolina 27587

IRREGULAR ROUTE COMMON CARRIER

EXHIBIT B

Transportation of Group 21, mobile homes, between all points and places in the Counties of Wake, Durham, and Franklin, North Carolina.

DOCKET NO. T-380, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Tidewater Transit Company, Inc., Post Office Box 189, Kinston, North Carolina 28501 - Application for Authority to Transport Group 21, Chemicals and Related Products, in Bulk, Statewide) RECOMMENDED ORDER GRANTING APPLICATION IN PART

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603, on June 3, 1982, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Jerry B. Fruitt, Eller & Fruitt, Attorneys at Law, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: Tidewater Transit Company, Inc.

For the Protestants:

Ralph McDonald, Attorneys at Law, Bailey, Dixon, Wooten, McDonald & Fountain, P.O. Box 2246, Raleigh, North Carolina 27602
For: Kenan Transport Company, Fleet Transport Company, Inc., Central Transport, Inc., and Chemical Leaman Tank Lines, Inc.

BENNINK, HEARING EXAMINER: By application filed on March 9, 1982, Tidewater Transit Company, Inc., seeks authority to transport:

"Group 21, chemicals and related products, in bulk, between all points and places in the State of North Carolina."

The application was listed on the Commission's Calendar of Hearings dated April 22, 1982, and was thereby scheduled for hearing at this time and place.

Protests and motions to intervene were filed May 3, 1982, by Kenan Transport Company (Kenan), Fleet Transport Company, Inc. (Fleet), and Central Transport, Inc. (Fleet), and Central Transport, Inc. (Central), and by Chemical Leaman Tank Lines, Inc. (Chemical Leaman), on May 13, 1982. By Commission Orders dated May 6 and May 19, 1982, respectively, those Protestants were permitted to intervene in this proceeding.

Upon call of the matter for hearing at the appointed time and place, Applicant and Protestants were present and represented by counsel. Applicant offered the testimony of the following witnesses: Charles W. Smith, Applicant's President; George Harper, Applicant's Secretary-Treasurer; John McNairy, also an officer of Tidewater; Bart Lamonica, Senior Traffic Analyst of Allied Chemical Company (Allied); Burton Simless, Manager of Distribution of Columbia Nitrogen Corporation (Columbia); W. Harris Sykes, Regional Traffic Manager of W. R. Grace & Company (W. R. Grace); A. C. Palmer, former Vice President of Northeast Chemical Company (Northeast); Harry Colter, Sales Supervisor for Carolina Eastern, Inc. (Eastern); Larry G. Smith, Senior Rate Analyst for Texas Gulf Chemicals Company (Texas Gulf); and Warren Grady, President of Dixie Chemical Corporation (Dixie).

The Protestants offered the testimony of Ben H. Keller, Central's Traffic Manager; W. David Fesperman, Kenan's Trafic Manager; J. C. Thompson, Chemical Leaman's Traffic Manager; and Russell E. Stone, Fleet's Director of Commerce and Traffic.

Based upon a careful consideration of the testimony and evidence presented at the hearing, the documents and exhibits received in evidence and judicially noticed, and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Applicant is an authorized common carrier headquartered in Kinston which operates under Certificate of Public Convenience and Necessity No. C-317 which authorizes, inter alia, the transportation of liquid fertilizer and fertilizer materials between points in and east of Mecklenburg, Cabarrus, Rowan, Davidson, Guilford and Rockingham Counties; anhydrous ammonia between all points in the State; phosphate products from the facilities of Texas Gulf Sulphur Company in Beaufort County to points in the State; and fertilizer and

fertilizer materials between points in Hertford County and points in the State.

2. By this application, Applicant proposes to amend its certificate to authorize the transportation of Group 21, chemicals and related products, in bulk, between all points and places in the State of North Carolina.

3. Applicant maintains in its fleet six stainless steel tanks which are suitable for the transportation of chemicals and 11 iron tanks which are suitable for the transportation of anhydrous ammonia and liquefied petroleum gas. Applicant has a facility for cleaning its tanks at its terminal in Kinston.

4. Applicant has substantial assets which exceed its liabilities, is operating at a profit, and has the resources with which to acquire additional rolling equipment as necessary to provide adequate and continuing service to the public.

5. This application is supported by seven (7) shippers of products that are used primarily as liquid fertilizers or liquid fertilizer materials as well as for other purposes.

6. All of the supporting shippers have at times experienced delays during the peak fertilizer seasons in obtaining service from existing carriers.

7. Allied, of Morristown, New Jersey, ships nitrogen and phosphatic solutions, which are used as liquid fertilizers or fertilizer materials, throughout the State of North Carolina.

8. Columbia, of Augusta, Georgia, ships urea and ammonium nitrate-water solutions within the State of North Carolina. These products are used as liquid fertilizers and liquid fertilizer materials, as well as for other purposes. Columbia has four terminals in Applicant's existing service area and would use Applicant to ship to its customers in the western part of the State.

9. W. R. Grace of Wilmington ships ammonium nitrate, anhydrous ammonia, nitrogen fertilizer solutions, nitric acid and urea, all of which can be classified as fertilizer or fertilizer materials, in intrastate North Carolina traffic. W. R. Grace can presently make only limited use of Applicant's services, since Applicant's existing operating authority does not permit it to pick up at W. R. Grace's Elmwood, North Carolina, terminal.

10. W. R. Grace will market a new nonfertilizer chemical, calcium nitrite, in December, but has no experience to date in shipping that product in intrastate North Carolina.

11. Northeast is presently in bankruptcy, but prior to bankruptcy did ship sulfuric acid, aluminum sulphate, and elemental sulfur in intrastate North Carolina commerce. Said chemicals may be used as liquid fertilizer materials or for agricultural purposes, as well as for other purposes such as in industrial processes.

12. Eastern, of Charleston, South Carolina, ships primarily nitrogen, ammonium nitrate, urea solution and anhydrous ammonia in intrastate North

Carolina commerce. Eastern's customers use its products for fertilizer applications. Most of Eastern's agricultural business is in eastern North Carolina.

13. Texas Gulf ships primarily agricultural chemicals, with an occasional shipment of hydrofluosilicic acid, in intrastate North Carolina commerce. Texas Gulf operates a fertilizer plant in Mount Olive. Applicant is not not authorized to move any fertilizer solutions from that plant to the western part of the State.

14. At present, Texas Gulf's hydrofluosilicic acid is transported either by customer owned equipment or by the Protestant Leaman. Leaman is providing adequate service and Texas Gulf has had no difficulty in having its shipments of hydrofluosilicic acid moved on a timely basis. Applicant has expressed a willingness to purchase a rubber-lined tank, since such a tank is necessary to transport hydrofluosilicic, but Texas Gulf does not have enough business to justify such a purchase.

15. Dixie, of New Bern, North Carolina, presently ships nitrogen, potash, phosphate, polynitrogen solution chemicals and anhydrous ammonia in intrastate North Carolina commerce. These products are used as liquid fertilizer or liquid fertilizer materials. Applicant presently hauls for Dixie but is not now authorized to haul fertilizer solutions to points in the western part of the State.

16. Dixie will soon be supplying a chemical used for bacteria control to a New Bern paper plant. As that product will be shipped outside of Dixie's busy fertilizer season, Dixie will try to transport most of that product with its own equipment. To date, Dixie has transported all of the shipments of such product, except for perhaps only one shipment, with its own equipment.

17. Central is an authorized common carrier operating under Certificate No. C-543 which authorizes, inter alia, the transportation of both liquid and dry commodities in bulk, statewide.

18. Central owns and operates a substantial fleet of equipment suitable for the transportation of chemicals. Central maintains at its Charlotte terminal a complete cleaning facility equipped to clean any product that it handles.

19. As of May 1, 1982, Central had 27 new 1981 trucks and seven new 1981 trailers suitable for transportation of chemical products that had never been utilized because of lack of business.

20. Approximately 9.4% of Central's total revenues would be subject to diversion if Applicant's requested authority is approved in its entirety.

21. Almost 100% of Central's intrastate shipments in North Carolina are one-way hauls, resulting in approximately 50% of its mileage being deadhead. This is typical of the industry, including the other Protestants, because the availability of adequate cleaning facilities operates as a limitation on the ability to backhaul.

22. Kenan is an authorized common carrier operating under Certificate No. C-245 which authorizes, inter alia, the transportation of petroleum and petroleum products, liquid fertilizer and fertilizer materials, and various other liquid and dry commodities, in bulk, statewide.

23. Between 50%-60% of Kenan's intrastate revenues would be subject to diversion if Applicant's requested authority to transport chemicals is granted in its entirety. This would result in a 10% loss in equipment utilization and a 10% reduction in Kenan's fleet and employees companywide.

24. Chemical Leaman is an authorized carrier operating under Certificate No. C-514 which authorizes, inter alia, the transportation of petroleum and petroleum products and specified liquid commodities in bulk, statewide.

25. Substantially all of Chemical Leaman's intrastate revenues would be subject to diversion if this application is granted in its entirety. Chemical Leaman's equipment is not presently operating at full capacity, and some of its drivers have already been laid off due to economic conditions; any significant diversion of revenues would only contribute to this trend.

26. Fleet is an authorized common carrier operating under Certificate No. C-156 which authorizes, inter alia, the transportation of liquid commodities, in bulk, statewide and the transportation of fertilizer and fertilizer materials within specified areas of the State.

27. Fleet's equipment is presently running in excess of 25% idle in North Carolina at any given time. This is a reflection of the current downward trend in the chemical industry. Fleet's operating ratio for the first quarter of 1982 was 105.79% on a systemwide basis.

28. Protestants maintain terminals in North Carolina and substantial fleets of equipment suitable for the transportation of chemicals and related products.

29. Protestants actively solicit chemical traffic within the State of North Carolina.

30. Protestants transport a broad range of chemicals and related products in North Carolina intrastate commerce which would not be classified as fertilizers or fertilizer materials and which were not mentioned by any of the Applicant's supporting shipper witnesses, including DMT, methanol, formaldehyde, resins, caustic soda, plastic pellets, glycol, TPA, MEK, DMI, alum, hydrogen peroxide, solvents, HFS acid, hydrofluoric acid, and miriatic acid.

WHEREUPON, the Hearing Examiner reaches the following

CONCLUSIONS

This application for a common carrier certificate is governed by G.S. 62-262(e) which imposes upon the Applicant the burden of proving the following to the satisfaction of this Commission:

1. That the public convenience and necessity require the proposed service in addition to existing authorized transportation services; and

2. That Applicant is fit, willing and able to properly perform the proposed service; and

3. That Applicant is solvent and financially able to furnish adequate service on a continuing basis.

Consideration of the first statutory criterion requires definition of "public convenience and necessity." Utilities Commission v. Queen City Coach Company, 4 N.C. App. 116, 123, and 124, 166 S.E. 2d 441 (1969), defines the phrase as follows:

> "[1] Our Supreme Court has said many times that what constitutes 'public convenience and necessity' is primarily an administrative question with a number of imponderables to be taken into consideration, e.g., whether there is a substantial public need for the service; whether the existing carriers can reasonably meet this need, and whether it would endanger or impair the operations of existing carriers contrary to the public interest. Utilities Commission v. Trucking Company, 223 N.C. 687, 28 S.E. 2d 201; Utilities Commission v. Ray, 236 N.C. 692, 73 S.E. 2d 870; Utilities Commission v. Greyhound Corp., 260 N.C. 43, 132 S.E. 2d 249.
>
> "[2] We are inadvertent to the fact that the factors denominated as imponderables, to wit: whether the existing carriers can reasonably meet the need for the service and whether the granting of the application would endanger or impair the operations of existing carriers contrary to the public interest, are not solely determinative of the right of the Commission to grant the application. Both are directed to the question of public convenience and necessity. Utilities Commission v. Coach Company, 233 N.C. 119, 63 S.E. 2d 113. Nevertheless, if the proposed operation under the certificate sought would seriously endanger or impair the operations of existing carriers contrary to the public interest, the certificate should not be issued. Utilities Commission v. Coach Company, supra."

1. Considering the evidence offered in this case in view of the statutory criterion of public convenience and necessity, Applicant has shown both a demand and a need for the transportation of liquid fertilizer and fertilizer materials, statewide. Collectively, the supporting shippers market throughout the state products that can be, and in almost every instance are, used as liquid fertilizer or fertilizer materials. Two of the supporting shippers can presently make only limited use of Applicant's services under its existing authority and desire to use Applicant to pick up from or deliver to points in the western part of the state outside Applicant's currently authorized territory. Further, all of the supporting shippers have experienced delays in service during the peak fertilizer season, and believe that a grant of statewide authority to Applicant would better enable them to obtain timely service. Accordingly, the Hearing Examiner concludes that Applicant has sustained its burden of proof in this proceeding to the extent of the operating authority set forth in Exhibit B attached hereto.

The Hearing Examiner further concludes, however, that the Applicant has failed to carry its burden of proof in showing a public demand and need for the transportation of the broad generic range of commodities which would be designated "chemicals and related products," other than liquid fertilizer and liquid fertilizer materials. In this regard, none of the supporting shippers stated a substantial present need for the shipment of any chemical which is

not used primarily, if not exclusively, as a fertilizer or a fertilizer material. All of the supporting shippers except Northeast, which is presently in bankruptcy, market products that are primarily used as fertilizers or fertilizer materials. The Hearing Examiner wishes to make it quite clear, however, that the operating authority set forth in Exhibit B attached hereto is not meant to strictly limit the Applicant to only the transportation of liquid materials whose "end use" involves the manufacture of fertilizers or agricultural applications. Rather, the Hearing Examiner intends for the Applicant, by the grant of operating authority set forth in Exhibit B attached hereto, to be authorized to transport any and all liquid materials or chemicals which could generally be classified as "fertilizer materials," even if the ultimate end use of such materials or chemicals is for a purpose other than the manufacture of fertilizer or for agricultural applications, such as usage in industrial and manufacturing processes.

The second element of public convenience and necessity which must be considered is whether the proposed operations would impair the operations of the Protestants and other existing carriers contrary to the public interest. There is no evidence in this record to support a finding that the service authorized by Exhibit B attached hereto would have a ruinous competitive effect upon authorized carriers. Nor is there evidence that any substantial traffic will be diverted from the Protestants and other authorized carriers if this application is only approved in part. Such might not be the case, however, if the Applicant were granted authority to transport the broad generic range of chemicals and related products which it has requested herein. Furthermore, the mere fact that a partial grant of operating authority to the Applicant would authorize it to compete with the Protestants is certainly not sufficient to establish that such competition would be harmful or ruinous. "There is no public policy condemning competition as such in the field of public utility; the public policy only condemns unfair or destructive competition." Utilities Commission v. Queen City Coach Company, 261 N.C. 384, 134 S.E. 2d 689 (1964)

Accordingly, the Hearing Examiner concludes that the public convenience and necessity require the services proposed by Applicant in addition to the existing services provided by Protestants and other authorized carriers only to the extent set forth and described in Exhibit B attached hereto.

2. With respect to the second statutory criterion, all of the evidence establishes that Applicant is fit, willing, and able to properly perform the proposed services to the extent set forth in Exhibit B attached hereto. Applicant is presently an authorized carrier of fertilizer and fertilizer materials in the eastern part of the state. It maintains a terminal, a substantial fleet of equipment, and a complement of experienced drivers with which it serves the shipping public.

The Hearing Examiner concludes that Applicant is fit, willing, and able to properly perform the additional services authorized by Exhibit B attached hereto.

3. The third and final statutory criterion pertains to the Applicant's solvency and financial ability to furnish adequate service on a continuing basis. On the basis of Applicant's financial information submitted with this application and on file with this Commission and the testimony offered at the hearing, there can be no question that Applicant is financially sound and has the resources to purchase additional equipment and facilities as needed.

The Hearing Examiner concludes that Applicant is solvent and financially able to furnish adequate service on a continuing basis.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Tidewater Transit Company, Inc., for authority to amend its Certificate of Public Convenience and Necessity No. C-317 be, and the same is hereby, granted in part and denied in part in accordance with Exhibit B attached hereto and made a part hereof. Upon this Recommended Order becoming effective and final, Certificate No. C-317 shall be revised so as to incorporate and include the operating authority set forth in Exhibit B attached hereto in addition to the existing authority presently held by the Applicant under said Certificate.

2. That Tidewater Transit Company, Inc., shall file with the Commission, to the extent it has not already done so, evidence of the required insurance, a list of equipment, and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein required within thirty (30) days from the date that this Recommended Order becomes effective and final.

3. That unless Tidewater Transit Company, Inc., complies with the requirements set forth in decretal paragraph 2 above and begins operations as authorized within a period of thirty (30) days after the date this Recommended Order becomes final, unless such time is extended by the Commission upon written request, the operating authority granted herein shall cease and determine.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

EXHIBIT B

SCOPE OF OPERATIONS

DOCKET NO. T-380, SUB 20

TIDEWATER TRANSIT COMPANY, INC.
P.O. Box 189
Kinston, North Carolina 28501

IRREGULAR ROUTE COMMON CARRIER

(9) Transportation of liquid fertilizer and liquid fertilizer materials, in bulk, in tank trucks, between all points and places in the State of North Carolina.

NOTE: The authority acquired herein, to the extent it duplicates any authority currently held by said carrier, shall not be construed as conveying more than one operating authority.

DOCKET NO. T-933, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
C. L. Vickers Transfer, Inc., Route 2,	)	ORDER GRANTING
Albemarle, North Carolina 28001 -	)	COMMON CARRIER
Application for Common Carrier Authority	)	AUTHORITY

BY THE COMMISSION: On October 26, 1981, the above-captioned Applicant filed with the Commission an application seeking certain common carrier authority which was particularly described and published in the Commission's Calendar of Hearings issued December 21, 1981. The application was assigned for hearing.

No protests were filed to the application. The Applicant has requested the Commission to cancel the hearing and to decide the application upon the information contained in the application and sworn affidavits.

Upon consideration of the application, the sworn affidavits submitted by the Applicant, and the entire record in this docket, the Commission finds and concludes that

1. Public convenience and necessity require the proposed service in addition to existing authorized transportation service;

2. The Applicant is fit, willing, and able to properly perform the proposed service; and

3. The Applicant is solvent and financially able to furnish adequate service on a continuing basis.

The Commission concludes that the Applicant has satisfied the burden of proof imposed by G.S. 62-262(e) and Commission Rule R2-15(a). Consequently, the Applicant will be granted the authority described in Exhibit B attached to this Order.

IT IS, THEREFORE, ORDERED:

1. That the Applicant is hereby granted the common carrier authority set forth in Exhibit B attached to this Order and made a part hereof.

2. That, to the extent it has not already done so, the Applicant shall file with the Commission, within thirty (30) days after the date of this Order, evidence of the required insurance, a list of equipment, a tariff schedule of rates and charges, designation of a process agent, and shall otherwise comply with the rules and regulations of the Commission.

3. That unless the Applicant complies with the requirements set forth in Ordering Paragraph 2 above and begins operating as herein authorized within thirty (30) days after the date of this Order, unless such time is extended by the Commission upon written request for such extension, the operating authority granted herein will cease.

4. That the Applicant shall maintain its books and records in such a manner that all of the applicable items of information required in its prescribed Annual Report to the Commission can be used by the Applicant in the preparation of such Annual Report. A copy of the Annual Report form shall be furnished to the Applicant upon request made to the Accounting Division, Public Staff, North Carolina Utilities Commission.

5. That this Order shall constitute a certificate until a formal certificate has been issued and transmitted to the Applicant authorizing the common carrier transportation described and set forth in Exhibit B attached hereto.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of March 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. T-933, SUB 1

C. L. VICKERS TRANSFER, INC.
Route 2
Albemarle, North Carolina

IRREGULAR ROUTE COMMON CARRIER AUTHORITY

EXHIBIT B

Transportation of Group 21, crushed scrap glass in dump trailers, from Scotland County to all points in North Carolina.

MOTOR TRUCKS

DOCKET NO. T-825, SUB 248

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Intrastate Fuel Surcharge Applicable to Transportation Rates and Charges of North Carolina Motor Carriers of Passengers and Property	)))	ORDER REDUCING FUEL SURCHARGE

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on March 10, 1982

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners John W. Winters and Leigh H. Hammond

APPEARANCES:

Representing Motor Common Carriers:

Thomas W. Steed, Jr., and Joseph W. Eason, Attorneys at Law, Allen, Steed & Allen, P.A., P.O. Box 2058, Raleigh, North Carolina 27602

John W. Joyce and Sherman D. Schwartzberg, Attorneys at Law, Southern Motor Carriers Rate Conference, 1307 Peachtree Street N.E., Atlanta, Georgia 30309

Representing Tobacco Transporters Association:

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

Representing the Using and Consuming Public:

Theodore C. Brown, Jr., Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 27, 1982, the Public Staff - North Carolina Utilities Commission filed a motion for public hearing for determining the proper motor carrier fuel surcharge for the common carriers of asphalt, petroleum, bulk commodities, general commodities, and tobacco. On February 10, 1982, the Southern Motor Carriers Rate Conference (SMCRC) filed a reply to the Public Staff's motion, wherein the SMCRC supported the Public Staff's request for hearing. This matter was set for public hearing by Order of February 12, 1982, and the public hearing was rescheduled to March 10, 1982, by Commission Order of March 4, 1982.

On March 4, 1982, the North Carolina Motor Carriers Association (NCMCA), on behalf of the motors carriers of asphalt, cement, petroleum, or other bulk commodities which are members of the NCMCA, filed a motion to adjust their applicable fuel surcharge downward from 16.25% to 15.00%, which was subsequently adjusted to 14.6% at the public hearing.

The public hearing was held at the time and place set in the March 4, 1982, Order. At the hearing the Public Staff presented the following witnesses:

David A. Poole, Staff Accountant with the Transportation Rates Division, Public Staff - North Carolina Utilities Commission

Ray Norris, President - North Carolina Traffic League

George Reaves, Director of Traffic and Transportation - Collins and Aikman

Harold Elmore, Traffic Analyst - R. J. Reynolds Tobacco Company

Dan Capps - Transportation Manager - Carolina Steel Corporation

W. Harry Sykes, Regional Traffic Manager - W. R. Grace and Company

The SMCRC presented the following witness at the public hearing:

Daniel M. Acker - Manager of the Cost and Statistical Department of the SMCRC.

Conrad L. Huffman presented testimony on behalf of Friendship Transport, which he owns.

At the hearing, the Commission notified the parties that judicial notice will be taken of all fuel reports filed in this docket. At the close of the hearing, the Commission requested verified statements and comments from the parties concerning this matter.

On March 30, 1982, the SMCRC filed a motion on behalf of its member general commodity carriers requesting that their applicable fuel surcharge of 9.69% on less-than-truckload traffic and 18.2% on truckload traffic be reduced to 9.3% and 17.5%, respectively. In support of this request, the SMCRC filed the verified statement of witness Daniel M. Acker. Currently, the SMCRC filed the verified comments of witness Acker, in response to the Commission's directive at the public hearing.

On March 31, 1982, the Tobacco Transporters Association filed comments pursuant to the Commission's request. These comments contained, among other things, a proposal to reduce the applicable fuel surcharge from 18% to 15%.

Also on March 31, 1982, the motor carriers of asphalt, cement, petroleum, or other bulk commodities who are members of the NCMCA filed comments pursuant to the Commission's request. These comments contained, among other things, a proposal to reduce the applicable fuel surcharge to 12.5%.

Finally, on April 7, 1982, the Public Staff filed Comments and Recommendations concerning this matter. The Public Staff's recommended fuel surcharge levels are as follows:

Carrier	Fuel Surcharge %
Tobacco	9.5%
General Commodity:	
LTL	5.6%
TL	10.5%
Bulk	11.5%
Independent and Mobile Homes:	
LTL	5.6%
TL	10.5%

In summary, the fuel surcharge level proposed by the carriers in their respective comments are as follows:

Carrier	Fuel Surcharge %
Tobacco	15.0%
General Commodity:	
LTL	9.3%
TL	17.5%
Bulk	12.5%

The Commission has given much consideration to the proper fuel surcharge for the various carrier groups. The evidence is uncontroverted that the price of fuel has decreased and that the fuel surcharge should be adjusted downward The main issue is, of course, how much the fuel surcharge should be adjusted to properly reflect this decrease in cost of fuel. In determining the proper fuel surcharge level, each carrier group has been carefully studied, for each group has its own uniqueness and resulting problems with determining the proper fuel surcharge level. The Commission is not unmindful of the complexities that are required in developing a fuel surcharge fair both to the motor carriers and the shipping public.

As to the appropriate fuel surcharge for general commodity carriers, the Commission concludes that, consistent with past decisions by this Comission in this docket, the methodology supported by the carriers is appropriate. However, the Commission takes judicial notice of the pending rule-making proceeding concerning the appropriate cost-study group(s) for the general commodity motor carriers participating in the SMCRC, NCMCA, and the MCTA and puts the parties on notice that the cost-study group(s) found appropriate therein, should be used in filings and reports in this docket, submitted after said determination.

The Commission recognizes that this docket is subject to on-going review by the Commission and is subject to future adjustments, either downward or upward, in order to enable the motor carriers to recover their fuel costs.

After a review of the entire record, the Commission concludes that the appropriate fuel surcharge levels are as follows:

Carrier	Approved Fuel Surcharge
Tobacco	15.0%
General Commodities:	
LTL	9.3%
TL	17.5%
Bulk	12.5%
Independent and Mobile Home:	
LTL	9.3%
TL	17.5%

Consistent with past Commission procedures and treatment, the Commission concludes that the appropriate fuel surcharge level for the Independent and Mobile Home carriers should be that approved for the general commodity carriers. The Independent and Mobile Home carriers' fuel surcharge should be approved and effective 10 days from the date of this Order, provided that no significant protest is received. If significant protest is received, this matter shall be set for public hearing.

IT IS, THEREFORE, ORDERED as follows:

1. That the fuel surcharge for the general commodity caarriers, tobacco carriers, bulk carriers, and Independents and Mobile Home carriers be, and hereby is, approved as follows:

Tobacco	15.0%
General Commodities:	
LTL	9.3%
TL	17.5%
Bulk	12.5%
Independent and Mobile Home:	
LTL	9.3%
TL	17.5%

2. That the fuel surcharges approved in ordering paragraph 1 are effective upon the date of this Order, except that pertaining to Independents and Mobile Home carriers, which is effective five* days from the date of this order, provided no significant protest is received.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of June 1982.

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

*Corrected by Errata Order dated June 15, 1982.

DOCKET NO. T-107, SUB 15

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Observer Transportation Company for a General Increase	) RECOMMENDED ORDER GRANTING INCREASE AND APPROVING TARIFF FILING

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 2, 1982, at 9:30 p.m.

BEFORE: Hearing Examiner Jim Panton

APPEARANCES:

For the Applicant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald and Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina

For the Intervenor:

Theodore C. Brown, Jr., Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

PANTON, HEARING EXAMINER: On December 1, 1981, the Applicant, Observer Transportation Company, filed its Motor Freight Tariff NCUC No. 8, Supplement 4, publishing a proposed 7.5% general increase in rates and charges, including minimum charges, applying on North Carolina Intrastate shipments of general commodities scheduled to become effective on December 23, 1981. The proposed increase was suspended and set for public hearing by Commission Order of December 22, 1981.

On February 23, 1982, the Public Staff filed Notice of Intervention and on March 15, 1982, the affidavit of David Poole, Accountant - Transportation Rates Division, was filed. In the affidavit, Mr. Poole stated that the proposed increase was not unreasonable and does not result in unfair rates and charges.

The public hearing was held at the time and place specified in the Commission Order of December 22, 1981. Joseph Radovanic testified in support of the requested increase in rates and charges. No public witnesses attended the public hearing.

Based on the information contained in the application, the Commission's files, and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The test year for setting rates in this proceeding is the 12 months ended October 31, 1981.

2. The Applicant's test year revenues were $281,458 without giving effect to the Fuel Surcharge Supplement placed into effect on November 9, 1981, and are $308,731 after consideration of the Fuel Surcharge Supplement.

3. The Applicant's proposed increase in rates and charges will result in $23,155 of additional gross revenues on issue traffic.

4. The Applicant's test year expenses are $300,976.

5. The Applicant's operating ratio for the test year is 106.9% before considering the Fuel Surcharge Supplement and 97.5% after considering the Fuel Surcharge Supplement.

6. The Applicant's operating ratio on issue traffic under proposed rates is 90.7% after considering the Fuel Surcharge Supplement.

7. The Applicant's operating ratio of 90.7% after considering the Fuel Surcharge Suplement under proposed rates is not unreasonable, particularly considering that no expenses have been proformed for the test year.

CONCLUSIONS

From a review of the entire record in this matter and particularly the affidavit of Public Staff Accountant Poole, the Hearing Examiner reaches the following conclusions.

The evidence supporting the finding of facts is contained in the application but primarly in the affidavit of Public Staff Accountant Poole.

IT IS, THEREFORE, ORDERED as follows:

1. That the Order in this docket dated December 22, 1981, wherein Respondent's Motor Freight Tariff NCUC No. 8, Suplement 4, was suspended by the Commission, be and the same is hereby, vacated.

2. That Observer Transportation Company's Freight Tariff NCUC No. 8, Supplement 4, publishing a proposed 7.5% general increase in rates and charges, including minimum charges, applying on North Carolina Intrastate shipments of general commodities, be, and hereby is, approved upon one day's notice after the effective date of this Order and the apppropriate tariff filing.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of April 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

DOCKET NO. T-1979, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Ace Transport, Ltd., Post Office Box 188, Kenly, North Carolina 27542 - Application For Authority to Transport Group 21, Liquid Nitrogen, Liquid Fertilizers, and Liquid Fertilizer Materials, Statewide	) FINAL ORDER OVERRULING) EXCEPTIONS AND) AFFIRMING RECOMMENDED) ORDER)

HEARD IN: The Commission Hearing Roon, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, on Monday, February 8, 1982, at 11:00 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Leigh H. Hammond, John W. Winters, Edward B. Hipp, A. Hartwell Campbell, and Douglas P. Leary

APPEARANCES:

For the Applicant:

John E. Tantum, Kirk, Tantum & Hamrick, Attorneys at Law, P.O. Box 307, Wendell, North Carolina 27591
For: Ace Transport, Ltd.

For the Protestants:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602
For: Barnette Truck Lines, Inc., Coastal Transport, Inc., East Coast Transport Company, Inc., and Tidewater Transit Co., Inc.

BY THE COMMISSION: On November 3, 1981, Hearing Examiner Carolyn D. Johnson entered a Recommended Order in this docket entitled "Recommended Order Denying Application."

On November 12, 1981, counsel for and on behalf of Ace Transport, Ltd., the Applicant herein, filed "Exceptions To Recommended Order" and requested oral argument thereon before the full Commission.

Oral argument on exceptions was subsequently heard by the Commission on February 8, 1982, with both the Applicant and the Protestants having been represented by counsel.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds, and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated November 3, 1981, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the exceptions to the Recommended Order filed herein on November 12, 1981, by Ace Transport, Ltd., be, and each is hereby, overruled and denied.

2. That the Recommended Order in this docket dated November 3, 1981, be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

Commissioner Tate did not participate.

DOCKET NO. T-1287, SUB 38

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Raymond Earl Hardy, P. O. Box 242, Chocowinity, North Carolina 27817	)	RECOMMENDED ORDER AUTHORIZING REMOVAL AND REVOCATION OF LICENSE PLATES PURSUANT TO G.S. 62-278

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Thursday, April 29, 1982, at 9:30 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Commission Staff:

Robert H. Bennink, Jr., Assistant Commission Staff Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

For the Respondent:

Raymond Earl Hardy, P. O. Box 242, Chocowinity, North Carolina 27817
Appearing: For Himself

PARTIN, HEARING EXAMINER: On March 10, 1982, the Commission issued an Order requiring Raymond Earl Hardy, P. O. Box 242, Chocowinity, North Carolina, to appear before the Commission on April 29, 1982, and show cause why his license plates should not be revoked and removed from his vehicles for the unlawful and unauthorized transportation of mobile homes in North Carolina intrastate commerce. G.S. 62-278; Commission Rule R2-21.

The Show Cause Order was personally served on Mr. Hardy on March 12, 1982, by an Inspector of the Commission. Commission Rule R1-29.

The matter came on for hearing as scheduled on April 29, 1982. The Commission Staff presented the testimony and exhibits of Patricia Williamson and Harold Wayne Williamson, who are in the mobile home moving business as a franchised carrier; J. Phil Lee, who is Chief of the Enforcement and Investigation Section of the Transportation Division; and Charles E. Payne, who is a Transportation Inspector of the Commission. Raymond Earl Hardy testified in his own behalf.

Upon consideration of the testimony and exhibits presented at the hearing, and the entire record in this docket, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Raymond Earl Hardy holds Exemption Certificate No. E-22785 from this Commission, which authorizes him to transport exempt commodities in North Carolina intrastate commerce pursuant to G.S. 62-260. This certificate authorizes Mr. Hardy to transport mobile homes only within the commercial zone of a municipality.

2. Mr. Hardy does not hold any authority from this Commission which would permit him to transport mobile homes in intrastate commerce outside of the commercial zone of a municipality.

3. On or about July 17, 1981, Commission Transportation Inspector Payne warned Mr. Hardy that any unauthorized transporation of mobile homes outside the scope of his exemption certificate could result in the removal and revocation of his license plates under G.S. 62-278. Mr. Hardy indicated to Mr. Payne that he understood such warning.

4. On and after July 27, 1981, Raymond Earl Hardy engaged in the transportation of mobile homes for compensation in intrastate commerce outside the commercial zone of a municipality on at least ten separate occasions, without having first obtained authority from this Commission to engage in such transporation, a violation of G.S. 62-262 and Commission Rule R2-21. On each and every occasion such transportation by Mr. Hardy was in willful and knowing violation of the statute and Commission rule.

CONCLUSIONS

1. The Examiner finds and concludes that on and after July 27, 1981, Raymond Earl Hardy engaged, knowingly and willfully, in the transportation of mobile homes for compensation in North Carolina interstate commerce, without first obtaining authority from this Commission to engage in such transportation. Such transportation by Mr. Hardy was in willful violation of G.S. 62-262 and Commission Rule R2-21. In so deciding the Examiner notes the following: Mr. Charles E. Payne, a Transportation Inspector with the Commission, testified that he investigated complaints that Mr. Hardy was engaging in the unlawful transportation of mobile homes in and around the Washington, North Carolina, area. On or about July 17, 1981, he warned Mr. Hardy that such transportation was unlawful and could result in the revocation and removal of the license plates on his vehicles. Mr. Hardy indicated to Mr. Payne that he understood the warning. Subsequent investigation by Mr. Payne disclosed that on at least ten separate occasions after the date of the warning Mr. Hardy moved mobile homes for compensation outside the scope of the exemption certificate granted him by the Commission.

His exemption certificate only authorizes the transportation of mobile homes within the commercial zone of a municipality. Mr. Payne testified that his investigation showed that Mr. Hardy transported mobile homes outside of the commercial zone on the ten or eleven occasions. Mr. Hardy himself admitted on the stand that he had engaged in such transportation and that he knew many of such moves were illegal at the time he made them. He gave as his excuse that "everybody" was moving mobile homes and that "if you can't beat 'em, join 'em."

2. G.S. 62-278 authorizes the Commission to order the revocation and removal of license plates from any carrier who willfully violates the provisions of N.C.G.S. Chapter 62, the Public Utilities Act, or any Commission rule or order. Such revocation may be for a period not to exceed 30 days. It shall be the duty of the Department of Motor Vehicles to execute such Order of revocation and removal made by the Commission upon receipt of a certified copy of the same.

The Examiner concludes that the license plates of Mr. Hardy should be revoked and removed for a period of twenty (20) days from such of his vehicles that are used, or could be used, in the transportation of mobile homes. In so deciding, the Examiner notes that Mr. Hardy persistently engaged in the unlawful transportation of mobile homes after being explicitly warned by Mr. Payne not to do so. Furthermore, the unlawful operations of Mr. Hardy harmed economically those mobile home carriers who have the proper authority from this Commission and who stand ready to provide lawful service to the public. (See the testimony of Mr. and Mrs. Williamson.)

IT IS, THEREFORE, ORDERED:

1. That pursuant to G.S. 62-278 the North Carolina license plates issued to Raymond Earl Hardy, P. O. Box 242, Chocowinity, North Carolina, shall be revoked and removed by the Division of Motor Vehicles from such of Mr. Hardy's vehicles that can be used in transporting mobile homes. Such period of revocation and removal shall be for twenty (20) days after the effective date of this Order. The effective date of this Order is June 8, 1982.

2. A certified copy of this Order shall be served by a Transportation Inspector of the Commission upon the North Carolina Division of Motor Vehicles, Attention: Mr. Gonzalle Rivers, Director, Vehicle Registration Section.

3. A copy of this Order shall be served upon Mr. Hardy by a Transportation Inspector of the Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of May 1982.

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

DOCKET NO. T-2143, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Merritt Trucking Company, Inc., P.O. Box 11206, Greensboro, North Carolina 27409 - Application for Common Carrier Authority to Transport Fly Ash, Statewide	) FINAL ORDER OVERRULING) EXCEPTIONS AND) AFFIRMING RECOMMENDED) ORDER

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Friday, February 19, 1982, at 10:30 a.m.

BEFORE: Chairman Robert K. Koger, Presiding; and Commissioners Leigh H. Hammond, John W. Winters, Edward B. Hipp, Sarah Lindsay Tate, A. Hartwell Campbell, and Douglas P. Leary

APPEARANCES:

For the Applicant:

Ralph McDonald, Bailey, Dixon, Wooten, McDonald & Fountain, Attorneys at Law, P.O. Box 2246, Raleigh, North Carolina 27602

For the Protestant:

Joseph W. Eason, Allen, Steed and Allen, P.A., Attorneys at Law, P.O. Box 2058, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 8, 1982, Hearing Examiner Carolyn D. Johnson entered a Recommended Order in this docket denying the authority sought by the Applicant.

On January 14, 1982, Counsel on behalf of the Applicant herein filed Exceptions to Recommended Order and requested oral argument thereon before the full Commission.

Oral argument on exceptions was subsequently heard by the Commission on February 19, 1982, with both the Applicant and Protestant having been represented by Counsel.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated January 8, 1982, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the exceptions to the Recommended Order filed herein on January 14, 1982, by Merritt Trucking Company, Inc., be and each is hereby, denied.

2. That the Recommended Order in this docket dated January 8, 1982, be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of March 1983.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

Commissioner Hammond dissenting

DOCKET NO. R-4, SUB 139

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Norfolk Southern Railway Company - Petition for Authority to Discontinue the Agency Station at Belhaven, North Carolina	) FINAL ORDER OVERRULING) EXCEPTIONS AND AFFIRMING) RECOMMENDED ORDER

HEARD IN: The Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, February 15, 1982, at 11:00 a.m.

BEFORE: Commissioner Douglas P. Leary, Presiding, and Commissioners Sarah Lindsay Tate, John W. Winters, Edward B. Hipp, and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

Odes L. Stroupe, Hunton & Williams, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27602

For the Public Staff:

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

BY THE COMMISSION: On October 13, 1981, Hearing Examiner Wilson B. Partin, Jr., entered a Recommended Order in this docket entitled "Recommended Order Denying Petition."

On October 28, 1981, counsel for and on behalf of Norfolk Southern Railway Company, the Applicant herein, filed "Exceptions to Recommended Order Denying Petition."

Oral argument on exceptions was subsequently heard by the Commission on February 15, 1982, with both the Applicant and the Public Staff having been represented by counsel.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds, and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated October 13, 1981, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the exceptions to the Recommended Order filed herein on October 28, 1981, by Norfolk Southern Railway Company, be, and each is hereby, overruled and denied.

2. That the Recommended Order in this docket dated October 13, 1981, be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

Chairman Koger and Commissioner Hammond did not participate.

DOCKET NO. R-71, SUB 112

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Seaboard Coast Line Railroad Company - Application for) Authority to Retire Team Track and Discontinue Mobile) RECOMMENDED ORDER
Agency Station at Rocky Point, North Carolina) GRANTING APPLICATION

HEARD IN: Courtroom No. 2, Second Floor, Pender County Courthouse, Burgaw, North Carolina

BEFORE: J. Phillip Lee, Hearing Examiner

APPEARANCES:

For the Applicant:

Robert Hugh Corbett, Attorney, Corbett & Fishler, P.O. Drawer 727, Burgaw, North Carolina 28425
For: Seaboard Coast Line Railroad Company

Charles M. Rosenberger, Attorney, Seaboard Coast Line Railroad Company, 500 Water Street, Jacksonville, Florida 32202
For: Seaboard Coast Line Railroad Company

For the Intervenor:

Theodore C. Brown, Jr., Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

LEE, HEARING EXAMINER: By application filed with the Commission on March 1, 1982, by counsel for and on behalf of Seaboard Coast Line Railroad Company (Applicant), Jacksonville, Florida, said rail carrier seeks authority to retire the team track at Rocky Point, North Carolina, and to discontinue the mobile agency station at Rocky Point which was formerly a nonagency station.

The Commission caused an investigation to be made by its Staff which was conducted by Inspector L. Kirby Sanderson. Inspector Sanderson filed his report with the Commission on March 16, 1982, which reflects that he contacted several firms or persons in the area of Rocky Point, North Carolina, concerning the proposed action of the Applicant. Inspector Sanderson's report further reflects that opposition was expressed by Ronald Graves, Manager, Woodtreaters, Inc., P.O. Box 1193, Burgaw, North Carolina 28425; by C. E. Lewis, President, Hy-Yield, Inc., P.O. Box 24, Rocky Point, North Carolina 28457; and by C. R. Rogers, Jr., Route 1, Box 135, Rocky Point, North Carolina 28447.

By Order of the Commission in this docket dated April 8, 1982, this matter was assigned for hearing and the Applicant was required to publish a public notice which was published by the Star-News Newspapers, Inc., on April 20 and 26, 1982, and May 3, 1982. The Commission has received an affidavit to that effect.

On May 24, 1982, the Public Staff - North Carolina Utilities Commission filed a Notice of Intervention in this docket.

At the outset of the hearing Robert H. Corbett, a resident attorney in the State of North Carolina, filed a Motion requesting that Charles M. Rosenberger be admitted to practice before the North Carolina Utilities Commission in this proceeding; stating that Mr. Rosenberger is admitted to practice in the highest court in the Commonwealth of Virginia; that he is in good standing therein; and that he is employed on a full-time basis as an Attorney at Law by the Seaboard Cost Line Railroad Company.

Said Motion was granted by the Hearing Examiner.

This matter came on for hearing as scheduled and the Applicant offered the testimony John Hart Eaton, Division Superintendent, Seaboard Coast Line Rail Railroad Company, Rocky Mount, North Carolina. Witness Eaton testified that the team track involved at Rocky Point, North Carolina, consists of approximately 750 feet of track including the 150 foot turnout; that it would accommodate ten (10) rail cars; that the track runs parallel with a paved road which provides access to the track; and that the amount of traffic handled at Rocky Point, North Carolina, has declined as follows:

1977, 11 cars inbound & 1 car outbound
1978, 7 cars inbound & 3 cars outbound
1979, 2 cars inbound & no cars outbound
1980, 1 car inbound & no cars outbound
1981, no cars inbound & 1 car outbound

Witness Eaton stated further that Rogers Fertilizer and Hy-Yield, Inc., were the only parties using the team track at Rocky Point in the last three or four years; that Rogers received two (2) cars in 1979 and that Hy-Yield received one (1) car and shipped outbound one (1) car in the past three (3) years; that Rogers Fertilizer has received cars in the past at the team track at Burgaw, North Carolina, which is located about 8 1/2 miles north of Rocky Point; that Rogers' place of business is about 4 1/2 miles from the team track at Rocky Point and about 4 miles by auto from Castle Hayne, North Carolina; that Hy-Yield, Inc., is located about 6 1/2 miles from the team track at Rocky Point and about 6 miles from Castle Hayne; that both companies are actually nearer to the team track at Castle Hayne; that Castle Hayne receives train service each day, six (6) days per week, as opposed to three (3) days per week service at Rocky Point, North Carolina.

Witness Eaton testified further that he did not know of any prospects for increased traffic to or from Rocky Point; that based on the normalized maintenance cost the team track at Rocky Point would cost approximately $1,730 per year to maintain; that repairs were needed now to bring this track up to operational standards which the Applicant estimated would cost approximately $5,600; and that if the team track is removed the track materials could be used at some other location.

In cross-examination witness Eaton stated that Rogers Fertilizer receives agricultural limestone and potash and that Hy-Yield, Inc., receives methyl bromide in tank cars; that no special unloading facilities are needed; and that the shipments could be handled as well at Burgaw or Castle Hayne, North Carolina.

Theodore C. Brown, Attorney, Public Staff - North Carolina Utilities Commission, for the using and consuming public, advised that parties who had expressed opposition to the proposed action of the Applicant had been notified in regard to the time and place of the hearing in this matter; however, none of the protestants appeared at the hearing.

Based upon the evidence presented and the record in this matter as a whole, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the Applicant, Seaboard Coast Line Railroad Company, is a common carrier by rail engaged in intrastate commerce in the State of North Carolina and is properly before the Commission in this matter.

2. That the Applicant posted notice of its proposed action on January 27, 1982, at its mobile agency station at Rocky Point, North Carolina, which remained posted for ten (10) days in compliance with Rule R1-14 of the Commission's Rules of Practice and Procedure.

3. That the Applicant caused a Notice to be published in the Star-News Newspapers, Inc., on April 20 and 26, 1982, and May 3, 1982, in compliance with the Order of the Commission in this docket dated April 8, 1982.

4. That Rocky Point, North Carolina, is listed in the Open and Prepay Station List as a mobile agency station on the Applicant's railroad, served by a mobile agency base station at Wilmington, North Carolina.

5. That the amount of rail traffic handled by the Applicant to and from Rocky Point, North Carolina, has declined during the past five (5) years to one (1) car per year for 1980 and 1981.

6. That the Applicant has team track facilities at Burgaw, North Carolina, approximately eight (8) miles north of Rocky Point, and at Castle Hayne, North Carolina, approximately five (5) miles south of Rocky Point, North Carolina.

CONCLUSIONS

Whereupon the Hearing Examiner is of the opinion and concludes that the Application by Seaboard Coast Line Railroad Company for authority to retire the team track and to discontinue the former nonagency station, now mobile agency station, at Rocky Point, North Carolina, as hereinbefore described should be granted.

IT IS, THEREFORE, ORDERED as follows:

1. That the application filed by Seaboard Coast Line Railroad Company for authority to retire the team track and discontinue the mobile agency station at Rocky Point, North Carolina, as described herein, be, and the same is hereby granted.

2. That the Applicant make arrangements to amend the Official Open and Prepay Station List accordingly when the team track is retired and the mobile agency station at Rocky Point, North Carolina, is discontinued.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of June 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. R-29, SUB 331

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Southern Railway Company - Petition for	)	
Authority to Remove Side Track at	)	RECOMMENDED ORDER
Asheville, North Carolina	)	GRANTING PETITION

HEARD IN: Conference Room, Social Services Building, Asheville, North Carolina, on October 13, 1981

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Stephani Wilson, Hunton & Williams, Attorneys at Law, Suite 400, BB&T Building, Raleigh, North Carolina

For the Intervenors:

Jack W. Westall, Jr., Westall & Baley, Attorneys at Law, P. O. Box 7175, Asheville, North Carolina 28807@ For: Jerry Sternberg, d/b/a The Doloboff Company

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

PARTIN, HEARING EXAMINER: On May 14, 1981, the Hearing Examiner issued Recommended Order Granting Petition in this docket; the Order authorized Southern Railway Company ("Southern") to remove the side track which crosses and runs parallel to and on the western side of Riverside Drive, Asheville, North Carolina, which side track formerly served Asheville Cotton Mills.

On May 29, 1981, Jerry Sternberg, d/b/a The Doloboff Company, filed a petition requesting that he be made a party to this proceeding and permitted to intervene therein; that a rehearing be ordered and a time fixed for oral argument; that he be granted an extension of time within which to file exceptions to the Recommended Order of May 14, 1981. In support of the petition he alleged that he is the present owner of the property formerly served by the side track in question, having purchased the same from its

former owner, Dennis Winner and wife; and that he stands ready to present evidence showing that the side track is a necessary element for continued use of the Petitioner's business and can be improved upon so as to comply with the applicable safety standards of the Federal Railroad Administration.

On June 10, 1981, the Petitioner, Southern Railway Company, filed a Response to Petition for Intervention, asking that the Commission adopt the recommended decision as its decision in this matter and that Mr. Sternberg's petition be denied in toto.

On June 25, 1981, Mr. Sternberg filed a Reply to Southern's Response.

On July 17, 1981, the Commission issued an Order allowing the Petitioner, Jerry Sternberg, d/b/a The Doloboff Company, to intervene as a party in this proceeding. The Order also scheduled a further hearing in Asheville in order to give the Intervenor an opportunity to present evidence in support of its petition.

The matter came on for hearing in Asheville on October 13, 1981. The parties were present and represented by counsel. The Intervenor Sternberg presented the testimony of Jerry Sternberg and Lee Smith, Traffic Manager of the Slosman Company. Southern Railway offered the testimony of J. D. Harris, a track supervisor with Southern Railway in the Asheville area.

Upon consideration of the testimony and exhibits presented at the hearing on October 13, 1981, the Recommended Order of May 14, 1981, and the entire record in this docket, the Hearing Examiner makes the following additional

FINDINGS OF FACT

1. The Recommended Order issued on May 14, 1981, in this docket authorized Southern Railway Company to remove the side track which crosses and runs parallel to and on the western side of Riverside Drive, Asheville, North Carolina. The findings and conclusions set forth in that Order are incorporated in this Order as if fully set forth herein.

2. The Intervenor Sternberg purchased the warehouse fronting the side track in question from Dennis Winner in January 1981, which was after the first hearing on October 13, 1980, but before the issuance of the Recommended Order on May 14, 1981. Mr. Sternberg paid $72,000 for the warehouse. (Mr. Winner had paid approximately $80,000 for the warehouse.)

3. The warehouse is presently being leased to the Slosman Corporation, which uses the warehouse for the storage of synthetic fibers. Slosman ships the fibers to and from the warehouse by truck.

4. There is no evidence to show how many revenue-producing rail cars the Slosman Company would use to ship goods to and from the warehouse if the side track were retained and made available to the Company.

5. Neither the Intervenor Sternberg nor the Slosman Corporation has a side track agreement with Southern Railway for the side track in question.

6. The side track remains in an extremely poor condition.

CONCLUSIONS

The Examiner concludes, as he did in the Recommended Order of May 14, 1981, that the public convenience and necessity no longer require Southern to maintain the side track at issue in this proceeding. In so deciding, the Examiner has carefully considered the evidence presented at the second hearing on October 13, 1981. Particular attention is called to the testimony of Lee Smith, the traffic manager for the current lessee of the warehouse. Mr. Smith could not (or would not) say how many revenue-producing rail cars the Slosman Company would use over the side track if the side track were retained and made available to his Company. The following exchange took place between counsel for Southern and Mr. Smith:

> "Q. Can you tell me, based upon your position as traffic manager with Slosman Corporation, whether or not the Slosman Corporation could promise or contract at this point; that is assuming the track were in good condition; that everything was useable, it could be a revenue producing customer at this point in time?
>
> "A. Out of that particular building?
>
> "Q. Yes.
>
> "A. I don't see any way you can answer that question. We would most certainly hope so. How could I give you a specific answer on that."

Even under repeated questioning Mr. Smith was unable to give any specific figures.

In the total absence of any evidence as to how much revenue Southern Railway could expect from the use of side track, the Examiner must conclude that Southern should be allowed to remove the side track.

IT IS, THEREFORE, ORDERED:

1. That the amended petition of Southern Railway Company for authority to remove the side track which crosses and runs parallel to and on the western side of Riverside Drive, Asheville, North Carolina, which side track formerly served Asheville Cotton Mills, be, and the same is hereby, granted.

2. That the Petitioner, Southern Railway Company, shall notify the Commission of the date on which the side track is removed.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of March 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

DOCKET NO. R-29, SUB 345

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Southern Railway Company - Petition of Authority to Retire and Remove Side Track Nos. 154-4 and 154-5 at Shelby, North Carolina	)	RECOMMENDED ORDER GRANTING PETITION TO REMOVE SIDE TRACKS

HEARD IN: Courthouse, Gastonia, North Carolina, on November 18, 1981, at 10:30 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Petitioner:

Stephani C. Wilson, Hunton & Williams, Attorneys at Law, P. O. Box 109, Raleigh, North Carolina 27602
For: Southern Railway Company

For the Protestant:

David C. Cannon, Wray, Bryant, Cannon, P.A., 1750 Southern National Center, Charlotte, North Carolina 28202
For: Elva T. Gheen and the Estate of Sarah T. Wall (Executor Sarah Elizabeth Wall)

For the Public Staff:

Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

PARTIN, HEARING EXAMINER: On March 20, 1981, Southern Railway Company ("Southern Railway" or "Petitioner") filed a petition with the Commission to retire and remove side tracks Nos. 154-4 and 154-5 at Shelby, North Carolina. The petition alleged that these side tracks have not been used in several years and are in a very deteriorated condition. The petition also alleged that Notice to the Public was posted for ten days in compliance with Commission Rule R1-14.

On August 23, 1981, the Commission received a letter of protest to the petition from Elva Thompson Gheen, protesting the removal of side track 154-4. On April 15, 1981, the Commission received a letter from Sarah Elizabeth Wall, Executor of the Estate of Sarah T. Wall, also protesting the removal of track 154-4.

On June 17, 1981, the Commission issued an Order setting the petition for hearing and requiring the Petitioner to give notice of the petition and the hearings by newspaper publication.

On September 25, 1982, the Public Staff filed Notice of Intervention in this docket.

On October 5, 1981, the Public Staff filed a Motion for Continuance.

On October 8, 1981, the Commission issued an Order rescheduling the hearing to Gastonia on November 18, 1981.

The matter came on for hearing as scheduled. The parties were present and represented by counsel. Southern Railway presented the testimony of L. A. Barlow, a Track Supervisor. The Protestants presented the testimony of Sarah Elizabeth Wall, executor of the Estate of Sarah Thompson Wall; Elva T. Gheen, owner of property alongside side track 154-4; and Edward Hamilton, President of Shelby Loan and Mortgage Corporation, which owns a building alongside side track 154-4.

Upon consideration of the testimony and exhibits presented at the hearing and the entire record in this docket, the Examiner makes the following

FINDINGS OF FACT

1. The Petitioner Southern Railway Company is a common carrier by rail in North Carolina intrastate commerce and is subject to the jurisdiction of this Commission.

2. The Petitioner Southern Railway presently maintains side tracks Nos. 154-4 and 154-5 at Shelby, North Carolina. By the Petition filed in this proceeding Southern seeks authority to remove side tracks Nos. 154-4 and 154-5.

3. Southern Railway has published the appropriate Notices required by Commission Rule R1-14 and the Orders of the Commission.

4. At the time of the hearing there had been no revenue traffic over the side tracks for at least two to four years.

5. The two side tracks are in very poor condition. It would cost $25,000 to restore side track No. 154-4 to a usable condition and $38,000 to restore side track No. 154-5 to a usable condition.

6. A platform on a building adjacent to side track No. 154-4 is closer to the side track than Southern's standards for safe rail car clearance allow.

7. The existence of a side track causes Southern additional expense to maintain and inspect. The switches at a side track have a propensity for accidents, derailments, and vandalism. The switches on the side tracks in question have been spiked down and are not usable in their present condition.

8. There is no side track agreement with respect to No. 154-5.

9. In 1903 Southern Railway entered into a side track agreement with T. H. Thompson and Z. J. Thompson governing the use of side track No. 154-4. There has been no assignment of that agreement to any other party, nor has there been any additional side track agreement involving No. 154-4. (This agreement

described the side track as 233 feet in length; the side track as it exists today is 592 feet in length.)

10. It is the policy of Southern Railway not to serve a company on a side track unless it has a side track agreement with that company.

11. The businesses alongside side tracks Nos. 154-4 and 154-5 are not presently using the side tracks in question nor is there any evidence that they plan to do so in the forseeable future.

CONCLUSIONS

The public convenience and necessity no longer require Southern Railway to maintain side tracks Nos. 154-4 and 154-5 in the City of Shelby. In so deciding, the Examiner calls attention to the following: Southern Railway has had no revenue traffic over these side tracks in the past two to four years and there is no reasonable probability of such traffic in the future. The condition of the two side tracks is very poor and it would be costly to restore the tracks to a usable condition. A platform adjacent to side track No. 154-4 is in violation of Southern's standards governing the safe clearance of rail cars. The existence of the side tracks causes Southern additional maintenance and inspection expenses. The side track switches have a propensity for accidents, derailments, or vandalism. Finally, the businesses alongside the side tracks are not presently using them and there is no evidence that they plan to do so in the future.

The Protestants contended that the side tracks were needed since downtown Shelby was undergoing change from a retail shopping district to an industrial district. As pointed out above, however, the side tracks in question are not being used and there appears to be no reasonable probability that they will be used in the foreseeable future. In the event that a need arises for a side track to serve the buildings in question, an agreement can be negotiated with Southern Railway. Upon consideration of the above, the Examiner concludes that the public convenience and necessity do not justify the continued maintenance of the unused side tracks in question, especially where there is no reasonable probability that the side tracks will be used in the foreseeable future.

Mrs. Gheen testified that a grade crossing once existed across side track No. 154-4, which allowed West Arey Street to continue across Morgan Street and the tracks of Southern Railway on to a public way until West Arey Street came to a dead end. Mrs. Gheen stated that when Southern Railway severed side track No. 154-4 in 1972, it also removed the grade crossing.* The family business, Gheen Lumber Company, used the crossing as an access to its place of business. Mr. Barlow, the witness for Southern Railway, testified that the City of Shelby placed a wall of asphalt (or concrete) alongside the crossing at Arey Street to keep water off of Southern's track. Mr. Barlow testified that if the asphalt were removed and the crossing restored as Mrs. Gheen would like, there would be a drainage problem for Southern's main track at that point. In the Examiner's opinion, the evidence is not sufficient to warrant ordering Southern to restore the grade crossing.

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* Mrs. Gheen testified that her family business was not using the side track in 1972, although a tenant was.

IT IS, THEREFORE, ORDERED:

1. That the Petition of Southern Railway Company for authority to remove side tracks Nos. 154-4 and 154-5 in Shelby, North Carolina, be, and the same is hereby, granted.

2. That Southern Railway Company shall notify the Commission of the date on which the side tracks are removed.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of April 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. P-19, SUB 188

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Ellen Covey and J.H. Casseday, et at., Durham, North Carolina, Complainants vs. General Telephone Company of the Southeast, Durham, North Carolina, Respondents	))) RECOMMENDED ORDER) DENYING COMPLAINT)))

HEARD IN: Commission Hearing Room No. 2, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Wednesday, May 5, 1982, at 9:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Complainants:

Dr. Ellen Covey, 815 Burch Avenue, Durham, North Carolina 27701

For the Public Staff:

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

For the Respondent:

Joe W. Foster, Attorney, and Dale E. Sporleder, Vice President-General Counsel and Secretary, General Telephone Company of the Southeast, P. O. Box 1412, Durham, North Carolina 27702
For: General Telephone Company of the Southeast

BENNINK, HEARING EXAMINER: This matter is before the North Carolina Utilities Commission by virtue of a written Complaint filed by Ellen Covey and J. H. Casseday, against General Telephone Company of the Southeast (General or Company) on or about February 1, 1982. The Complaint, in substance, alleges that General implemented its last general rate increase, granted by this Commission in Docket No. P-19, Sub 182, in a retroactive manner. The Commission served notice of said Complaint on General by Commission Order dated February 8, 1982. General's Answer, denying the allegations contained in the Complaint, was filed with the Commission on February 24, 1982. By letter dated March 9, 1982, the Complainant, Ellen Covey, advised the Commission that the Answer filed by the Company was not satisfactory and asked the Commission to give further attention to the matter. By Order dated April 8, 1982, the Commission set this case for hearing on May 5, 1982.

The matter came on for hearing at that time and all parties, with the exception of Mr. Casseday, were present and represented by counsel.

The Complainant, Ellen Covey, testified in her own behalf.

General offered the direct testimony of Norman F. Schutte, its Customer Accounting Manager, with respect to General's method of implementing the rate increase into its computerized billing cycle.

After consideration of the testimony offered during the hearing and upon a careful review of the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. General Telephone Company of the Southeast is a duly franchised public utility lawfully incorporated and licensed to do business in North Carolina and is providing telephone service to subscribers in its North Carolina service area.

2. General filed an application with this Commission in Docket No. P-19, Sub 182, on April 6, 1981, seeking authority to increase its rates and charges applicable to intrastate telephone service in North Carolina by the amount of $10,065,229.

3. By Order dated November 6, 1981, the Commission granted General the authority to adjust its telephone rates and charges to produce an increase in annual gross revenues not to exceed $6,624,941 and further directed General to file tariffs to recover said increased revenues within 10 days from the date of said Order.

4. By Order dated November 25, 1981, in Docket No. P-19, Sub 182, the Commission approved the tariffs as filed by General and made the increase effective as of that date.

5. In compliance with the Commission Order of November 25, 1981, General implemented this increase into its computerized billing system.

6. General utilizes a cycle billing system and its North Carolina subscribers are billed in five different cycles; i.e., the first, seventh, thirteenth, nineteenth, and twenty-fifth day of each month. The Company's objective under this format is to see that the customer's bill is delivered on the date of the particular billing cycle.

7. The first cycle to indicate the new rates was the nineteenth cycle in December 1981. Each of the cycles immediately following that reflected this increase with the thirteenth cycle in January 1982 being the last to incorporate the rate increase in question. Each of the cycles indicated a billing adjustment back to November 25, 1981.

EVIDENCE FOR FINDINGS OF FACT NOS. 1, 2, 3, AND 4

The evidence supporting these findings of fact is found in prior Commission Orders in Docket No. P-19, Sub 182, and in the record as a whole. Said findings of fact are essentially procedural and jurisdictional in nature and are uncontested and uncontroverted.

EVIDENCE FOR FINDINGS OF FACT NOS. 5, 6, AND 7

The evidence supporting these findings of fact is found in the direct testimony of Company Witness Schutte and in the pleadings offered by the Company in this case.

CONCLUSIONS OF LAW

The Hearing Examiner, in taking judicial notice of pertinent Commission Orders entered in Docket No. P-19, Sub 182, fully agrees that the Company was correct in its belief that the new rates could be implemented effective as of November 25, 1981. The Hearing Examiner further finds and concludes that as a matter of law the new rates were the legal obligation of General's customers and should have been collected from that date for the reason that said new rates had been approved by the North Carolina Utilities Commission effective November 25, 1981.

The Hearing Examiner does not dispute the fact that the amounts charged General's customers to reflect this increase back to November 25, 1981, did, indeed, vary from one billing cycle to the next until the new rates had been fully implemented with respect to all billing cycles.

While this may give the appearance of billing each cycle differently, in actuality, it was certainly a fair and equitable way for General to bill this increase over its entire subscriber population in order to avoid placing an undue burden on any portion of its ratepayers.

Thus, the Hearing Examiner concludes that General's method of implementing the rate increase granted by this Commission in Docket No. P-19, Sub 182, was fair, equitable and in accordance with accepted regulatory practices and procedures authorized by the Commission.

IT IS, THEREFORE, ORDERED that the Complaint filed herein be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of June 1982.

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

DOCKET NO. P-19, SUB 188

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Ellen Covey and J. H. Casseday, et al., Durham, North Carolina, Complainants vs. General Telephone Company of the Southeast, Durham, North Carolina, Respondents	FINAL ORDER OVERRULING EXCEPTIONS AND AFFIRMING RECOMMENDED ORDER

TELEPHONE

HEARD IN: The Commission Hearing Room No. 217, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, August 9, 1982, at 11:00 a.m.

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners Leigh H. Hammond, Sarah Lindsay Tate, John W. Winters, A. Hartwell Campbell, and Douglas P. Leary

APPEARANCES:

For the Complainant:

Ellen Covey, representing herself

For the Respondent:

Joe W. Foster, Attorney at Law, General Telephone Company of the Southeast, P.O. Box 1412, Durham, North Carolina 27702

For the Public Staff:

Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Dobbs Building, Raleigh, North Carolina 27602

BY THE COMMISSION: On June 23, 1982, Hearing Examiner Robert H. Bennink, Jr., entered a Recommended Order Denying Complaint in this docket.

On June 30, 1982, Ellen Covey, Complainant, filed Exceptions and Request for Oral Argument setting forth her exceptions to the Recommended Order in this docket and asking that the matter be scheduled for oral argument before the full Commission.

Oral Argument was subsequently scheduled and held on August 9, 1982, with the Complainant representing herself and the Respondent being represented by counsel.

Based upon a careful consideration of the entire record in this proceeding, including the exceptions and oral argument heard thereon, the Commission is of the opinion, finds, and concludes that all of the findings, conclusions, and ordering paragraphs contained in the Recommended Order of June 23, 1982, are fully supported by the record. Accordingly, the Commission further finds and concludes that the Recommended Order dated June 23, 1982, should be affirmed and that each of the exceptions thereto should be overruled and denied.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the exceptions filed by Complainant on June 30, 1982, to the Recommended Order issued in this docket on June 23, 1982, be, and each is hereby, overruled and denied.

2. That the Recommended Order issued in this docket on June 23, 1982, by Hearing Examiner Robert H. Bennink, Jr., be, and the same is hereby, affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. P-58, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Mrs. Marie Leatherwood, Complainant	) RECOMMENDED
	) ORDER
vs.	) DENYING
Western Carolina Telephone Company, Respondent	) COMPLAINT
	)

HEARD IN: Meeting Room, Jackson County Library, 51 West Main Street, Sylva, North Carolina, on October 28, 1981, at 9:00 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For Western Carolina Telephone Company:

Shelley M. Pew, Van Winkle, Buck, Wall, Starnes & Davis, P.A., P.O. Box 7376, Asheville, North Carolina 28807

For the Using and Consuming Public:

G. Clark Crampton, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

BENNINK, HEARING EXAMINER: This proceeding arises upon a complaint by Mrs. Marie Leatherwood against Western Carolina Telephone Company (hereinafter "Company" or "Respondent") which was filed with the North Carolina Utilities Commission on August 6, 1981. The gravamen of Mrs. Leatherwood's complaint is that the Company rendered such poor telephone service to her residence during a six-month period that an appropriate adjustment should be made to her bill.

By Commission Order dated August 7, 1981, the complaint was served upon the Respondent Western Carolina Telephone Company for answer. On August 24, 1981, Western Carolina Telephone Company filed its answer to the complaint. By Commission Order dated August 31, 1981, the Respondent's answer to the complaint was served upon Mrs. Leatherwood for her further response, if any. On September 14, 1981, the Commission received a letter from Mrs. Leatherwood (hereinafter sometimes referred to as "Complainant") stating that the answer filed by the Respondent was unacceptable to her and requesting a hearing on her complaint. By Commission Order dated October 5, 1981, the matter was scheduled for hearing.

TELEPHONE

On September 30, 1981, the Public Staff filed a notice of intervention in this proceeding on behalf of the using and consuming public. On October 19, 1981, the Public Staff filed a motion on behalf of the Complainant seeking an order from the Commission directing Western Carolina Telephone Company to have two of its employees, Messrs. Stafford and Titmus, present at the hearing on the complaint. On October 22, 1981, the Chairman of the Commission issued an Order granting the Public Staff's motion.

This matter came on for hearing at the time and place previously scheduled by the Commission. The Company was represented by counsel and counsel for the Public Staff assisted the Complainant. Both parties presented evidence. The evidence of the Complainant consisted of her testimony and exhibits and the testimony of Company employees, Charles Titmus and C. O. Stafford, the latter two being called as adverse witnesses by the Complainant. At the close of the presentation of the Complainant's evidence, the Company moved to dismiss the complaint. That motion was denied. The Company then presented its case through the testimony and exhibits of its employee, C. O. Stafford.

Based upon a careful consideration of all of the testimony and exhibits received into evidence and considering the record of these proceedings as a whole, the Hearing Examiner hereby makes the following

FINDINGS OF FACT

1. Western Carolina Telephone Company is a public utility operating within the State of North Carolina and providing telephone utility service to customers located in its service area in the western part of the State.

2. Mrs. Marie Leatherwood, the Complainant herein, at all times relevant to the matters involved in her complaint in this docket, has been a customer of Western Carolina Telephone Company with respect to telephone utility service provided to her family residence located at Sharptop Mountain, Bryson City, North Carolina.

3. This Commission has jurisdiction over the Company and the subject matter of the complaint of Mrs. Leatherwood which gave rise to this docket.

4. Complainant reported telephone service difficulties to Respondent on six different occasions, those being September 29, 1980, October 20, 1980, November 24, 1980, December 24, 1980, February 10, 1981, and February 16, 1981.

5. Complainant described the difficulties as there being no dial tone or that the bells on her telephone would not ring, and that such problems occurred during times of rainfall.

6. Each time Complainant reported difficulties, the Respondent tested or attempted to test the Complainant's telephone number. On three occasions (September 29, 1980, December 24, 1980, and February 10, 1981), Respondent was unable to test the telephone line at the residence because the Complainant's home was surrounded by a locked gate marked with a "no-trespassing" sign.

7. When the Respondent was denied access to the Complainant's premises, a "door-knocker" would be left on the gate. This is a preprinted card advising the customer to call the Telephone Company to arrange for further service.

The Complainant acknowledges receiving these cards and also that she failed to respond to these notices or to call the Respondent to arrange for a service visit.

8. On all occasions when trouble was reported, even when Respondent was denied access to the premises, the Respondent would test the telephone number on its office test board. During the tests, the line would clear up.

9. On two occasions (October 20, 1981, and November 24, 1980), Respondent was given access to the Complainant's residence and engaged in testing the telephone line. During the testing, the difficulty disappeared and the Respondent, was thus unable to isolate the source of the problem.

10. It was later discovered that the Complainant's telephone difficulties were caused by the existence of two separate holes on the C wire leading to the Complainant's home. Water would enter the C wire through these two holes during periods of rainfall. Thus, there would only be telephone difficulties when there was a sufficient quantity of rainfall to cause the line to become wet.

11. When the wire was dry, Complainant experienced no difficulties with her telephone. It was an intermittent problem that would disappear as soon as the cable would dry.

12. Complainant'sdescription of her telephone difficulties indicated, among other possible causes, a wet cable. However, a defect in the cable causing the problem could have been located at any point between the Complainant's home and the Respondent's office, a distance of approximately 4.5 miles.

13. Even though the Complainant's telephone was the only one in the area allegedly affected, the defect did not necessarily have to be located in Complainant's lead-in cable, but could have occurred at any point between her residence and Respondent's office.

14. In order for Respondent to locate the defect in the cable, a serviceman was required to test the entire cable between the Respondent's office and the Complainant's home, testing from pole to pole. If, during the process of pole to pole isolation testing, the wire would dry, the defect would be impossible to locate.

15. On February 16, 1981, there was a rainstorm and the C wire serving the Complainant's home was inundated with rain for a long enough period of time for Respondent to locate the defect. As a result, 750 feet of line was replaced.

16. Respondent has agreed to apply to Complainant's account a one-month credit adjustment for local service in compensation for her telephone difficulties. This adjustment will be made in accordance with Respondent's tariff which is filed with the North Carolina Utilities Commission; specifically, Paragraph 2.4.5, Section 2, page 23, which provides that a pro rata adjustment of the fixed monthly charges may be made if a service interruption continues in excess of 24 hours from the time it is reported.

17. The credit adjustment referred to in Finding of Fact No. 16 above is reasonable and fairly compensates the Complainant for the service difficulties which gave rise to the instant complaint.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

The burden of proving both the cause of action and the damages rests on the Complainant:

> N.C.G.S. 62-75. Burden of Proof. -- In all proceedings instituted by the Commission for the purpose of investigating any rate, service, classification, rule, regulation or practice, the burden of proof shall be upon the public utility whose rate, service, classification, rule, regulation or practice is under investigation to show that the same is just and reasonable. In all other proceedings the burden of proof shall be upon the complainant. (Emphasis added.)

See also State of North Carolina ex rel. Utilities Commission v. Nello L. Teer Co., 266 N.C. 366, 373, 146 S.E. 2d 511 (1966). The Complainant has simply failed to meet this burden. The Company responded to each of the Complainant's service calls with prompt and reasonable diligence. There was ample testimony, by both the Complainant and the Respondent, that the telephone difficulties in question were intermittent and only occurred when there was a sufficient quantity of rainfall to cause the line to become wet. Thus, the problem could only be detected at certain times. When the problem was finally isolated, 750 feet of cable were replaced and the Respondent agreed to make a one-month credit adjustment to Complainant's account.

Furthermore, Complainant has failed to establish her damages. In this regard, the Respondent has agreed to apply a thirty (30) day credit for local service to Complainant's account in compensation for the telephone problems experienced by the Complainant during the period of time in question. Complainant has not shown this remedy to be inadequate, particularly since she testified several times that her telephone worked perfectly if the cable was not wet. Obviously, there were then extensive periods of time when Complainant was provided telephone service without interruption.

Accordingly, the Hearing Examiner is of the opinion and concludes that the credit adjustment proposed herein by the Company is reasonable and fairly compensates the Complainant for the service difficulties which gave rise to the instant complaint. Notwithstanding said conclusion, the Hearing Examiner wishes to emphasize the fact that this decision is not meant to minimize in any way Mrs. Leatherwood's complaint with respect to the service difficulties which she obviously experienced over an extended period of time. To the contrary, the Hearing Examiner would also be personally upset with such service under similar circumstances. However, since it appears to the Hearing Examiner that the Company responded with due and reasonable dilligence in this matter in an attempt to find the cause of the Complainant's service difficulties, Mrs. Leatherwood's complaint must be denied.

IT IS, THEREFORE, ORDERED that the complaint of Mrs. Marie Leatherwood against Western Carolina Telephone Company be, and the same is hereby, denied; provided, however, that the Complainant's account shall be adjusted to reflect a thirty (30) day credit for local service as proposed herein by the Respondent pursuant to its Tariff, Paragraph 2.4.5, Section 2, page 23.

ISSUED BY ORDER OF THE COMMISSION.
This the 21st day of January 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. P-7, SUB 665

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation into the Establishment of Countywide Extended Area Service (EAS) in Johnston County) ORDER ESTABLISHING) EXTENDED AREA SERVICE

BY THE PANEL: On September 16, 1981, Mr. Edison E. Temple, Chairman of the Countywide Toll-Free Telephone Committee, transmitted to the Public Staff newspaper articles, resolutions, a petition and other demonstrations of support for requesting a poll on the matter of countywide Extended Area Service (EAS) in Johnston County.

The majority of telephone service in Johnston County is provided by Carolina Telephone and Telegraph Company's exchanges of Smithfield (the county seat), Benson, Clayton, Four Oaks, Kenly, and Princeton and Southern Bell Telephone and Telegraph Company's Selma exchange. EAS in Johnston County presently exists among the three exchanges of Smithfield, Selma, and Princeton, between Smithfield and Four Oaks, and between Benson and Four Oaks. In addition, Benson has EAS to Dunn, Kenly has EAS to Wilson, and Clayton has EAS to Raleigh.

On March 23, 1982, in Smithfield, North Carolina, the Panel held a hearing on the requested EAS in order to establish:

1. The need for and public interest in the requested EAS.

2. The rate increases that would apply for Southern Bell's Selma exchange.

3. Whether or not an EAS poll should be conducted of the affected subscribers.

Based on the evidence presented, the Commission issued an Order on May 21, 1982, requiring that a poll be conducted of all affected subscribers to determine their desire for the proposed EAS. The Commission reserved the right to order less than countywide service based on the results of the poll.

The basic monthly rate increases used for polling were as follows:

Carolina Telephone Company

	Residence			Business		
	1-Pty	2-Pty	4-Pty	1-Pty	2-Pty	4-Pty
Benson	$ 2.50	2.45	2.45	$ 6.45	6.20	6.05
Clayton	1.80	1.80	1.80	4.55	4.55	4.55
Four Oaks	2.25	2.25	2.20	5.85	5.70	5.50
Kenly	2.05	2.00	2.05	5.15	5.05	5.10
Princeton	1.85	1.85	1.80	4.75	4.60	4.40
Smithfield	1.60	1.60	1.55	4.10	3.95	3.75

Southern Bell Telephone and Telegraph Company

	Residence	Business
Selma	$ 2.20	$ 5.50

On July 30, 1982, and August 2, 1982, the Southern Bell Telephone and Telegraph Company and Carolina Telephone Company filed the following polling results:

Southern Bell Telephone and Telegraph Company

Selma Exchange

		Percent of Ballots Returned
1. Number of ballots returned	2449	-
2. Number in favor of EAS	1186	48.4%
3. Number not in favor of EAS	1233	50.4%
4. Number returned no vote	30	1.2%

Carolina Telephone and Telegraph Company

Exchanges	No. Of Eligible Voters	No. Of Ballots Returned	Percent of Ballots Returned	Percent Of Ballots Returned Voting In Favor	Percent of Ballots Submitted to Subscribers Voting In Favor
Benson	4118	2064	50.1%	50.7%	25.4%
Clayton	3559	2113	59.4%	82.8%	49.2%
Four Oaks	1313	659	50.2%	46.7%	23.5%
Kenly	2913	1688	57.9%	74.3%	43.0%
Princeton	939	491	52.3%	55.2%	28.9%
Smithfield	7311	3982	54.5%	58.3%	31.8%

The Panel, having analyzed the polling results and all other evidence in this docket, concludes that in this case, EAS should be implemented in those exchanges where more than 50 percent of the voting subscribers favor the EAS. The panel is mindful of the changes in federal regulations which will inevitably force local rates upward. Therefore, the decision in this case should not be interpreted as a precedent or standard policy of the Commission. For in the near future, greater weight may be placed on the percentage of total affected subscribers whose rates will be increased rather than limiting consideration to those subscribers who voted in favor of Extended Area Service.

IT IS, THEREFORE ORDERED:

1. That Carolina Telephone and Telegraph Company is hereby ordered to implement EAS in the following configurations.

(1) Smithfield (EAS to Benson, Clayton and Kenly).
(2) Benson (EAS to Smithfield, Clayton, Kenly, and Princeton).
(3) Clayton (EAS to Smithfield, Benson, Kenly and Princeton).
(4) Kenly (EAS to Smithfield, Benson, Clayton, and Princeton).
(5) Princeton (EAS to Benson, Clayton, and Kenly).

2. That Carolina Telephone and Telegraph Company shall within 30 days from the issuance of this Order file with the Commission the schedule for implementing the EAS and the applicable basic monthly rate increases which shall not exceed the rates on which subscribers were polled.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. P-55, SUB 776

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation of the Need for Extended Area Service) ORDER AFFIRMING
Between the Locust Exchange and each of the Exchanges) RECOMMENDED
of Norwood, Albemarle, Oakboro, New London, and Badin) ORDER

BY THE COMMISSION: On October 2, 1981, a Recommended Order was issued requiring implementation of Extended Area Service (EAS) between the subscribers of the Locust Exchange and certain other exchanges in Stanly County. Subsequently, Exceptions to the Recommended Order and requests for oral argument were filed by Concord Telephone Company, Mid-Carolina Telephone Company, and Southern Bell Telephone and Telegraph Company. The Commission scheduled the oral argument for hearing November 30, 1981.

The oral argument came on to be heard as scheduled, each of the aforementioned telephone companies was represented by able counsel, and the affected telephone subscribers were represented by the Public Staff counsel.

The Commission has reviewed the case in its entirety and after careful deliberation concludes that the Recommended Order issued October 2, 1981, should be affirmed.

IT IS, THEREFORE, ORDERED as follows:

1. That each of the Exceptions to the Recommended Order filed herein by Concord Telephone, Mid-Carolina Telephone Company, and Southern Bell Telephone and Telegraph Company is hereby overruled and denied.

2. That the Recommended Order in this docket issued October 2, 1981, is hereby affirmed.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of January 1982.

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

Commissioner Tate, Dissenting
Commissioner Campbell, Dissenting
Commission Leary, Dissenting (written dissent not filed)

DOCKET NO. P-55, SUB 776

COMMISSIONER TATE, DISSENTING.

The Majority Opinion in this case departs from all precedent in the handling of EAS matters by the North Carolina Commission, and, in my opinion, departs from sound regulatory principles. In fact this is the worst decision rendered by the Commission in the past four and one-half years.

The facts are simple enough. After a public hearing, the six exchanges in Stanly Conty were polled to decide whether or not there should be EAS to and from Locust with all the other five Stanly County Exchanges. When the results were tabulated, four of the six exchanges had voted against EAS, including the Locust Exchange. By a bare majority of 52.8%, there was a favorable vote. However, the Commission has in its past decisions required a more substantial majority before ordering EAS. It is of note that while the other five exchanges would be subjected to a charge of only 10 or 20 cents, the charge to customers in the Locust Exchange would be 95 cents per month. Some 1,747 customers in the Locust Exchange (out of 2,479 mailed ballots) returned the ballots and only 795 agreed to pay the 95 cent charge, a 54.5% negative vote. In passing, it is interesting to note that in the largest exchange, Albemarle (which is also the County Seat), 51.8% voted against the EAS although their increased charge would only be 20 cents. It is true that a large number of civic leaders and interested people in the community have appeared before the panel, both in the hearing at Albemarle and at various Staff Conferences in Raleigh. They spoke of the need of citizens to be able to communicate with their government, to be able to reach law enforcement and emergency services, to have access to other governmental services to the disabled elderly, etc. However, it is also a fact that these county officials could provide free access to Stanly County governmental services by implementing the 911 service. After the poll had been taken and the results showed that only a bare majority of Stanly Conty citizens seemed to desire EAS, a County Commissioner appearing before us said, "You should give us what we need and not what we want and what we ask for in this vote." This I am unwilling to do.

The Panel refers to the Stanly County situation as unusual, if not unique. It does not appear so to me. More than 62% of Southern Bell's Exchanges include more than one county and the problems that arise therefrom come before the Commission with painful regularity. In some cases it has been impossible to split the exchange so that only residents of one county remain in the exchange. Here a division of the exchange was not economically feasible and the Public Staff as well as some of the witnesses, conceded that the cost would be uneconomical. Faced with these facts, the Majority refused to accept that the residents in these exchanges had voted and had declined to support the inclusion of the Locust Exchange into the EAS available to the rest of Stanly County. In this commonplace situation the Majority chose a unique solution. It decided to allow EAS for all of the Locust Exchange, but only to charge the residents of Stanly County and to give the service to Cabarrus citizens on the Locust Exchange for free. Of course, the balance in cost will be picked up by the general body of ratepayers, who have neither a vote nor any interest in this local problem.

The Majority quote the law but have distorted its clear meaning in concluding that this is not discriminatory regulation. Aucupia verborum sunt judice indigna. G.S. 62-140 provides: "No public utility shall, as to rates

or services, make or grant any unreasonable preference or advantage to any person..." And it is obvious that the citizens of Cabarrus County who now have free service to all exchanges in Stanly County are receiving unreasonable preferences. State ex rel. U.C. vs. Edmisten, 291 NC 424 (1976) states, "There must be no unreasonable discrimination between those receiving the same kind and degree of service." Universally, it is held that "Free service (or service for compensation or consideration other than money) rendered by a public utility to some of its consumers is discriminatory against its other consumers and, therefore, unlawful." 22 PUR 265 (Pennsylvania, 1938) Sound regulatory theory requires that the cost causer should pay the bill. The cost still exists for providing the service of extended area service to those customers in the Locust Exchange but only a part of the cost is being charged to the residents of Stanly County, and the balance of that cost is charged to ratepayers who have done nothing to cause the cost. Additionally, the citizens of Cabarrus County in the Locust Exchange are receiving a free service. It is immaterial whether or not they want or use the service; the fact is they are being provided a free service. As Justice Holmes said, "...Hard cases make bad law." Northern Securities Co. v. U.S., 193 U.S. 197, 400 (1904). Non facias malum, ut inde fiat bonum. I do not believe that this decision complies with Commission precedent or with the laws of North Carolina, and I cannot concure with the tortuous reasoning of the Majority in their decision in this case.

Sarah Lindsay Tate, Commissioner

DOCKET NO. P-55, SUB 776

COMMISSIONER CAMPBELL, DISSENTING.

The task of the assigned Panel of the Commission to resolve this EAS issue was most difficult. While I commend the courage of the Panel in trying to find a solution, I must respectfully disagree with their conclusions. The results of a poll which was ordered by the Commission was inconclusive, to say the least. The efforts to avoid the conclusions of the poll were unusual and caused a disregard of the law in order to get the results of this Order. This obvious bending of public law in order to please a small segment of the public in Stanly County is unacceptable to me.

G.S. 62-140 deals with the subject of discrimination as to rates and services. This section reads as follows:

> "No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or service either as between localities or as between classes of service."

The facts are clear. Subscribers of the Locust Exchange which reside in Stanly County are being required to pay an extra charge of 95 cents per month for exactly the same service as being received by subscribers of the Locust Exchange which happen to live in Cabarrus County. If this is not rate discrimination on behalf of the Commission toward people on a basis of locality, then the meaning of discrimination escapes me.

Were I a resident of Stanly County within the Locust Exchange, I would appeal this unfair Order to the Courts. It should be unnecessary, however, to impose this legal burden on said subscriber. The Locust subscriber is being required to pay an annual extra cost of $11.40 per main station for residential use which the Locust Exchange customer residing in Cabarrus County does not have to pay. This distinction is apparently justified and glossed over by the Panel upon the flimsy reasoning that the Stanly County resident could call the county offices whereas the Cabarrus County residents would have no need of such service. I would challenge the Panel to find a single subscriber that used that limited service in the amount of $11.40 per annum. Yet all the Stanly County subscribers in that exchange must pay.

Another very unfair part of this decision rests upon the fact that Southern Bell is denied a recovery of their total costs of the investment of providing EAS service. The Public Staff of the North Carolina Utilities Commission determined that equipment costs only, for the Locust Exchange subscribers, would aggregate some 95 cents per month for the total 2,479 subscribers. In this instant decision, the Panel decided that the utility could charge only 62 percent of the subscribers for these costs and would have to absorb the remaining 38 percent. Everyone should know that this is unfair.

While the decision of the Commission will be pleasing to some persons in Stanly County, the burden of trying to satisfy these persons is too high a price to pay when it ignores and avoids the clear meaning of the statutes. This entire procedure marks a new high in bias favoring the extention of EAS service to as many people as possible. To this bias and disregard of the law, I take strong exception.

A. Hartwell Campbell, Commissioner

TELEPHONE

DOCKET NO. P-110, SUB 15

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Anser-Quik Enterprises, Inc.,	)	
for Adjustments and Revisions in its Rates	)	RECOMMENDED ORDER
and Charges Applicable to Intrastate Radio	)	GRANTING INCREASE IN
Common Carrier Service	)	RATES AND CHARGES

HEARD IN: Auditorium, Municipal Building, 202 South Street, Morehead City, North Carolina, on Tuesday, April 27, 1982, at 9:00 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Jerry B. Fruitt, Eller and Fruitt, Attorneys at Law, Post Office Drawer 27866, Raleigh, North Carolina 27611
For: Anser-Quik Enterprises, Inc.

For the Public Staff:

Theodore C. Brown, Jr., Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BENNINK, HEARING EXAMINER: This matter is before the North Carolina Utilities Commission upon the application of Anser-Quik Enterprises, Inc. (Anser-Quik, RCC, Company, or Applicant) filed December 22, 1981, for authority to revise its service regulations and to modify and increase its rates and charges on radio common carrier service it provides in its certificated territory in and around Morehead City, North Carolina.

On January 12, 1982, the Commission issued an Order allowing interim rate relief subject to an undertaking to refund, setting investigation and hearing, suspending the proposed rates, and requiring public notice.

On January 22, 1982, the Commission issued an amended Order allowing interim rate relief, setting investigation and hearing, and requiring public notice.

On January 21, 1982, Anser-Quik filed its undertaking to refund based upon the interim rate relief granted by the Commission.

On February 16, 1982, the Public Staff filed a notice of intervention in this proceeding on behalf of the using and consuming public.

On March 26, 1982, an Errata Order was issued by the Commission, correcting a certain portion of the notice of hearing which had been issued in error.

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On April 7, 1982, the Public Staff prefiled the testimony and exhibits of its witnesses: Leslie C. Sutton, William H. Harris, III, and Dr. Richard G. Stevie.

After appropriate resolution of certain procedural matters, the matter came on for hearing and was heard as scheduled.

Mr. David Dunn, a public witness, testified that he was a customer of Anser-Quik in Morehead City and that he was happy with the service being provided by the Company and was not opposed to the rate increase in question.

No other public witnesses appeared at the hearing.

Mr. Arthur Gill, President and principal stockholder of the Applicant, testified in support of the application, as did Mr. James R. Pittman, a CPA for the Company.

The Public Staff presented the following witnesses:

1. William H. Harris, III, Staff Accountant - accounting adjustments;

2. Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff - rate of return and cost of capital; and

3. Leslie C. Sutton, Staff Communications Engineer - end of period revenues, depreciation, and the Company's revenue requirement.

Various motions and objections were made by the parties during the course of the hearing. Rulings thereon by the Hearing Examiner appear of record.

After due consideration of the verified application, the testimony and exhibits of the witnesses for the Applicant, the witnesses for the Public Staff, and the one public witness, and upon a review of the entire record as a whole in accordance with applicable law, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Anser-Quik Enterprises, Inc., is a North Carolina corporation which is doing business in North Carolina as a franchised public utility providing service as a radio common carrier in the Morehead City area.

2. Anser-Quik is lawfully before this Commission for a determination of the justness and reasonableness of its propsoed rates and charges pursuant to Chapter 62 of the General Statutes of North Carolina.

3. The test period for purposes of this proceeding is the 12-month period ended September 30, 1981, adjusted for certain known changes based upon circumstances and events occurring up to the time of the close of the hearing in this docket. The annual increase in revenues sought by Anser-Quik under its proposed rates is approximately $45,775.

4. Anser-Quik is providing good service to its customers in North Carolina.

5. The original cost rate base of Anser-Quik is $76,661, consisting of gross plant in service of $153,905 plus working capital of $7,334 reduced by accumulated depreciation of $84,578.

6. The representative level of end-of-period revenues under present rates for the 12-month period ended September 30, 1981, is $85,750.

7. The reasonable level of test year operating revenue deductions under present rates after accounting and pro forma adjustments is $106,837. This amount includes $18,831 of investment currently consumed through reasonable actual depreciation on an annual basis.

8. The capital structure for Anser-Quik which is appropriate for use in this proceeding is as follows:

Debt	50.87%
Equity	49.13%
Total	100.00

9. The Company's proper embedded cost of debt is 22.23%. The reasonable rate of return for Anser-Quik to be allowed to earn on its common equity is 22.0%. Using a weighted average for the Company's cost of debt and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall fair rate of return of 22.1% to be applied to the Company's original cost rate base.

10. Based upon the foregoing, Anser-Quik should be allowed an increase in addition to the $85,750 of annual operating revenues which would be realized under its present rates, in an amount not to exceed $40,250. This increase is required in order for the Company to have a reasonable opportunity to earn the 22.1% rate of return on its rate base which the Hearing Examiner has found to be just and reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

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SCHEDULE I
ANSER-QUIK ENTERPRISES, INC.
STATEMENT OF OPERATING INCOME
Twelve Months Ended September 30, 1981

Item	Present Rates	Increase Approved	After Approved Increase
Revenues	$ 85,750	$ 40,250	$ 126,000
Operating expenses			
Repairs	6,689	-	6,689
Depreciation	18,831	-	18,831
Telephone expenses	13,041	-	13,041
Salaries	28,653	-	34,653
Insurance	809	-	809
Rate case expense	4,250	-	4,250
Other operating expenses	28,564	-	28,564
Total operating expenses	106,837	-	106,837
State income taxes	-	630	630
Federal income taxes	-	1,578	1,578
Net Operating Income For Return	$(21,087)	$ 38,042	$ 16,955

SCHEDULE II
ANSER-QUIK ENTERPRISES, INC.
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended September 30, 1981

Item	
Plant in service	$ 153,905
Accumulated depreciation	84,578
Net plant in service	69,327
Working capital	7,334
Original cost rate base	$ 76,661
Rate of return - present rates	(27.51%)
Rate of return - approved rates	22.1%

SCHEDULE III
ANSER-QUIK ENTERPRISES, INC.
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended September 30, 1981

Item	Ratio %	Original Cost Net Investment	Embedded Cost	Net Operating Income
		Present Rates		
Debt	50.87	$ 38,997	22.23	$ 8,669
Equity	49.13	37,664	(79.00)	(29,756)
Total	100.00	$ 76,661		(21,087)
		Approved Rates		
Debt	50.87	$ 38,997	22.23	$ 8,669
Equity	49.13	37,664	22.00	8,286
Total	100.00	$ 76,661		$ 16,955

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Anser-Quik Enterprises, Inc., be, and hereby is, authorized to adjust its rates and charges to produce an increase in annual gross revenues of $40,250.

2. That Anser-Quik shall propose specific rates and charges necessary to implement the increase in operating revenues herein approved and shall also file a proposed refund plan within 10 working days from the date of this Recommended Order. Three copies of the work papers supporting such proposals should be filed with the Chief Clerk of this Commission. The Public Staff shall file any exceptions, alternative rate proposals, or comments with respect to the Company's rate schedule proposals and refund plan within five working days thereafter.

3. That the Company's rates and charges necessary to increase annual gross revenues as authorized herein and refunds with interest pursuant to its undertaking shall be made effective upon issuance of a further Order approving the tariffs filed pursuant to decretal paragraph 2 above.

4. That Anser-Quik shall give notice of the rates approved and the refunds per its undertaking by first-class mail to each of its customers during the next billing cycle following the filing and acceptance of the rate schedules described in decretal paragraph 2 above. Such notice to the customers shall be submitted to the Commission for approval prior to issuance.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of July 1982.

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

DOCKET NO. P-7, SUB 662

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Carolina Telephone and Telegraph Company	) ORDER GRANTING
for an Adjustment in Its Rates and Charges Applicable	) PARTIAL INCREASE
to Telephone Service in North Carolina	) IN RATES

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, and the Cities of Elizabeth City, Tarboro, New Bern, and Fayetteville, North Carolina, from January 26, 1982, through February 19, 1982

BEFORE: Commissioner Edward B. Hipp, Presiding; and Commissioners John W. Winters and A. Hartwell Campbell

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., and Edward S. Finley, Jr., Hunton and Williams, Attorneys at Law, P.O. Box 109, Raleigh, North Carolina 27602

Dwight Allen, General Counsel, Carolina Telephone and Telegraph Company, 720 Western Boulevard, Tarboro, North Carolina 27886

For the Intervenors:

Theodore C. Brown, Jr., Acting Chief Counsel, and Paul L. Lassiter and Gisele Rankin, Staff Attorneys, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

Thomas R. Eller, Jr., Eller & Fruitt, Attorneys at Law, P.O. Drawer 27866, Raleigh, North Carolina 27602
For: Lenoir Memorial Hospital, Inc., Nash General Hospital, Inc., Abbott Laboratories, Inc., Craven County Hospital, Inc., Edgecombe General Hospital, Inc., Halifax Memorial Hospital, Inc., and Wilson Memorial Hospital, Inc.

BY THE COMMISSION: On August 27, 1981, Carolina Telephone and Telegraph Company, Inc. (Applicant, the Company, or Carolina), filed an application with the Commission seeking to adjust and increase telephone rates and charges for its North Carolina subscribers. The requested increase in rates and charges was designed to produce $47,226,959 of additional revenues from the Company's North Carolina subscribers when applied to a test period consisting of the 12 months ended March 31, 1981. The Company requested that such increased rates be allowed to take effect for service rendered on and after October 6, 1981. In supplemental testimony filed with the Commission on January 22, 1982, the Company proposed adjustments that reduced its requested increase in retail rates and charges from $47,226,959 down to $45,845,034, which amount was subsequently amended in the Company's proposed order to $45,021,760.

On September 18, 1981, the Commission, upon consideration of a complaint filed by the City of Fayetteville on May 1, 1981, in Docket No. P-7, Sub 660, issued an Order consolidating for hearing the complaint proceeding and the general rate case.

By Order issued on September 28, 1981, the Commission, being of the opinion that the increase in rates and charges proposed by Carolina was a matter affecting the public interest, declared the application to be a general rate case pursuant to G.S. 62-137; suspended the proposed rate increase for a period of 270 days; set the matter for hearing before the Commission beginning on January 26, 1982; required Carolina 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 Public Staff on October 27, 1981. The intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission Rules and Regulations.

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 Carolina's proposed rate increase. The first such hearing was held in Elizabeth City, North Carolina, at 7:00 p.m.; on January 26, 1982; the second in Tarboro, North Carolina, on January 27, 1982, at 11:00 a.m.; the third in New Bern, North Carolina, on January 27, 1982, at 7:30 p.m.; the fourth on January 28, 1982, in Fayetteville, North Carolina, at 7:00 p.m.; and the fifth hearing in Raleigh, North Carolina, at 10:00 a.m., on January 29, 1982. Public witnesses at these hearings included the following persons:

Elizabeth City - Paul W. Parker, Raleigh Carver, Raymond R. Edinger, John F. Weeks, Tom Griffin, Mary Weeks, Roscoe Lacy, Jr., F. L. Fagan, and M. J. Johnson;

Tarboro - Don Bulluck, Jr., Wilbur H. Rose, Johnny Wooten, O. Curtis Powell, and Tom Ellrod;

New Bern - Doug Goines, Rock Hardison, David Odom, Jessie Fonville, Thelma Ware, Estelle Bryant, William Popajohn, Art Gill, Less Avery, Richard Greenwald, William S. Watts, and Joyce Greenwald;

Fayetteville - Linda Hoppmann, W.C. Lyon, Jr., Claude O. Alexander, James M. Langston, Jr., John Keefe, Albert McCauley, Joan Allen, Pal Nijhawan, Lula Jackson, Stephen Gardella, Joan Hedahl, and Robert Nelson.

The matter came on for hearing in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on February 2, 1982, at 10:00 a.m. At the start of the hearing, the Commission heard testimony from the following public witnesses: Allen Spalt, Peter J. Kinberger, Jane R. Montgomery, Fulton Moore, Theodore Thornton, Danny Dupree, and Jack Austin.

Carolina offered the testimony and exhibits of the following witnesses: Ted P. Williamson, Vice President of Administration for Carolina; J. B. Teal, Vice President - Operations of Carolina; William G. Obermayer, Executive Vice President of Operations for North Supply Company; C.G. Sullivant, Director of Accounting Studies of Carolina; Dr. James H. Vander Weide, Associate Professor of Finance in the Graduate School of Business Administration, Duke University, and President of University Analytics; Robert E. Baker, Jr., Assistant Vice President - Rate Case Matters of United Telephone Systems, Inc. (United); and Alan J. Sykes, Local Revenue Requirement Supervisor of Carolina.

The Public Staff offered the testimony and exhibits of the following witnesses: Thi-Chen Hu, Communications Engineer - Communications Division; Jocelyn Perkerson, Staff Accountant - Accounting Division; George E. Dennis, Accounting Supervisor - Accounting Division; Benjamin R. Turner, Jr., Communications Engineer - Communications Division; William W. Winters, Supervisor of the Electric Section - Accounting Division; Hugh L. Gerringer, Communications Engineer - Communications Division; Dr. Richard G. Stevie, Director of the Economic Research Division, Public Staff; Karyl Jarvis Lam, Staff Accountant - Public Staff Accounting Division; and Millard N. Carpenter, III, Public Utilities Engineer - Communications Division.

Carolina offered the rebuttal testimony and exhibits of the following witnesses: T. G. Allgood, Jr., Toll Revenue Requirements Manager for Carolina; R.E. Baker, Jr., Assistant Vice President - Rate Case Matters, United Telephone Systems, Inc.; and Dr. James H. Vander Weide.

Intervenors offered the testimony and exhibits of the following witnesses: Philip W. Williams, Chief Financial Officer of Nash General Hospital; T. B. Sitterson, Jr., Assistant Director of Pitt County Memorial Hospital, Inc.; William S. Wehr, Senior Purchasing Agent of Abbott Laboratories; Wilbur G. Bryant, Director of Engineering and Maintenance, Wilson Memorial Hospital; John Braddy, Craven County Hospital Corporation Consultant; J. Michael Stevenson, Assistant Administrator for Halifax Memorial Hospital; and Carl E. Nelson, Vice President of Lenoir Memorial Hospital, Inc.

At the close of the Company's case and the Public Staff's case, Robert Gruber, General Counsel of the North Carolina Utilities Commission, testified for the Commission recommending funding to be assessed against the Company for the National Regulatory Research Institute.

Based upon the foregoing, the testimony and exhibits admitted at the hearing, and the entire files and records in this docket, the Commission now reaches the following

FINDINGS OF FACT

1. That the Applicant, Carolina Telephone and Telegraph Company, is a wholly owned subsidiary of United Telecommunications, Inc., a parent holding company.

2. That Carolina is a public utility as defined by G.S. 62-3(23)a.6 and, as such, is subject to the jurisdiction of this Commission and is properly before the Commission in this proceeding for a determination of the justness and reasonableness of its proposed rates and charges.

3. That the test period for purposes of this proceeding is the 12-month period ended March 31, 1981. Carolina initially filed for a increase in its intrastate rates and charges of $47,226,959, but such request was ultimately reduced in the Company's proposed order to $45,021,760.

4. That the overall quality of service provided by Carolina is adequate.

5. That the investment, revenues, and expenses associated with the Company's Yellow Pages advertising operations are properly includable for purposes of determining revenue requirements in this proceeding.

6. That the reasonable original cost of Carolina's property used and useful or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, less that portion of the cost which has been consumed by previous use recovered by depreciation expenses, plus the reasonable original cost of investment in plant under construction (construction work in progress - less than one year) is $416,680,058.

7. That the reasonable allowance for working capital is $4,605,463.

8. That Carolina's reasonable original cost rate base is $421,285,521, This amount is made up of net utility plant in service and construction work in progress (less than one year) of $416,680,058 plus a reasonable allowance for working capital of $4,605,463.

9. That Carolina's total operating revenues for the test year, under present rates and after accounting and pro forma adjustments, are $235,581,910. After giving effect to Carolina's proposed increase as ultimately amended such total operating revenues are $280,603,670.

10. That the reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, end-of-period, after-period, and supplemental adjustments is $189,878,168. This amount includes $41,405,801

for investment currently consumed through reasonable actual depreciation on an annual basis.

11. That the capital structure for Carolina which is appropriate for use in this proceeding is as follows:

	Present
Debt	53.00%
Preferred Stock	2.00%
Common Equity	45.00%
	100.00%

12. That the Company's proper embedded costs of debt and preferred stock are 10.19% and 7.83%, respectively. The reasonable rate of return which Carolina should be allowed the opportunity to earn on its common equity is 15.75%. Using a weighted average for the Company's costs of debt, preferred stock and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall rate of return of 12.64% to be applied to the Company's original cost rate base. Such rate of return will enable Carolina, by sound management, to produce a fair return for its shareholders, 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 terms which are reasonable and fair to the customers and to existing investors.

13. That based upon the foregoing, Carolina should be allowed an increase in gross revenues, in addition to the $235,581,910 of annual operating revenues which would be realized under its present base rates, in an amount not to exceed $15,896,783. This increase is required in order for the Company to have a reasonable opportunity to earn the 12.64% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

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SCHEDULE I
CAROLINA TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF OPERATING INCOME
Twelve Months Ended March 31, 1981

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Local service	$126,360,946	$15,896,783	$142,257,729
Toll service	97,755,706	-	97,755,706
Miscellaneous	11,794,344	-	11,794,344
Uncollectibles	(329,086)	(37,866)	(366,952)
Total operating revenues	235,581,910	15,858,917	251,440,827
Operating Revenue Deductions			
Operating expenses	103,604,882	-	103,604,882
Depreciation and amortization	41,405,801	-	41,405,801
Operating taxes - other than income taxes	24,561,443	951,535	25,512,978
State and Federal income taxes	19,887,570	7,340,395	27,227,965
Interest income	(11,591)	-	(11,591)
Other interest expense	343,814	-	343,814
Other income charges	86,267	-	86,267
Total operating revenue deductions	189,878,186	8,291,930	198,170,116
Net operating income for return	$ 45,703,724	$ 7,566,987	$ 53,270,711

TELEPHONE

SCHEDULE II
CAROLINA TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended March 31, 1981

	Present Rates	After Approved Rates
Investment in Telephone Plant		
Telephone plant in service	$671,490,335	$671,490,335
Telephone plant under construction (less than one year)	5,308,247	5,308,247
Plant acquisition adjustment	96,152	96,152
Depreciation and amortization reserve	$189,646,599)	(189,646,599)
Customer deposits	(1,478,435)	(1,478,435)
Accumulated deferred income taxes	(68,092,093)	(68,092,093)
Pre-1971 investment tax credit	(997,549)	(997,549)
Net investment in telephone plant	416,680,058	416,680,058
Allowance for Working Capital		
Cash	4,191,219	4,191,219
Materials and supplies	6,866,501	6,866,501
Accounts payable	(2,218,590)	(2,218,590)
Customer funds advanced for operations	(4,233,667)	(4,233,667)
Total working capital allowance	4,605,463	4,605,463
Original Cost Rate Base	$421,285,521	$421,285,521
Rate of Return	10.85%	12.64%

SCHEDULE III
CAROLINA TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended March 31, 1981

	Ratio	Original Cost Rate Base	Embedded Cost	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	53.00	$223,281,326	10.19%	$22,752,367
Preferred stock	2.00	8,425,710	7.83	659,733
Common equity	45.00	189,578,485	13.39	22,291,624
Total	100.00	$421,285,521		$45,703,724
	Approved Rates - Original Cost Rate Base			
Long-term debt	53.00	$223,281,326	10.19%	$22,752,367
Preferred stock	2.00	8,425,710	7.83	659,733
Common equity	45.00	189,578,485	15.75	29,858,611
Total	100.00	$421,285,521		$53,270,711

14. That the approved schedule of depreciation rates as shown in Appendix A is just and reasonable.

15. That the Company in allocating general service and license contract cost should directly assign all costs that can be directly assigned and allocate the remaining costs using factors that bear the closest possible relationship to the expense being allocated.

16. That the schedule of rates and charges proposed by the Company is unjust and unreasonable. That the new rate structure designed to produce the gross revenue increase approved herein should be in conformance with the guidelines contained herein.

17. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of Federal funding. It is reasonable and appropriate for Carolina* to contribute to the funding of the Institute provided that agreement can be reached throughout the country on a comprehensive funding plan.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. The Applicant, Carolina Telephone and Telegraph Company, be, and hereby is, authorized to adjust its telephone rates and charges to produce, based upon stations and operations as of March 31, 1981, an increase in annual gross revenues not to exceed $15,896,783.

2. The Applicant is 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 ten (10) days from the date of this Order. These proposals and work papers supporting such proposals should be provided to the Commission (five copies are required) and all parties of record (formats such as Item 30 of the minimum filing requirement, NCUC Form P-1 are suggested).

3. The Public Staff and any other interested party may file written comments concerning the Company's tariffs within five (5) working days of the date upon which they are filed with the Commission.

4. 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.

5. That the depreciation rates as shown in Appendix A of this Order are approved. Those rates identified by an asterisk (*) on said Appendix are approved to become effective on October 1, 1981.

6. The Applicant shall make every fair and reasonable effort to: (1) determine the degree of misunderstanding among subscribers who lease communication systems from Carolina regarding the future usefulness (availability of parts, additions, maintenance, features, etc.) of their communication systems, (2) clarify the degree of practical obsolescence of those systems, and (3) advise the Commission and the Public Staff in writing of the findings and the action taken.

7. That the Company should file with the Commission, no later than one hundred and twenty (120) days from the date of this Order, a report showing which general service and license contract expenses will be directly assigned, the factors that will be used for expenses that cannot be directly assigned and an explanation of how those factors were determined, and why they are appropriate.

**8. In accordance with Finding of Fact No. 17 and upon approval of the full Commission, Carolina shall be authorized to contribute no more than $12,195 annually to the National Regulatory Research Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 6th day of April 1982.

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

*Corrected by Errata Order issued April 21, 1982.
**Added by Errata Order issued April 21, 1982.

APPENDIX A

DEPRECIATION RATES

Account and Subgroups	Rate %
Buildings	2.6
Central Office Equipment	
Manual	6.8
SXS Dial	7.0
Crossbar (Exchange)	4.2
(Toll)	20.9
Circuit	5.7
Radio	7.0
Electronic	4.0
Automatic Msg. Acct.	9.2
Station Apparatus	
Telephone & Misc.	11.8*
Small PBX's	18.9*
Booths	5.6*
Radiotelephone	12.4
Station Connections-Other	5.0*
Large PBX's	
Electromechanical Systems	23.7*
Electronic Systems	12.2*
Special Installations	12.3*
Pole Lines	7.1
Aerial Cable	
Exchange	3.4
Toll	5.0
Underground Cable	

Exchange	2.3
Toll	3.2
Buried Cable	
Exchange	4.4
Toll	3.8
Submarine Cable	
Exchange	4.1
Toll	3.8
Aerial Wire	
Exchange	11.9
Toll	4.9
Underground Conduit	1.9
Furniture & Office Equip.	
Furn. & Equip.	4.3
Computer & AMA Systems	14.3
Vehicles & Other Work Equip.	
Vehicles	13.7
Other Work Equipment	7.7

*Rate effective October 1, 1981.

DOCKET NO. P-31, SUB 110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Lexington Telephone Company for an) ORDER GRANTING
Adjustment to Its Rates and Charges for Telephone) PARTIAL INCREASE
Service in the State of North Carolina) IN RATES

HEARD IN: District Courtroom, The New Davidson County Courthouse, 10 West Center Street, Lexington, North Carolina, on April 14, 1982, at 7:00 p.m.

The Commission Hearing Room, Room 217, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 15, 1982, at 11:00 a.m.

BEFORE: Commissioner Edward B. Hipp, Presiding; and Chairman Robert K. Koger and Commissioner Leigh H. Hammond

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns & Smith, P.A., Attorneys at Law, P.O. Box 2479, Raleigh, North Carolina 27602

P. G. Stoner, Jr., and Bob W. Bowers, Stoner, Bowers and Gray, P.A., Attorneys at Law, 38 Vance Circle, Lexington, North Carolina 27292
For: Lexington Telephone Company

For the Public Staff:

Karen E. Long, Staff Attorney, Public Staff - North Carolina Utilities Commission, Legal Division, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BY THE COMMISSION: This proceeding was initiated by Lexington Telephone Company (Company, Lexington, or Applicant) on November 13, 1981, when it filed an application for authority to increase its rates and charges for intrastate service. The proposed rates and charges were to become effective on December 14, 1981. The Company filed testimony and exhibits in support of its application using a test year ended May 31, 1981. By Order issued December 9, 1981, the Commission declared the matter to be a general rate case under G.S. 62-137 and G.S. 62-133, suspended the proposed rates for 270 days from the effective date of the application, set the matter for investigation, set time and place for public hearing, and established the test period as the year ended Meset the time for public hearing to April 14, 1982, in Lexington, North Carolina, and April 15, 1982, in Raleigh, North Carolina.

On February 16, 1982, the Public Staff formally intervened.

The matter came on for hearing at the times and places which had been previously scheduled by the Commission and noticed by the Applicant. In this regard, two public hearings were conducted by the Commission for the purpose of receiving testimony from the using and consuming public, the Applicant, and the Public Staff. The first hearing was held on April 14, 1982, in New Davidson County Courthouse, Lexington, North Carolina. The second hearing was held on April 15, 1982, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina.

The following public witnesses testified at the public hearing held in Lexington, North Carolina:

Guy Kerley, Milton R. Lomax, Catherine Pitts, Neal S. Conner, Sam Bright, Betty Pope, Fred Doyle McClure, David Jordan Holland, Mrs. Raymond Grubb, Donald Lindsay Queen, Guy L. Cornman, and Nancy Snider.

The testimony of the public witnesses generally dealt with quality of service problems and opposition to the Applicant's proposed rate increase.

On April 14, 1982, in response to the testimony of public witnesses regarding service problems, the Commission issued a Bench Order requiring the Company to make two reports to the Commission regarding service related matters.

All parties were present and represented by counsel throughout the hearings held in this matter.

The Applicant presented the testimony and exhibits of the following witnesses: William C. Harris, President of Lexington Telephone Company, testified regarding operations of the Company, service, and rate design; Donald J. Burleson, Chief Accountant of the Company, testified as to the proper level of rate base, revenues, and expenses; and Dr. Charles F. Phillips, Jr., Professor of Economics at Washington and Lee University, testified as to the capital structure and fair rate of return.

The Public Staff offered the testimony and exhibits of the following witnesses: Leslie Sutton, Engineer in the Communications Division of the Public Staff, testified regarding toll revenues; William Willis, Engineer in the Communications Division of the Public Staff, testified with regard to rate design and tariff proposals; Thi-Chen Hu, Engineer for the Communications Division of the Public Staff, testified as to the adequacy of service provided by the Company; Dr. Robert Weiss, Economist in the Economics Research Division of the Public Staff, testified as to capital structure and cost of capital; and Jesse Kent, Jr., Staff Accountant in the Accounting Division of the Public Staff, testified as to the Public Staff's determination of the proper level of revenues, expenses, and investment.

On April 26, 1982, pursuant to the Commission's Bench Order of April 14, 1982, the Applicant filed its response to the testimony of public witnesses regarding service complaints. In addition to such filings, on May 3, 1982, the Applicant filed traffic studies conducted by the Company on several of its exchanges.

On May 12, 1982, the Public Staff filed a response and recommendations to the aforementioned Company filings in the form of an affidavit by Public Staff witness Hu.

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

FINDINGS OF FACT

1. Lexington Telephone Company is a duly franchised public utility lawfully incorporated and licensed to do business in North Carolina, is providing telephone services to subscribers in its North Carolina service area, and is lawfully before this Commission seeking an increase in its rates and charges for local exchange service.

2. The test period used in this proceeding and established by Commission Order is the 12-month period ended May 31, 1981.

3. The total increases in rates and charges under Lexington's application would have produced $1,745,598 in additional annual gross revenues for the Company.

4. The overall quality of service provided by Lexington is adequate, but there are several areas of service which need to be improved.

5. Lexington's reasonable original cost rate base is $13,236,571 consisting of telephone plant in service of $20,707,700, telephone plant under construction of $230,309, and working capital allowance of $354,330 reduced by a depreciation reserve of $6,362,456, deferred income taxes of $1,647,657, pre-1971 investment tax credits of $42,265, and customer deposits of $3,390.

6. Lexington's total operating revenues for the test year, under present rates and after accounting and pro forma adjustments, are $6,333,491. After giving effect to Lexington's proposed rates, such total operating revenues are $8,079,089.

7. The reasonable level of test year operating revenue deductions after accounting, pro forma, and end-of-period adjustments is $5,166,071. This amount includes $910,024 for investment currently consumed through reasonable actual depreciation on an annual basis.

8. The Company should be allowed a rate of return on original cost rate base of 12.77%, which will allow the Company a reasonable opportunity to earn a return on common equity of 16.25%. The capital structure for Lexington, which is appropriate for use in this proceeding is as follows:

Long-term debt	35.04%
Short-term debt	18.37%
Preferred stock	9.37%
Common equity	37.22%
Total	100.00%

9. Based upon the foregoing, Lexington should be allowed an increase in annual gross revenues, in addition to the $6,420,782 of annual gross revenues which would be realized under its present base rates, in an amount not to exceed $1,111,433. This increase is required in order for the Company to have a reasonable opportunity to earn the 12.77% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

TELEPHONE

SCHEDULE I
LEXINGTON TELEPHONE COMPANY
STATEMENT OF OPERATING INCOME
Twelve Months Ended May 31, 1981

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Local service	$2,970,175	$1,111,433	$4,081,608
Toll service	3,189,060	-	3,189,060
Miscellaneous	261,547	-	261,547
Uncollectibles	(87,291)	(15,110)	(102,401)
Total operating revenues	6,333,491	1,096,323	7,429,814
Operating Revenue Deductions:			
Operating expenses	3,472,660	-	3,472,660
Depreciation	910,024	-	910,024
Operating taxes - other than income	594,173	65,779	659,952
State and federal income taxes	189,214	507,440	696,654
Total operating revenue deductions	5,166,071	573,219	5,739,290
Net operating income for return	$1,167,420	$ 523,104	$1,690,524

SCHEDULE II
LEXINGTON TELEPHONE COMPANY
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended May 31, 1981

	Present Rates	After Approved Rates
Investment in Telephone Plant:		
Telephone plant in service	$20,707,700	$20,707,700
Telephone plant under construction	230,309	230,309
Depreciation reserve	(6,362,456)	(6,362,456)
Customer deposits	(3,390)	(3,390)
Accumulated deferred income taxes	(1,647,657)	(1,647,657)
Pre-1971 investment tax credits	(42,265)	(42,265)
Total investment in telephone plant	12,882,241	12,882,241
Allowance for Working Capital:		
Cash	289,366	289,366
Materials and supplies	108,013	108,013
Prepayments	55,825	55,825
Tax accruals	(98,874)	(98,874)
Total working capital allowance	354,330	354,330
Original Cost Rate Base	$13,236,571	$13,236,571
Rate of return	8.82%	12.77%

SCHEDULE III
LEXINGTON TELEPHONE COMPANY
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended May 31, 1981

	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	35.04	$ 4,638,094	8.39	$ 389,136
Short-term debt	18.37	2,431,558	17.50	425,523
Preferred stock	9.37	1,240,267	6.07	75,284
Common equity	37.22	4,926,652	5.63	277,477
Total	100.00	$13,236,571	-	$1,167,420
	Approved Rates - Original Cost Rate Base			
Long-term debt	35.04	$ 4,638,094	8.39	$ 389,136
Short-term debt	18.37	2,431,558	17.50	425,523
Preferred stock	9.37	1,240,267	6.07	75,284
Common equity	37.22	4,926,652	16.25	800,581
Total	100.00	$13,236,571	-	$1,690,524

10. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the provisions contained herein, which will produce an increase in annual gross revenues of $1,111,433, will be just and reasonable.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED that:

1. The Applicant, Lexington Telephone Company, is authorized to adjust its North Carolina local exchange telephone rates and charges in accordance with the provisions of this Order to produce, based upon stations and operations as of May 31, 1981, annual gross revenues not to exceed $1,111,433.

2. The Company is hereby called on to propose specific rates, charges, and regulations necessary to recover the increase in local service revenues approved by this Order in accordance with the guidelines established by this Commission in the Evidence and Conclusions for Finding of Fact No. 10 within 10 days of the date of this Order. Work papers supporting such proposals should be provided to the Commission and all parties of record (formats such as Item 30 of the minimum filing requirement, NCUC Form P-1, are suggested).

Comments to the Company's rate schedule proposals shall be filed within five working days thereafter.

3. 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. Lexington shall give notice of the rate increase approved herein by first class mail to each of its North Carolina customers during the next billing cycle following the filing and acceptance of the rate schedules described in ordering paragraph 2 above. Such Notice to Customers shall be submitted to the Commission for approval prior to issuance.

5. The Company shall take every reasonable action to attempt to meet the Quality of Service Objectives as shown on Appendix A of this Order. The Company further shall file a plan with this Commission within 60 days from the final date of this Order detailing its schedule for adding trunk lines, as described in the Evidence and Conclusions for Finding of Fact No. 4.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of June 1982.

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

APPENDIX A
DOCKET NO. P-31, SUB 110
QUALITY OF SERVICE OBJECTIVES

Intraoffice completion rate	99%
Interoffice completion rate	98%
Direct Distance dialing completion rate	95%
EAS transmission loss (dialed test number)	2 db - 10 db range (95%)
Intrastate toll transmission loss (dialed test number)	3 db - 12 db range (95%)
EAS trunk noise (dialed test number) on 95% of tests	30 dbrnc maximum
Intrastate toll trunk noise (dialed test number) on 95% of tests	33 dbrnc maximum
"O" level operator answer time	90% within 10 seconds
DDD ONI operator answer time	95% within 5 seconds
Directory assistance operator answer time	85% within 10 seconds
Outside public paystations found out-of-order on test	10% maximum
Business office answer time	90% within 10 seconds
Repair service answer time	90% within 20 seconds

Total customer trouble reports - 6 per 100 stations
Subsequent reports 10% or less of total reports
Repeat reports 15% or less of total trouble reports
95% of out-of-service trouble reports cleared within 24 hours
90% of regular service orders completed within 5 working days
New service orders held over 14 days not to exceed 0.1% of total stations
Regrade applications held over 14 days not to exceed 1% of total stations
5% or less of regular new service installation appointments not met for company reasons.

DOCKET NO. P-118, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Mid-Carolina Telephone Company, Inc.,) FINAL ORDER
for an Adjustment to Its Rates and Charges Applicable) GRANTING PARTIAL
to Intrastate Telephone Service in North Carolina) RATE INCREASE

HEARD IN: Conference Room, Rural Hall Fire Station, 177 Highway 65 East, Rural Hall, North Carolina, on March 30, 1982

Anson County Library, 120 South Greene Street, Wadesboro, North Carolina, on March 31, 1982

Town Hall, 224 North Trade Street, Matthews, North Carolina, on March 31, 1982

Polk County Courthouse, Main Street, Columbus, North Carolina, on April 1, 1982

Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on April 6, 7, and 8, 1982

BEFORE: Commissioner A. Hartwell Campbell, Presiding; and Commissioners Sarah Lindsay Tate and Douglas P. Leary

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Morgan, Mitchell, Burns & Smith, P.A., Attorneys at Law, P.O. Box 2479, Raleigh, North Carolina 27602
For: Mid-Carolina Telephone Company, Inc.

For the Intervenor:

G. Clark Crampton, Staff Attorney, and Vickie L. Moir, 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 November 2, 1981, Mid-Carolina Telephone Company, Inc. (Mid-Carolina, Applicant, or Company), filed an application with this Commission for authority to increase and adjust its rates and charges for intrastate service. The proposed rates and charges were to become effective on December 3, 1981. The Company filed testimony and exhibits in support of its application using a test year ended on June 30, 1981.

By Order issued December 2, 1981, the Commission declared the matter to be a general rate case, suspended the proposed rates and charges for a period of 270 days from December 3, 1981, established the test year to be used by all parties as the 12-month period ended June 30, 1981, set the matter for

investigation and scheduled hearings to begin March 30, 1982, and required the Company to give public notice of its application and the hearings scheduled to be held with respect thereto.

On January 26, 1982, the Commission issued an Order changing the location of the hearing to be held in Rural Hall, North Carolina, due to the unavailability of the originally scheduled location. Subsequently, the Public Staff filed a motion seeking to have the hearing to be held in Rural Hall rescheduled to be an evening hearing. The Commission by Order issued February 26, 1982, granted that motion and required the Applicant to amend its public notice accordingly.

The Public Staff of the North Carolina Utilities Commission filed its Notice of Intervention in this matter on March 8, 1982. That intervention is deemed recognized pursuant to Commission Rule R1-19(e).

This matter came on for hearing at the times and places which had been previously scheduled by the Commission and noticed by the Applicant. In this regard four public hearings were conducted by the Commission in the Applicant's service area for the purpose of receiving testimony from the using and consuming public. The first such hearing was held in Rural Hall, North Carolina, at 7:00 p.m., on March 30, 1982; the second in Wadesboro, North Carolina, at 2:00 p.m., on March 31, 1982; the third in Matthews, North Carolina, at 7:30 p.m., on March 31, 1982; and the fourth in Columbus, North Carolina, at 2:00 p.m., on April 1, 1982.

The following public witnesses appeared and offered testimony at the hearing held in Rural Hall: Dewey V. Harris, Ollie Holt, Edna Rutledge, Mrs. Henry W. Harris, Forrest Galyean, Beverly Carroll, T. S. Perkins, Kemp Kiger, Worth Gentry, Rev. Edward B. Whitson, Mrs. Whitson, C. T. Wall, Jr., Louise Douthit, Mrs. A. G. Fulcher, Eric Davidson, Cathy Crosby, Betty Coe, Margaret Lambert, Norma Cox, Katherine Hall, Ernest Vaupel, Mike Clancy, Henry W. Harris, Robin Dean, Bernard Carpenter, Mark Kiser, Bob Faulwetler, Iris S. Fulton, Wilma Farrell, Vera Weaver, and Geraldine Lunsford.

The following public witnesses appeared and offered testimony at the hearing held in Wadesboro: Janet Barry, Connie Coleman, Lula Mae Calder, Eilene Davis, and Charles Bland.

The following public witnesses appeared and offered testimony at the hearing held in Matthews: John Seifort, Kathy Albernathy, James Bossbach, Helen Blair, Roberta Gilman, Larry Tillman, James N. Yandell, Bill E. Hall, Sarah Westbrook, Charles Wingerson, Montie Talbot, Rick Grebner, M. L. Mengel, Martin Vogt, Sandra Gilmer, Kathryn Dunlap, Robert Klein, Ted Eather, Shannon Smith, R. A. Mullins, and JoAnn Urich.

The following public witnesses appeared and offered testimony at the hearing held in Columbus: Robert McClain, Mabel C. Allred, C. W. McGinnis, William Miller, Lucy Brannon, Phillip Walker, Pat Wilson, William Sereque, Pat Lyons, Paul Briggs, Charles A. Soltis, Helen Corson, Allen Boas, Carroll Riddle, Douglas B. Sterling, Irene Pennington, T. B. Brown, Tom Waldenfels, Frank Sinroll, George W. Pebler, Alice W. Brackett, Calvin Burrell, Ellen Ross, and Walden Thompson.

The testimony of the public witnesses generally dealt with quality of service problems and opposition to the Applicant's proposed rate increase.

All parties were present and represented by counsel throughout all hearings held in this matter.

The hearings were resumed in Raleigh on the morning of April 6, 1982. T. B. Watts appeared and testified as a public witness. Thereafter the Applicant presented the testimony and exhibits of the following witnesses: Archie A. Thomas, President of the Company, testified on operations, service, and rate design; Frank A. Rowan, Regional Controller of Mid-Continent Telephone Service Corporation, testified as to the proper level of rate base, revenues, and expenses; Lawrence S. Pomerantz, Director-Rates and Revenues of Mid-Continent Telephone Service Corporation, testified as to affiliated interests; Dr. Charles E. Olson, President of Olson and Company, testified as to the capital structure and fair rate of return; and John D. Russell, President of John D. Russell Associates, Inc., testified as to appropriate depreciation rates.

The Public Staff presented the testimony and exhibits of the following witnesses: William W. Winters, Supervisor of the Electric Section of the Public Staff Accounting Division, testified as to the interest expense to be used in income tax calculations; William J. Willis, Communications Engineer, Communications Division of the Public Staff, testified as to rate design and tariff proposals; Benjamin R. Turner, Engineer in the Electric Division of the Public Staff, testified as to depreciation rates; Ti-Chen Hu, Engineer in the Communications Division of the Public Staff, testified as to the adequacy and quality of service; Richard G. Stevie, Director of the Economic Research Division of the Public Staff, testified as to capital structure and the cost of capital; Hugh L. Gerringer, Engineer in the Communications Division of the Public Staff, testified about toll revenues; Curtis Toms, Jr., Supervisor of the Communications Section, Accounting Division of the Public Staff, testified as to the Public Staff's determination of the proper level of revenues, expenses, and investment.

The Commission also received the testimony and exhibits of Donald R. Hoover, Director of the Commission Staff Accounting Division, who filed testimony regarding the propriety of Mid-Carolina's participation in the funding of the National Regulatory Research Institute.

Based upon the verified application, the testimony and exhibits received into evidence at the hearings, and the record as a whole of these proceedings, the Commission now makes the following

FINDINGS OF FACT

1. The Applicant, Mid-Carolina Telephone Company, is a wholly owned subsidiary of Mid-Continent Telephone Company and is a corporation duly organized under the laws of the state of North Carolina. Mid-Carolina is a public utility franchised by this Commission which provides telephone service in 26 exchanges generally located in the central part of North Carolina. Mid-Carolina is lawfully before this Commission in this proceeding by virtue of its application for a general increase in its rates and charges, pursuant to the jurisdiction and authority conferred upon the Commission by the Public Utilities Act.

2. Mid-Carolina by its application in this proceeding is seeking an increase in its rates and charges for intrastate local telephone service to produce an additional $6,660,585 in annual gross revenues for the Company.

3. The test year for purposes of this proceeding is the 12 months ended June 30, 1981.

4. The overall quality of service provided by Mid-Carolina is inadequate.

5. Mid-Carolina's original cost rate base is $49,024,358, consisting of telephone plant in service of $67,747,887, plant under construction of $4,893,253, working capital allowance of $1,467,853, reduced by accumulated depreciation of $18,946,014, customer deposits of $88,311, accumulated deferred income taxes of $5,943,228, and pre-1971 investment tax credit of $107,082.

6. Mid-Carolina's total operating revenues net of uncollectibles for the test year, and after accounting, pro forma, and supplemental adjustments, are $19,433,296. After giving effect to the increase approved herein such total operating revenues are $22,923,370.

7. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, and supplemental adjustments is $15,606,427. This amount includes $4,418,960 of investment currently consumed through reasonable actual depreciation on an annual basis.

8. The capital structure for Mid-Carolina which is appropriate for use in this proceeding is as follows:

Item	Percent
Long-term debt	59.76%
Preferred stock	5.19%
Common equity	35.05%
Total	100.00%

9. The failure of Mid-Carolina to provide adequate telephone service is a material factor to be considered in establishing the fair rate of return. The Company's proper embedded costs of long-term debt and preferred stock are 9.30% and 7.47%, respectively. The fair rate of return which the Company should be allowed to earn on its common equity is 15.00%. Using a weighted average for the Company's cost of long-term debt, preferred stock, and common equity, with reference to the reasonable capital structure heretofore determined, yields an overall fair rate of return of 11.20% to be applied to the Company's original cost rate base.

If the service of Mid-Carolina had been adequate, a return of 11.56% on the original cost net investment and a return of 16% on common equity would be just and reasonable.

10. Based upon the foregoing, Mid-Carolina should be allowed an increase in addition to the $19,433,296 of annual operating revenues which would be realized under its present rates, in an amount not to exceed $3,490,074 (net of uncollectibles in the amount of $10,102). This increase is required in order for the Company to have a reasonable opportunity to earn the 11.20% rate of return on its rate base which the Commission has found just and

reasonable. This increased revenue requirement is based upon the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

SCHEDULE I
MID-CAROLINA TELEPHONE COMPANY, INC.
North Carolina Intrastate Operations
STATEMENT OF OPERATING INCOME
Twelve Months Ended June 30,1981

	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Local service	$12,160,527	$ 3,500,176	$15,660,703
Toll service	6,678,622	-	6,678,622
Miscellaneous	631,064	-	631,064
Uncollectibles	(36,917)	(10,102)	(47,019)
Total operating revenues	19,433,296	3,490,074	22,923,370
Operating Revenue Deductions:			
Operating expenses	8,575,441	-	8,575,441
Depreciation and amortization	4,418,960	-	4,418,960
Operating taxes - other than income	1,842,114	209,404	2,051,518
State income taxes	123,462	196,840	320,302
Federal income taxes	646,450	1,418,562	2,065,012
Total operating revenue deductions	15,606,427	1,824,806	17,431,233
Net operating income for return	$ 3,826,869	$1,665,268	$ 5,492,137

SCHEDULE II
MID-CAROLINA TELEPHONE COMPANY, INC.
North Carolina Intrastate Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended June 30, 1981

	Present Rates	After Approved Rates
Investment in Telephone Plant		
Telephone plant in service	$67,747,887	$67,747,887
Telephone plant under construction	4,893,253	4,893,253
Reserve for depreciation	(18,946,014)	(18,946,014)
Customer deposits	(88,311)	(88,311)
Pre-1971 investment tax credit	(107,082)	(107,082)
Accumulated deferred income taxes	(5,943,228)	(5,943,228)
Net original cost of telephone plant	47,556,505	47,556,505
Allowance for Working Capital		
Working capital	184,942	184,942
Materials and supplies	1,282,911	1,282,911
Toatl allowance for working capital	1,467,853	1,467,853
Original Cost Rate Base	$49,024,358	$49,024,358
Rate of Return	7.81%	11.20%

SCHEDULE III
MID-CAROLINA TELEPHONE COMPANY, INC.
North Carolina Intrastate Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended June 30,1981

	Original Cost Rate Base	Ratio %	Embedded Cost %	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	$29,296,956	59.76	9.30	$2,724,617
Preferred stock	2,544,364	5.19	7.47	190,064
Common equity	17,183,038	35.05	5.31	912,188
Total	$49,024,358	100.00	-	$3,826,869
	Approved Rates - Original Cost Rate Base			
Long-term debt	$29,296,956	59.76	9.30	$2,724,617
Preferred stock	2,544,364	5.19	7.47	190,064
Common equity	17,183,038	35.05	15.00	2,577,456
Total	$49,024,358	100.00	-	$5,492,137

11. The approved depreciation rates as shown in Appendix A, which will result in an annual expense of $5,724,430 (on a total Company basis) based on plant in service as of the end of the test period (June 30, 1981), are just and reasonable and appropriate for use in this proceeding.

12. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the provisions contained herein which will produce an increase in annual revenues of $3,490,074 (net of uncollectibles in the amount of $10,102) will be just and reasonable.

13. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of the National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of federal funding. It is reasonable and appropriate for Mid-Carolina to contribute to the funding of the Institute provided that agreement can be reached throughout the country on a comprehensive funding plan.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Mid-Carolina Telephone Company, be and hereby is authorized to adjust its North Carolina local exchange telephone rates and charges in accordance with the provisions of this Order to produce based on stations and operations as of June 30, 1981, an increase in annual revenues not to exceed $3,490,074 (net of uncollectibles in the amount of $10,102).

2. That the Applicant within 10 days of the date of this Order shall file revised tariffs reflecting the rates, charges, and regulations approved and described in the portion of this Order entitled "Evidence and Conclusions for Finding of Fact No. 12." Comments to the Company's rate schedule proposals shall be filed within five working 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 Mid-Carolina shall give notice of the rate increase approved herein by first-class mail to each of its North Carolina customers during the next billing cycle following the filing and acceptance of the rate schedules described in Ordering Paragraph 2 above. Such Notice to Customers shall be submitted to the Commission for approval prior to issuance.

5. That the Applicant should improve the quality of service currently being provided to its subscribers and take appropriate steps to remedy the service problems described herein. The quality of service standards attached hereto as Appendix B may be used by the Company as guidelines in achieving this goal.

6. That the Applicant shall prepare a questionnaire concerning the quality of service currently being provided by Mid-Carolina to its customers to be submitted to each of its subscribers in the first billing of rates approved herein. Said questionnaire shall include the following: a reminder to promptly report service problems to the Company's repair service; appropriate instructions for subscribers in each exchange to reach repair service during normal business hours as well as after regular hours; subscribers' opinion of the quality of service currently being received (e.g., satisfactory/unsatisfactory); a request for specific service problems; and any other matters considered by the Applicant as facilitating the provision of good service to its customers. Said questionnaire shall be submitted for Commission approval within 10 days of the date of this Order.

7. That upon approval by the full Commission, Mid-Carolina shall be authorized to contribute to the National Regulatory Research Institute in a manner and in an amount consistent with the funding formula of said Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of June 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

NOTE: See the official file in the office of the Chief Clerk for Appendix A

DOCKET NO. P-118, SUB 22
APPENDIX B
Quality of Service Objectives

Intraoffice completion rate	99%
Interoffice completion rate	98%
Direct distance dialing completion rate	95%
EAS transmission loss (dialed test number)	2 db - 10db range (95%)
Intrastate toll transmission loss (dialed test number)	3 db - 12db range (95%)
EAS trunk noise (dialed test number) on 95% of tests	30 dbrnc maximum
Intrastate toll trunk noise (dialed test number) on 95% of tests	33 dbrnc maximum
"O" level operator answer time	90% within 10 seconds
DDD ONI operator answer time	95% within 5 seconds
Directory assistance operator answer time	85% within 10 seconds
Outside public paystations found out-of-order on test	10% maximum
Business office answer time	90% within 10 seconds
Repair service answer time	90% within 20 seconds

Total customer trouble reports 6 per 100 stations
Subsequent reports 10% or less of total reports
Repeat reports 15% or less of total trouble reports
95% of out-of-service trouble reports cleared within 24 hours
90% of regular service orders completed within 5 working days
New service orders held over 14 days not to exceed 0.1% of total stations
Regrade applications held over 14 days not to exceed 1% of total stations
5% or less of regular new service installation appointments not met for company reasons.

DOCKET NO. P-118, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Mid-Carolina Telephone Company, Inc., for an Adjustment to Its Rates and Charges Applicable to Intrastate Telephone Service in North Carolina	ORDER SETTING RATES

BY THE COMMISSION: On June 2, 1982, in Docket No. P-118, Sub 22, the Commission issued its Final Order Granting Partial Rate Increase for Mid-Carolina Telephone Company, Inc., (Mid-Carolina, Applicant, or Company) wherein the Company was allowed to increase its rates and charges to produce additional revenues of $3,500,176 annually. The Company was called upon to file specific tariffs reflecting changes in rates, charges and regulations necessary to recover the allowed rate increase. Further upon the Company's filing of said rates, charges and regulations, the Commission Order allowed five working days for intervenor comment.

TELEPHONE

On June 7, 1982, pursuant to the Commission's Order of June 2, 1982, Mid-Carolina filed its proposed customer notice and specific tariffs designed to produce approximately $3,500,176 in additional local service revenues on an annual basis. On June 14, 1982, Mid-Carolina filed its proposed questionnaire in accordance with the Commission Order of June 2, 1982, wherein the Commission ordered the Company to prepare such questionnaire to be submitted to each of the Applicant's subscribers in the first billing of rates approved herein to aid the Company in developing a perspective on the areas of service currently being provided which may need improvement.

On June 9, 1982, the Public Staff filed comments on the rates, charges and regulations filed by Mid-Carolina on June 7, 1982. In its comments the Public Staff concludes that the Company's proposed tariffs have been filed in accordance with the conclusions set forth in Evidence and Conclusions for Finding of Fact No. 12 of the Commission's June 2, 1982 Final Order Granting Partial Rate Increase.

The Commission having carefully reviewed and considered the tariffs proposed by the Company concludes that said rates, charges and regulations are proper and should therefore be implemented by the Company. Further, the Commission finds that the proposed customer notice and questionnaire filed with the Commission by Mid-Carolina, with respect to the approved increase in intrastate rates are appropriate for inclusion in the customer's first regular billing statement reflecting rates approved herein. However, the question in the Company questionnaire which reads: Are there any specific service problems you would like to bring to our attention? should be modified to read: Are there currently any specific service problems or recurring problems you would like to bring to our attention?

IT IS, THEREFORE, ORDERED as follows:

1. That the rates, charges and regulations filed by Mid-Carolina on June 7, 1982, which will produce, based on stations in service on June 30, 1981, an increase in annual gross revenues of approximately $3,500,176 be and hereby are, approved to be charged and implemented by the Applicant.

2. That the increases in rates and charges as approved herein shall become effective on billings rendered on and after the date of this Order. All other rates, charges and regulations not herein adjusted remain in full force and effect.

3. That Mid-Carolina shall give notice to its customers of the Commission's action herein and submit to the customer the quality of service questionnaire, by appropriate bill insert in the customer's first regular billing statement reflecting the rates approved herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of June 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

TELEPHONE

DOCKET NO. P-60, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Service Telephone Company for Authority to Adjust Rates and Charges for Intrastate Telephone Service	) RECOMMENDED ORDER) GRANTING PARTIAL) INCREASE IN RATES

HEARD IN: Meeting Room, Fair Bluff Fire Department, Rescue Squad Building, Railroad Street, Fair Bluff, North Carolina, on August 17, 1982, at 9:00 a.m.

The Commission Hearing Room, Room 217, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on August 18, 19, and 20, 1982.

BEFORE: Carolyn D. Johnson, Hearing Examiner

APPEARANCES:

For the Applicant:

Albert L. Sneed, Jr., and Phillip S. Smith, Van Winkle, Buck, Wall, Starnes and Davis, P.A., Attorneys at Law, P.O. Box 7376, Asheville, North Carolina 28807
For: Service Telephone Company

For the Public Staff:

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

BY THE EXAMINER: On February 26, 1982, Service Telephone Company (Company, Service or Applicant) filed an application with the Commission for authority to increase intrastate rates and charges to produce increase in total annual revenues of $74,161.

On the same day, Applicant filed a Motion moving the Commission to waive certain filing requirements found in North Carolina Utilities Commission Form P-1, Section C, Data Request.

The Public Staff filed a Motion on March 31, 1982, moving the Commission to suspend the running of the 270-day period as authorized by G.S. 62-134(f) and order the Company to file data in conformance with the current P-1 Form in force and effect. In support of the Motion, the Public Staff alleged that inter alia:

"(4) The data which the Company has submitted under the old and outdated NCUC P-1 Form is inappropriate and grossly deficient. For example, the tax data was submitted for a test year ending December 31, 1980, even though the test year stated in the application was the year ending June 30, 1981; there was insufficient financial data on which to determine capital

costs and capital structure; there is no data supporting the Company's proposed level of toll revenues; and lastly, no working papers were filed to explain pro forma adjustments. These items are some of the basic information and data which comprise the minimal filing requirements set out in the current NCUC P-1 Form, N.C.G.S. 62-133, and NCUC Rule R1-17."

The Commission issued an Order on April 5, 1982, suspending the proposed tariffs for a period of 270 days for investigation and hearings and retained the matter for further orders relating to the Public Staff's motion.

On April 29, 1982, the Public Staff filed a Motion indicating that Applicant had filed data, substantially in compliance with the minimum filing requirements and moving the Commission to restart the running of the 270-day suspension period for the proposed tariffs from April 19, 1982, as is authorized by G.S. 62-134(f). The Commission being of the opinion that the matter constituted a general rate case under G.S. 62-137, issued an Order on May 7, 1982, declaring it to be a general rate proceeding, scheduling hearing and requiring public notices, suspending the proposed rates for 270 days from April 19, 1982, and establishing the test period as the 12-month period ended June 30, 1981.

The Commission scheduled a public hearing in the Fair Bluff Fire Department, Rescue Squad Building, in Fair Bluff, North Carolina, on August 17, 1982, with hearings resuming in the Commission Hearing Room in Raleigh, North Carolina, on August 18, 1982.

The Public Staff of the North Carolina Utilities Commission filed Notice of Intervention on July 26, 1982.

The matter came on for hearing at the times and places listed above. All parties were present and represented by counsel.

One public witness, Jim Degner, testified that he is the Massey Ferguson dealer in Fair Bluff and has used Service Telephone Company since 1949. He stated that in his opinion, the amount of the requested increase seemed exhorbitant.

Service Telephone Company offered the testimony and exhibits of the following witnesses:

Joseph E. Hicks, President and General Manager of Service Telephone Company, with respect to Applicant's North Carolina operations and quality of service;

Maureen Scott, Rates and Tariffs Manager for Telephone and Data Systems, Inc., with respect to Applicant's rate design;

Robert A. Kirschner, Director of Revenues and Settlements for companies owned by Telephone and Data Systems, Inc., with respect to the proper level of rate base, revenues and expenses, the proper capital structure, and fair rate of return.

The Public Staff offered the testimony and exhibits of the following witnesses:

Communications Division Engineers

Thi-Chen Hu, with respect to quality of service;

William Willis, Jr., with respect to rate design and tariff proposals;

Hugh Gerringer, with respect to the proper level of toll revenues; and

Leslie C. Sutton, with respect to expensing inside wiring.

Electric Division

Benjamin R. Turner, Jr., Engineer, with respect to depreciation rates.

Accounting Division

F. Paul Thomas, Accountant, with respect to the Public Staff's determination of the proper level of expenses and investment.

Economic Research Division

Dr. Richard G. Stevie, Director, with respect to proper capital structure and fair rate of return.

Following the presentation of evidence by the parties to this proceeding, Service offered the rebuttal testimony of Joseph E. Hicks (recalled); Robert Kirschner (recalled); Maureen Scott (recalled); Lucille Cutrell, local Manager of Service Telephone Company, with respect to local operations of Service prior to and subsequent to its acquisition by TDS; and Robert A. Sandhaus, Director of Capital Recovery for Cottrell & House, Inc., with respect to proper depreciation rates.

Based upon the foregoing, the testimony and exhibits admitted at the hearing, and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. The Applicant, Service Telephone Company, is a wholly owned subsidiary of Telephone & Data Systems, Inc. (TDS), a telephone holding company.

2. Service Telephone Company is a duly franchised public utility lawfully operating and licensed to do business in North Carolina and is providing telephone services to subscribers in the Fair Bluff, North Carolina, service area and is lawfully before this Commission seeking an increase in its rates and charges for local exchange service.

3. The total increase in rates and charges under Service's application would have produced $74,405 in additional annual gross revenues for the Company, which amount was amended in the Company's proposed order to $49,433.

4. The test period used in this proceeding and established by Commission Order is the 12-month period ended June 30, 1981.

5. The overall quality of service provided by the Company is adequate.

6. Service Telephone Company's reasonable original cost intrastate rate base is $724,593, consisting of telephone plant in service of $1,048,299; less accumulated depreciation of $310,998; plus investment in REA stock of $1,000; plus working capital allowance of $8,251; less customer deposits of $2,165; and less unamortized investment tax credit of $19,794.

7. Service's level of net operating revenues for the test year, after accounting and pro forma adjustments, is $291,592. After giving effect to Service's proposed rates as amended in its proposed order, such revenue level is $340,862.

8. The reasonable level of end-of-period test year intrastate operating revenue deductions is $244,818, which amount includes $53,863 for investment currently consumed through reasonable actual depreciation on an annual basis.

9. The Company should be allowed a rate of return on original cost rate base of 7.68% which will allow the Company a reasonable opportunity to earn a return on common equity of 16.6%. The appropriate capital structure for Service Telephone Company is as follows:

Long-term debt	76.86%
Common equity	23.14%
	100.00%

10. Based on the foregoing, Service should be allowed an increase in annual gross revenues not to exceed $18,725. This increase is required for the Company to have a reasonable opportunity to earn the 7.68% overall rate of return which the Examiner has found just and reasonable. This increased revenue requirement is based on the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

TELEPHONE

SCHEDULE I
SERVICE TELEPHONE COMPANY
STATEMENT OF OPERATING INCOME
Twelve Months Ended June 30, 1981

	Present Rates	Approved Increase	After Approved Increase
Operating Revenues:			
Local service	$109,884	$18,725	$128,609
Toll service	178,882	-	178,882
Miscellaneous	3,792	-	3,792
Uncollectibles	(966)	(62)	(1,028)
Total operating revenues	291,592	18,663	310,255
Operating Revenue Deductions:			
Operating expenses	140,018	-	140,018
Depreciation	53,863	-	53,863
Taxes other than income	33,733	1,120	34,853
State income taxes	2,096	1,053	3,149
Federal income taxes	15,108	7,585	22,693
Total operating revenue deductions	244,818	9,758	254,576
Net operating income for return	$ 46,774	$ 8,905	$ 55,679

SCHEDULE II
SERVICE TELEPHONE COMPANY
STATEMENT OF RATE BASE AND RATE OF RETURN
Twelve Months Ended June 30, 1981

	After Approved Rates
Investment in Telephone Plant	
Telephone plant in service	$1,048,299
Investment in REA stock	1,000
Accumulated depreciation	(310,998)
Customer deposits	(2,165)
Unamortized investment tax credits	(19,794)
Net plant in service	716,342
Allowance for Working Capital	8,251
Original Cost Rate Base	$ 724,593
Rate of return	
Present rates	6.46%
Approved rates	7.68%

SCHEDULE III
SERVICE TELEPHONE COMPANY
North Carolina Retail Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended June 30, 1981

	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
		Present Rates - Original Cost Rate Base		
Long-term debt	76.86	$556,922	5.0	$27,846
Common equity	23.14	167,671	11.29	18,928
Total	100.00	$724,593		$46,774
		Approved Rates - Original Cost Rate Base		
Long-term debt	76.86	$556,922	5.0	$27,846
Common equity	23.14	167,671	16.60	27,833
Total	100.00	$724,593		$55,679

11. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the guidelines contained herein, which will produce an increase in annual local service revenues of $18,725, shall become effective upon the issuance of a further Order.

12. The Company should begin expensing new inside wiring cost on a flash-cut basis effective October 1, 1981.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Service Telephone Company, be, and hereby is, allowed to adjust its telephone rates and charges to produce, based upon stations and operations as of June 30, 1981, an increase in annual gross revenues of $18,725.

2. That the Applicant is hereby called on to propose specific tariffs reflecting changes in rates, charges, and regulations to produce the increases in revenues ordered in Paragraph 1 above in accordance with the guidelines established by this Commission in Evidence and Conclusions for Finding of Fact No. 11, within 10 days from the date of this Order. Workpapers supporting such proposal should be provided to the Commission and all parties of record (formats such as Item 30 of the Minimum Filing Requirement, NCUC Form P-1 are suggested). Comments to the Company's rate schedule proposals shall be filed within five working days thereafter.

3. That the rates, charges, and regulations necessary to produce the 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 the Company should begin expensing new inside wiring cost on a flash-cut basis effective October 1, 1981.

5. That the depreciation rates as shown on Appendix A are approved.

6. That Service Telephone Company shall give appropriate notice of the rate increase approved herein by mailing a copy of such notice by first-class mail to each of its North Carolina retail customers during the next normal billing cycle following the filing and acceptance of the rate schedules described here in Ordering Paragraph 2.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of October 1982.

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

Appendix A

DEPRECIATION RATES

Acct.	Description	Approved Remaining Life Rate %
212.00	Buildings	5.2
221.00	Central Office Equip.	5.2
231.00	Station Apparatus	12.4
232.70	Station Connections - Inside	10.00
232.80	Station Connections - Outside	5.0
241.00	Pole Lines	7.1
242.10	Aerial Cable	4.4
242.20	Underground Cable	4.2
242.30	Buried Cable	3.5
244.00	Underground Conduit	2.6
261.00	Furniture & Office Equipment	5.3
264.10	Vehicles	7.2
264.20	Other Work Equipment	4.7

DOCKET NO. P-60, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Service Telephone Company for)
Authority to Adjust Rates and Charges for Intrastate) ORDER OF
Telephone Service) CLARIFICATION

BY HEARING EXAMINER JOHNSON: On October 19, 1982, the Hearing Examiner issued Recommended Order Granting Partial Increase in Rates which in Ordering Paragraph No. 5 approved depreciation rates for Service Telephone Company (Applicant). On October 27, 1982, the Public Staff filed Motion for Clarification concerning the effective date of the depreciation rates approved in the Recommended Order. The Hearing Examiner, after a review of the record and the methodology used to calculate the approved depreciation rates, concludes that the depreciation rates approved in the Recommended Order of October 19, 1982, should be made effective June 30, 1981.

IT IS, THEREFORE, ORDERED as follows:

That the depreciation rates approved in the Recommended Order of October 19, 1982, be, and hereby are, ordered to be effective June 30, 1981.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of November 1982.

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

DOCKET NO. P-55, SUB 794

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Southern Bell Telephone and Telegraph Company) NOTICE OF
for an Adjustment to Its Rates and Charges Applicable to) DECISION
Intrastate Telephone Service in North Carolina) AND ORDER

HEARD IN: The Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on December 14, 15, and 17, 1981, January 6, 7, 8, 19, and 20, 1982

Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on January 4, 1982

County Office Building, 720 East Fourth Street, Charlotte, North Carolina, on January 4, 1982

New Hanover County Courthouse, Third and Princess Streets, Wilmington, North Carolina, on January 4, 1982

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Robert K. Koger, Chairman, and Douglas P. Leary

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Hunton and Williams, P.O. Box 109, Raleigh, North Carolina 27602
For: Southern Bell Telephone and Telegraph Company

R. Frost Brannon, Jr., P.O. Box 30188, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

Robert W. Sterrett, Jr., and Gene V. Coker, 4300 Southern Bell Center, Atlanta, Georgia 30375
For: Southern Bell Telephone and Telegraph Company

For the Intervenors:

Jerry B. Fruitt, Eller and Fruitt, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association

William J. Dooley, Jr., 65611 Columbia Pike, Room 422, Falls Church, Virginia 22041
For: The U.S. Department of Defense and all Federal Executive Agencies of the U.S. Government

E. Gregory Stott, P.O. Box 131, Raleigh, North Carolina 27602
For: Sonitrol of N.C., N.C. Alarm System, and Wells Fargo

Robert F. Page, Chief Counsel, Vickie L. Moir, Staff Attorney, and Thomas K. Austin, 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 matter is before the Commission on the Application of Southern Bell Telephone and Telegraph Company (Southern Bell or the Company) a wholly owned subsidiary of the American Telephone and Telegraph Company (AT&T) filed on August 3, 1981, for authority to increase its rates and charges on intrastate service (toll and local). The Company sought to increase total intrastate revenues in the amount of $129,049,865.

On August 28, 1981, the Commission set Southern Bell's Application for investigation and hearing in this docket, suspended the proposed rates, and required the Company to give notice of this Application to the public.

The Commission scheduled public hearings as follows:

December 14, 1981, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina; and

January 4, 1982, contemporaneous hearings at Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina; New Hanover County Courthouse, Wilmington, North Carolina; County Office Building, 720 East Fourth Street, Charlotte, North Carolina, with hearings resuming in the Commission Hearing Room in Raleigh on January 6, 1982.

The Public Staff of the North Carolina Utilities Commission filed Notice of Intervention on August 7, 1981.

The United States Department of Defense and all other Executive Agencies of the Federal Government filed petition for leave to intervene on August 24, 1981. The North Carolina Textile Manufacturers Association filed a petition

for leave to intervene on November 3, 1981. The limited intervention of Sonitrol of N.C., N.C. Alarm Systems, and Wells Fargo was granted by the Commission on January 20, 1982.

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 direct testimony of the following witnesses:

Allen E. Thomas, Vice President in charge of Southern Bell's operations in North Carolina, with respect to Southern Bell's operations in North Carolina;

James H. Vander Weide, Associate Professor of Finance at the Fuquay School of Business of Duke University, with respect to the cost of and return on common equity capital;

Robert N. Dean, Assistant Vice President and Assistant Treasurer of Southern Bell, with respect to the overall fair rate of return;

H. Gerald Profitt, Division Staff Manager in the Capital Control and Analysis Department of Southern Bell, in regard to depreciation rates;

Walter S. Reid, District Staff Manager in the Company Headquarters Comptrollers Department, with respect to accounting information of revenue, expense, and investment;

Timothy H. Weaver, District Manager - Price Comparison methods of AT&T, in regard to price comparison studies;

William P. Burke, Division Manager - License Contract and Regulatory matters, with respect to the license contract agreement;

Thomas O. Phillips, Department Head - Regulatory Matters for Bell Laboratories, in regard to the role of Bell Laboratories in the license contract arrangement;

Jack T. Gaithright, Division Staff Manager in the Revenue Requirements Department, with respect to the services provided under the license contract; and

Robert L. Savage, Division Staff Manager - Rates for Southern Bell, with respect to overall pricing policy and principles.

Following the presentation of evidence by the other parties to this proceeding, Southern Bell offered the rebuttal testimony of David W. Riess, Director of Financial Requirements in the Treasury Department of AT&T, with respect to the proper capital structure for the Company and recalled Thomas O. Phillips to present rebuttal testimony concerning the license contract agreement.

The Public Staff's witnesses presenting direct testimony were:

Robert Weiss, Economist - Economic Research Division, with respect to the cost of equity capital and the fair rate of return;

William W. Winters, Supervisor - Electric Section - Accounting Division, with respect to the proper allocation of interest expense to be used in calculating income tax expense:

Candace A. Paton, Staff Accountant - Accounting Division, with respect to the proper adjustments to revenues, expenses, and investment for the test year;

Benjamin R. Turner, Jr., Engineer - Communications Division, in regard to the proper depreciation expenses for the Company;

Thi-Chen Hu, Engineer - Communications Division, with respect to the quality of service provided by the Company;

Leslie C. Sutton, Engineer - Communications Division, with respect to service connection charges and the Company's proposal for expensing a new inside wiring cost;

Hugh L. Gerringer, Engineer - Communications Division, with respect to intrastate toll revenues;

William J. Willis, Jr., Engineer - Communications Division, with regard to rate design and the proper end-of-period revenue level; and

William H. Harris, III, Staff Accountant - Accounting Division, with respect to license contract fees.

The North Carolina Textile Manufacturers Association, Inc., offered the testimony of the following witnesses:

Louis R. Jones, Manager of Corporate Communications Department of Burlington Industries, with respect to the impact of the proposed rate increases on all the textile manufacturers; and

Dr. William Watson, regarding the cost of capital and the fair rate of return.

The U.S. Department of Defense and all federal executive agencies of the U.S. offered the testimony of Mark Langsam, Industry Economist - General Services Administration, Washington, D.C., with respect to the cost of capital for the Bell system and Bell's current earnings.

Intervenor Sonitrol of N.C., et al., offered the testimony of W.K. Edwards, Rate Analyst - Consumer Consultants, Inc., with respect to the methodology employed by the Company to price private line services.

Approximately 36 public witnesses testified in the hearings held throughout the State. The testimony of these witnesses tended to address the problems of service and of rising prices.

After due consideration of the testimony offered during the hearing with the benefit of having considered the arguments and briefs of counsel and upon a review of the entire record in this proceeding, the Commission makes the following

TELEPHONE

FINDINGS OF FACT

1. Southern Bell Telephone and Telegraph Company is a duly franchised public utility lawfully incorporated and licensed to do business in North Carolina, is providing telephone services to subscribers in its North Carolina service area, and is lawfully before this Commission seeking an increase in its rates and charges for local exchange service.

2. The total increases in rates and charges under Southern Bell's Application would have produced $129,049,865 in additional annual gross revenues for the Company.

3. The test period used in this proceeding and established by Commission Order is the 12-month period ended May 31, 1981.

4. The Company should begin expensing new inside wiring costs on a "flash-cut" basis and make the appropriate accounting adjustments to make this change retroactive to January 1, 1981.

5. Southern Bell's reasonable original cost intrastate rate base is $1,041,180,933, consisting of telephone plant in service of $1,391,209,822; telephone plant under construction of $26,410,543; telephone plant acquisition adjustment of $3,741,703; working capital of $21,145,833; accumulated depreciaiton of $248,090,781; customer deposits of $2,737,552; deferred income taxes of $148,636,628; and pre-1971 investment tax credit of $1,862,007.

6. Southern Bell's gross revenues for the test year after accounting and pro forma adjustments are $597,506,944. After giving effect to Southern Bell's proposed rates, such gross revenues are $725,829,845.

7. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, end-of-period, and after-period adjustments is $507,906,824.

8. The investment, revenues, and expenses associated with the Company's yellow pages advertising operations are properly includable for purposes of determining revenue requirements in this proceeding.

9. The Company should be allowed a rate of return on original cost rate base of 12.33% which will allow the Company a return on common equity of 15.50%. The capital structure for Southern Bell which is reasonable and proper for use in this proceeding is as follows:

Item	Ratio
Debt	46.25%
Preferred stock	2.13%
Common equity	51.62%
Total	100.00%

10. Based on the foregoing, Southern Bell Telephone and Telegraph Company should be allowed an increase in annual gross revenues not to exceed $81,784,877. This increase is comprised of $14,931,133 additional intrastate revenues as granted in Docket No. P-100, Sub 57, and an increase in local revenues of $66,853,744. This increase is required for the Company to have a reasonable opportunity to earn the 12.33% overall rate of return which the

Commission has found just and reasonable. This increased revenue requirement is based on the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

11. The overall quality of service provided by Southern Bell is adequate.

12. The approved schedule of depreciation rates as shown in Appendix A are just and reasonable.

13. The rates charges, and regulations to be filed pursuant to this Order in accordance with the guidelines contained herein, which will produce an increase in annual local service revenues of $66,853,744, shall become effective upon the issuance of a further Order by this Commission.

SCHEDULE I
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF OPERATING INCOME
TWELVE MONTHS ENDED MAY 31, 1980

	Present Rates (a)	Increase Approved (b)	Approved Increase (c)
Operating Revenues			
Local service	$360,898,897	$66,853,744	$427,752,641
Toll service	198,063,936	14,931,133	212,995,069
Miscellaneous	41,660,022		41,660,022
Uncollectibles	(3,115,911)	(424,299)	(3,540,210)
Total operating revenues	597,506,944	81,360,578	678,867,522
Operating Revenue Deductions			
Current maintenance	139,774,165		139,774,165
Depreciation and amortization	89,164,572		89,164,572
Traffic	22,089,973		22,089,973
Commercial	50,397,946		50,397,946
General	22,845,030		22,845,030
Relief and pensions	32,181,492		32,181,492
General services and licenses	11,442,828		11,442,828
Other general and miscellaneous	39,988,213		39,988,213
Operating taxes	100,022,605	42,539,867	142,562,472
Total operating revenue deductions	507,906,824	42,539,867	550,446,691
Net operating income for return	$ 89,600,120	$38,820,711	$128,420,831

TELEPHONE

SCHEDULE II
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
TWELVE MONTHS ENDED MAY 31, 1980

	Present Rates (a)	After Approved Increase (b)
Investment in Telephone Plant :		
Telephone plant in service	$1,391,209,822	$1,391,209,822
Telephone plant under construction - short term	26,410,543	26,410,543
Telephone plant acquisition adjustment	3,741,703	3,741,703
Accumulated depreciaiton reserve	(248,090,781)	(248,090,781)
Customer deposits	(2,737,552)	(2,737,552)
Deferred income taxes	(148,636,628)	(148,636,628)
Pre-1971 investment tax credit	(1,862,007)	(1,862,007)
Net investment in telephone plant	1,020,035,100	1,020,035,100
Allowance for Working Capital	21,145,833	21,145,833
Original Cost Net Investment	$1,041,180,933	$1,041,180,933
Rate of Return	8.61%	12.33%

SCHEDULE III
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
TWELVE MONTHS ENDED MAY 31, 1980

	Ratio % (a)	Original Cost Rate Base (b)	Embedded Cost % (c)	Net Operating Income (d)
		Under Present Rates		
Long-term debt	46.25	$ 481,546,181	9.01	$43,387,311
Preferred stock	2.13	22,177,154	7.79	1,727,600
Common equity	51.62	537,457,598	8.28	44,485,209
Total - Present Rates	100.00	$1,041,180,933		$89,600,120
		Approved Rates - Original Cost Rate Base		
Long-term debt	46.25	$ 481,546,181	9.01	$ 43,387,311
Preferred stock	2.13	22,177,154	7.79	1,727,600
Common equity	51.62	537,457,598	15.50	83,305,928
Total - Approved Rates	100.00	$1,041,180,933		$128,420,839

14. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of Federal funding. It is reasonable and appropriate for Southern Bell to contribute to the funding of the Institute provided that agreement can be reached throughout the country on a comprehensive funding plan.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Southern Bell Telephone and Telegraph Company, be, and hereby is, authorized to adjust its telephone rates and charges to produce based on stations and operations as of May 31, 1981, an increase not to exceed $66,853,744.

2. That the Applicant is 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 guidelines established by this Commission in Evidence and Conclusions for Finding of Fact No. 13 within five days from the date of this Order. Work papers supporting such proposals should be provided to the Commission and all parties of record (formats such as item 30 of the minimum filing requirement, NCUC Form P-1 are suggested). Comments to the Company's rate schedule proposals shall be filed within five working 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 Southern Bell shall give notice of the rate increase approved herein by first-class mail to each of its North Carolina customers during the next billing cycle following the filing and acceptance of the rate schedules described in Ordering Paragraph 2 above. Such Notice to Customers shall be submitted to the Commission for approval prior to issuance.

5. In accordance with Finding of Fact No. 14 and upon approval by the full Commission, Southern Bell shall be authorized to contribute no more than $23,572 annually to the National Regulatory Research Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of March 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

APPENDIX A

DEPRECIATION RATES

Account No.	Class or Subclass of Plant	Average Service Life	Average Net Salvage	Average Remaining Life	Future Net Salvage	Rate
212	Buildings	40	3	-	-	2.4
221	Central office equipment					
	Manual	6.8	-3	-	-	15.1
	Step-by-step	8.6	-2	-	-	11.9
	Crossbar	9.8	-3	-	-	10.5
	Non-Ded. circuit	17	1	-	-	5.8
	DDS circuit	10.3	-3	10.7	-4	9.5*
	Radio	19.8	-5	-	-	5.3
	Electronic	26	3	-	-	3.7
231	Station apparatus					
	Teletypewriter	10.2	0	7.2	-1	10.0*
	Telephone & misc.	10.4	1	7.3	1	10.5*
	Radio	8.7	2	5.7	0	0 *
232	Station Connections - other			-	-	5.0
234	Large PBXs					
	Electronic	7.6	5	6.3	5	14.6*
	Other	6.4	6	2.5	-4	36.4*
	DDS	6.8	3	5.5	2	16.9*

241	Pole lines	26	-29	-	-	5.0
242.1	Aerial cable					
	Exchange	30	-16	-	-	3.9
	Toll	26	51	-	-	1.9
242.2	Underground cable					
	Exchange	40	-14	-	-	2.9
	Toll	30	7	-	-	3.1
242.3	Buried cable					
	Exchange	29	-5	-	-	3.6
	Toll	29	4	-	-	3.3
242.4	Submarine cable	27	2	-	-	3.6
243	Aerial wire	8.7	-24	-	-	14.3
244	Underground conduit	65	-5	-	-	1.6
261	Furniture & office equipment					
	Storeroom & regular	26	4	-	-	3.7
	Computers	6.7	4	-	-	14.3
264	Vehicles & other work equipment					
	Motor vehicles	7.6	20	-	-	10.5
	Other work equipment	14.9	39	-	-	4.1

* Rate based on average remaining life and future net salvage

DOCKET NO. P-55, SUB 794

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Southern Bell Telephone and Telegraph Company) FINAL ORDER
for an Adjustment to Its Rates and Charges Applicable to) GRANTING PARTIAL
Intrastate Telephone Service in North Carolina) INCREASE

HEARD IN: The Hearing Room of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on December 14, 15, 16, and 17, 1981, January 6, 7, 8, 19, and 20, 1982

Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on January 4, 1982

County Office Building, 720 East Fourth Street, Charlotte, North Carolina, on January 4, 1982

New Hanover County Courthouse, Third and Princess Streets, Wilmington, North Carolina, on January 4, 1982

BEFORE: Commissioner Sarah Lindsay Tate, Presiding; and Commissioners Robert K. Koger, Chairman, and Douglas P. Leary

APPEARANCES:

For the Applicant:

Robert C. Howison, Jr., Hunton and Williams, P.O. Box 109, Raleigh, North Carolina 27602
For: Southern Bell Telephone and Telegraph Company

R. Frost Brannon, Jr., P.O. Box 30188, Charlotte, North Carolina 28230
For: Southern Bell Telephone and Telegraph Company

Robert W. Sterrett, Jr., and Gene V. Coker, 4300 Southern Bell Center Atlanta, Georgia 30375
For: Southern Bell Telephone and Telegraph Company

For the Intervenors:

Jerry B. Fruitt, Eller and Fruitt, P.O. Drawer 27866, Raleigh, North Carolina 27611
For: North Carolina Textile Manufacturers Association, Inc.

William J. Dooley, Jr., 65611 Columbia Pike, Room 422, Falls Church, Virginia 22041
For: The U.S. Department of Defense and all Federal Executive Agencies of the U.S. Government

E. Gregory Stott, P.O. Box 131, Raleigh, North Carolina 27602
For: Sonitrol of N.C., N.C. Alarm Systems, and Wells Fargo

Robert F. Page, Chief Counsel, Vickie L. Moir, Staff Attorney, and Thomas K. Austin, 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 matter is before the Commission on the application of Southern Bell Telephone and Telegraph Company (Southern Bell or the Company), a wholly owned subsidiary of the American Telephone and Telegraph Company (AT&T) filed on August 3, 1981, for authority to increase its rates and charges on intrastate service (toll and local). The Company sought to increase total intrastate revenues in the amount of $129,049,865.

On August 28, 1981, the Commission set Southern Bell's application for investigation and hearing in this docket, suspended the proposed rates, and required the Company to give notice of this application to the public.

The Commission scheduled public hearings as follows:

December 14, 1981, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina; and

January 4, 1982, contemporaneous hearings at Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina; New Hanover County Courthouse, Wilmington, North Carolina; County Office Building, 720 East Fourth Street, Charlotte, North Carolina, with hearings resuming in the Commission Hearing Room in Raleigh on January 6, 1982.

The Public Staff of the North Carolina Utilities Commission filed Notice of Intervention on August 7, 1981.

The United States Department of Defense and all other Executive Agencies of the Federal Government filed petition for leave to intervene on August 24, 1981. The North Carolina Textile Manufacturers Association, Inc., filed a petition for leave to intervene on November 3, 1981. The limited intervention of Sonitrol of N.C., N.C. Alarm Systems, and Wells Fargo was granted by the Commission on January 20, 1982.

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 direct testimony of the following witnesses:

Allen E. Thomas, Vice President in charge of Southern Bell's operations in North Carolina, with respect to Southern Bell's operations in North Carolina;

Dr. James H. Vander Weide, Associate Professor of Finance at the Fuquay School of Business of Duke University, with respect to the cost of and return on common equity capital;

Robert N. Dean, Assistant Vice President and Assistant Treasurer of Southern Bell, with respect to the overall fair rate of return;

H. Gerald Profitt, Division Staff Manager in the Capital Control and Analysis Department of Southern Bell, with regard to depreciation rates;

Walter S. Reid, District Staff Manager in the Company Headquarters Comptrollers Department, with respect to accounting information on revenue, expense, and investment;

Timothy H. Weaver, District Manager - Price Comparison methods of AT&T, with regard to price comparison studies;

William P. Burke, Division Manager - License Contract and Regulatory Matters, with respect to the license contract agreement;

Dr. Thomas O. Phillips, Department Head - Regulatory Matters for Bell Laboratories, with regard to the role of Bell Laboratories in the license contract arrangement;

Jack T. Gathright, Division Staff Manager in the Revenue Requirements Department, with respect to the services provided under the license contract; and

Robert L. Savage, Division Staff Manager - Rates for Southern Bell, with respect to overall pricing policies and principles.

Following the presentation of evidence by the other parties to this proceeding, Southern Bell offered the rebuttal testimony of David W. Riess, Director of Financial Requirements in the Treasury Department of AT&T, with respect to the proper capital structure for the Company and recalled Dr. Thomas O. Phillips to present rebuttal testimony concerning the license contract agreement.

The Public Staff's witnesses presenting direct testimony were:

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William W. Winters, Supervisor - Electric Section - Accounting Division, with respect to the proper allocation of interest expense to be used in calculating income tax expense;

Candace A. Paton, Staff Accountant - Accounting Division, with respect to the proper adjustments to revenues, expenses, and investment for the test year;

Benjamin R. Turner, Jr., Engineer - Communications Division, in regard to the proper depreciation expenses for the Company;

Thi-Chen Hu, Engineer - Communications Division, with respect to the quality of service provided by the Company;

Leslie C. Sutton, Engineer - Communications Division, with respect to service connection charges and the Company's proposal for expensing new inside wiring cost;

Hugh L. Gerringer, Engineer - Communications Division, with respect to intrastate toll revenues;

William J. Willis, Jr., Engineer - Communications Division, with regard to rate design and the proper end-of-period levels of local service and miscellaneous revenues; and

William H. Harris, III, Staff Accountant - Accounting Division, with respect to license contract fees.

Donald H. Hoover, Director of Accounting of the North Carolina Utilities Commission, presented testimony regarding the propriety of Southern Bell's participation in the funding of the National Regulatory Research Institute.

The North Carolina Textile Manufacturers Association, Inc., offered the testimony of the following witnesses:

Louis R. Jones, Manager of Corporate Communications Department of Burlington Industries, with respect to the impact of the proposed rate increases on all the textile manufacturers; and

Dr. William Watson, Administrator of Power Supply for the North Carolina Municipal Power Agencies, regarding the cost of capital and the fair rate of return.

The U.S. Department of Defense and all Federal executive agencies of the U.S. offered the testimony of Mark Langsam, Industry Economist - General Services Administration, Washington, D.C., with respect to the cost of capital for the Bell system and Bell's current earnings.

Intervenor Sonitrol of N.C., et al., offered the testimony of W.K. Edwards, Rate Analyst - Consumer Consultants, Inc., with respect to the methodology employed by the Company to price private line services.

Approximately 36 public witnesses testified in the hearings held throughout the State. The testimony of these witnesses tended to address the problems of service and of rising prices.

On February 5, 1982, the Commission issued an order in Docket No. P-100, Sub 57, allowing an increase in rates and charges for intrastate toll service in North Carolina. The entire toll network in North Carolina is anticipated to derive increased annual gross revenues of approximately $27,386,848 from said rate increase of which Southern Bell is expected to derive approximately $14,931,133 in additional gross revenues on an annual basis.

On March 3, 1982, the Commission issued a Notice of Decision and Order in this docket which stated that Southern Bell should be allowed the opportunity to earn a rate of return of 12.33% on its investment used and useful in providing telephone service in North Carolina. In order to have an opportunity to earn a fair rate of return, Southern Bell was authorized to adjust its local service telephone rates and charges to produce an increase in gross revenues of $66,853,744 on an annual basis.

On March 4, 1982, the Company filed its proposed rates and charges as required by the Commission. On March 12, 1982, the Commission issued an Order Approving Rates and Charges.

After due consideration of the testimony offered during the hearing with the benefit of having considered the arguments and briefs of counsel and upon a review of the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Southern Bell Telephone and Telegraph Company is a duly franchised public utility lawfully incorporated and licensed to do business in North Carolina, is providing telephone services to subscribers in its North Carolina service area, and is lawfully before this Commission seeking an increase in its rates and charges for local exchange service.

2. The total increases in rates and charges under Southern Bell's application would have produced $129,049,865 in additional annual gross revenues for the Company.

3. The test period used in this proceeding and established by Commission Order is the 12-month period ended May 31, 1981.

4. The Company should begin expensing new inside wiring costs on a "flash-cut" basis and make the appropriate accounting adjustments to make this change effective upon the date the rates become effective in this proceeding.

5. Southern Bell's reasonable original cost intrastate rate base is $1,041,180,933, consisting of telephone plant in service of $1,391,209,822; telephone plant under construction of $26,410,543; telephone plant acquisition adjustment of $3,741,703; working capital of $21,145,833; accumulated

depreciation of $248,090,781; customer deposits of $2,737,552; deferred income taxes of $148,636,628; and pre-1971 investment tax credit of $1,862,007.

6. Southern Bell's operating revenues for the test year after accounting and pro forma adjustments are $597,506,944. After giving effect to Southern Bell's proposed rates, such revenues are $725,829,845.

7. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, end-of-period, and after-period adjustments is $507,906,824.

8. The investment, revenues, and expenses associated with the Company's Yellow Pages advertising operations are properly includable for purposes of determining revenue requirements in this proceeding.

9. The Company should be allowed a rate of return on original cost rate base of 12.33% which will allow the Company a reasonable opportunity to earn a return on common equity of 15.50%. The capital structure for Southern Bell which is reasonable and proper for use in this proceeding is as follows:

Item	Ratio
Long-term debt	46.25%
Preferred stock	2.13%
Common equity	51.62%
Total	100.00%

10. Basedon the foregoing, Southern Bell Telephone and Telegraph Company should be allowed an increase in annual gross revenues not to exceed $81,784,877. This increase is comprised of $14,931,133 additional intrastate revenues as granted in Docket No. P-100, Sub 57, and an increase in local revenues of $66,853,744. This increase is required for the Company to have a reasonable opportunity to earn the 12.33% overall rate of return which the Commission has found just and reasonable. This increased revenue requirement is based on the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

TELEPHONE

SCHEDULE I
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF OPERATING INCOME
TWELVE MONTHS ENDED MAY 31, 1981

	Present Rates (a)	Increase Approved (b)	After Approved Increase (c)
Operating Revenues			
Local service	$360,898,897	$66,853,744	$427,752,641
Toll service	198,063,936	14,931,133	212,995,069
Miscellaneous	41,660,022		41,660,022
Uncollectibles	(3,115,911)	(424,284)	(3,540,195)
Total operating revenues	597,506,944	81,360,593	678,867,537
Operating Revenue Deductions			
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Depreciation and amortization	89,164,572		89,164,572
Traffic	22,089,973		22,089,973
Commercial	50,397,946		50,397,946
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Operating taxes	100,022,605	42,539,874	142,562,479
Total operating revenue deductions	507,906,824	42,539,874	550,446,698
Net operating income for return	$ 89,600,120	$38,820,719	$128,420,839

TELEPHONE

SCHEDULE II
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
TWELVE MONTHS ENDED MAY 31, 1981

	Present Rates (a)	After Approved Increase (b)
Investment in Telephone Plant		
Telephone plant in service	$1,391,209,822	$1,391,209,822
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Accumulated depreciation reserve	(248,090,781)	(248,090,781)
Customer deposits	(2,737,552)	(2,737,552)
Deferred income taxes	(148,636,628)	(148,636,628)
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Net investment in telephone plant	1,020,035,100	1,020,035,100
Allowance for Working Capital	21,145,833	21,145,833
Original Cost Net Investment	$1,041,180,933	$1,041,180,933
Rate of Return	8.61%	12.33%

SCHEDULE III
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
North Carolina Intrastate Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
TWELVE MONTHS ENDED MAY 31, 1981

	Ratio % (a)	Original Cost Rate Base (b)	Embedded Cost % (c)	Net Operating Income (d)
		Under Present Rates		
Long-term debt	46.25	$ 481,546,181	9.01	$43,387,311
Preferred stock	2.13	22,177,154	7.79	1,727,600
Common equity	51.62	537,457,598	8.28	44,485,209
Total - Present Rates	100.00	$1,041,180,933	-	$ 89,600,120
		Under Approved Rates		
Long-term debt	46.25	$ 481,546,181	9.01	$ 43,387,311
Preferred stock	2.13	22,177,154	7.79	1,727,600
Common equity	51.62	537,457,598	15.50	83,305,928
Total - Approved Rates	100.00	$1,041,180,933	-	$128,420,839

11. The overall quality of service provided by Southern Bell is adequate.

12. The approved schedule of depreciation rates as shown in Appendix A are just and reasonable.

13. The rates, charges, and regulations filed on March 4, 1981, pursuant to this Order in accordance with the guidelines contained herein, which will produce an increase in annual local service revenues of $66,853,744, are just and reasonable.

14. The National Regulatory Research Institute (NRRI) is performing valuable work for the state utilities commissions, including this Commission, and for the regulated utilities by providing research and technical assistance and educational programs. There is a need for the member states of National Association of Regulatory Commissioners to establish regularized funding for the NRRI to ensure that the Institute can continue its work despite the certain loss of Federal funding. It is reasonable and appropriate for Southern Bell to contribute to the funding of the Institute provided that agreement can be reached throughout the country on a comprehensive funding plan.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. The Applicant, Southern Bell Telephone and Telegraph Company, be, and hereby is, authorized to adjust its telephone rates and charges to produce based on stations and operations as of May 31, 1981, an increase not to exceed $66,853,744.

2. The Order Approving Rates and Charges issued March 12, 1982, and the Notice of Decision and Order of March 3, 1982, are hereby affirmed.

3. In accordance with Finding of Fact No. 14 and upon approval by the full Commission, Southern Bell shall be authorized to contribute no more than $23,572 annually to the National Regulatory Research Institute.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of April 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

APPENDIX A

DEPRECIATION RATES

Account No.	Class or Subclass of Plant	Average Service Life (Years)	Average Net Salvage (%)	Average Remaining Life (Years)	Future Net Salvage (%)	Rate (%)
212	Buildings	40	3	-	-	2.4
221	Central office equipment					
	Manual	6.8	-3	-	-	15.1
	Step-by-step	8.6	-2	-	-	11.9
	Crossbar	9.8	-3	-	-	10.5
	Non-Ded. circuit	17	1	-	-	5.8
	DDS circuit	10.3	-3	10.7	-4	9.5*
	Radio	19.8	-5	-	-	5.3
	Electronic	26	3	-	-	3.7
231	Station apparatus					
	Teletypewriter	10.2	0	7.2	-1	10.0*
	Telephone & misc.	10.4	1	7.3	1	10.5*
	Radio	8.7	2	5.7	0	0 *
232	Station Connections - other			-	-	5.0
234	Large PBXs					
	Electronic	7.6	5	6.3	5	14.6*
	Other	6.4	6	2.5	-4	36.4*
	DDS	6.8	3	5.5	2	16.9*
241	Pole lines	26	-29	-	-	5.0
242.1	Aerial cable					
	Exchange	30	-16	-	-	3.9
	Toll	26	51	-	-	1.9
242.2	Underground cable					
	Exchange	40	-14	-	-	2.9
	Toll	30	7	-	-	3.1
242.3	Buried cable					

	Exchange	29	-5	-	-	3.6
	Toll	29	4	-	-	3.3
242.4	Submarine cable	27	2	-	-	3.6
243	Aerial wire	8.7	-24	-	-	14.3
244	Underground conduit	65	-5	-	-	1.6
261	Furniture & office equipment					
	Storeroom & regular	26	4	-	-	3.7
	Computers	6.7	4	-	-	14.3
264	Vehicles & other work equipment					
	Motor vehicles	7.6	20	-	-	10.5
	Other work equipment	14.9	39	-	-	4.1

* Rate based on average remaining life and future net salvage

DOCKET NO. P-78, SUB 50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Westco Telephone Company for	)	ORDER GRANTING
Authority to Adjust Its Rates and Charges	)	PARTIAL RATE
Applicable to Intrastate Telephone Service	)	INCREASE
in North Carolina	)	

HEARD IN: McDowell County Courthouse, Marion, North Carolina, on Tuesday, September 28, 1982

Commissioner's Board Room, Room 204, Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on Tuesday, September 28, 1982

Community Services Room, First Floor, Community Services Building, Hospital Road, Sylva, North Carolina, on Wednesday, September 29, 1982 and

Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, October 11, 1982, and Tuesday, October 12, 1982

BEFORE: Commissioner A. Hartwell Campbell, Presiding; and Commissioners Sarah Lindsay Tate and Douglas P. Leary

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Attorneys at Law, Post Office Box 2479, Raleigh, North Carolina 27602

For the Public Staff:

Theodore C. Brown, Jr., Acting Chief Counsel and Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 30, 1982, Westco Telephone Company (Applicant, Company, or Westco) filed an application with the North Carolina Utilities Commission seeking authority to adjust its rates and charges for intrastate telephone service. The Application seeks the approval of rates that will produce $1,848,420 of additional annual revenues from intrastate operations when applied to a test period consisting of the 12 months ended December 31, 1981. The Company proposed that the rates and charges become effective for service rendered on and after May 30, 1982.

By Order issued on May 26, 1982, and corrected on May 27, 1982, the Commission declared the matter to be a general rate case pursuant to G.S. 62-137, suspended the proposed rates and charges for 270 days from the May 30, 1982, effective date, set hearings to begin on September 28, 1982, declared the test period to be the 12 months ended December 31, 1981, required the Company at its expense to give public notice of the proposed increase and hearings, and set the time for the Public Staff and other interested parties to file interventions and/or testimonies.

By Order issued on May 27, 1982, the Commission combined for hearing the applications of Western Carolina, Docket No. P-58, Sub 124, and Westco Telephone Company, Docket No. P-78, Sub 50.

The Public Staff filed Notice of Intervention in this docket on September 3, 1982. The intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission's Rules and Regulations.

The Commission conducted out-of-town hearings for the purpose of receiving testimony from the using and consuming public. The first such hearing was held in Marion, North Carolina, at 2:00 p.m. on September 28, 1982; the second in Asheville, North Carolina, at 7:30 p.m. on September 28, 1982; and the third in Sylva, North Carolina, at 10:00 a.m. on September 29, 1982.

The following public witnesses appeared and offered testimony in Marion at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Ronald R. Sinclair, Jack Harmon, David Huskins, George Conrad, George Thomas, Ronald Byrd, Daniel Abernethy, Helen McCoy, D. A. Breyson, John English, and Doc Poole.

The following public witness appeared and offered testimony in Asheville at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Fred Sealey.

The following public witnesses appeared and offered testimony in Sylva at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Robert Jakes, Woodrow W. Reeves, Harry Raymond Wright, C. E. Johnson, Richard Parson, Harriet Dillard, Florence Summer, Barbara McDonald, Sam Carlyle, Danice Williams, Nell Davis, and John Moore.

The hearings were resumed in Raleigh at 11:00 a.m. on October 11, 1982, for the purpose of receiving further testimony of public witnesses and the testimony and cross-examination of the Applicant and the Public Staff. Westco Telephone Company offered the testimony and exhibits of the following witnesses: John A. Feaster, President of Continental Telephone Company of North Carolina (formerly Western Carolina Telephone Company and Westco Telephone Company), who testified as to Company operations, service and capital requirements; Brian McCormick, Revenue Requirements Manager of Continental Telephone Service Corporation, who testified as to the Company's accounting and financial information and revenue requirements; Robert B. Morris, III, Vice-President, Wells Fargo Investment Advisors, who testified as to the appropriate capitalization and required rate of return of the Company; and Laura L. Myers, Revenue Analyst of Continental Telephone Service Corporation, who testified as to the Company's rate design and tariffs.

The Public Staff offered the testimony and exhibits of the following witnesses: Hugh L. Gerringer, Engineer with the Communications Division of the Public Staff, who testified as to the Company's intrastate toll revenue; Jesse Kent, Jr., Staff Accountant of the Public Staff, who testified concerning levels of operating revenues, expenses, and rate base of the Company's intrastate operations; Thi-Chen Hu, Engineer - Communications Division of the Public Staff, who testified concerning the adequacy and quality of the Company's service; William J. Willis, Engineer - Communications Division of the Public Staff, who testified as to end-of-period miscellaneous revenues and the Company's tariff proposals; Robert Weiss, Economist of the Public Staff, who testified as to the appropriate capital structure, cost of equity and rate of return for the Company; and Julie Jacome, Staff Accountant with the Public Staff, who testified as to the relation of the Applicant and Continental Service and Supply Corporation.

Westco Telephone Company offered the rebuttal testimony and exhibits of Robert B. Morris, III, and Brian W. McCormick.

The Public Staff offered the surrebuttal testimony and exhibits of Dr. Robert Weiss.

Based on the foregoing, the testimony and exhibits admitted at the hearings, and the entire record in this docket, the Commission now makes the following

FINDINGS OF FACT

1. The Applicant, Westco, at the time of the filing of the application, was a duly organized North Carolina corporation and is a subsidiary of Continental Telephone Corporation. After the filing of the application but prior to the hearings, Western Carolina and its subsidiary, Westco Telephone Company, were merged with approval of the Commission and the name of the Corporation was changed to Continental Telephone Company of North Carolina. This merger will not affect the operations of the Company nor any of the accounting exhibits presented in this case since the two companies were operated as a single entity prior to the merger. Westco holds a franchise from this Commission to provide public utility telephone service in 15 exchanges located in western North Carolina. Westco is properly before the Commission in this proceeding, pursuant to G.S. 62-133, for a determination of the justness and reasonableness of its proposed rates and charges.

2. By its application, the Company seeks rates to produce jurisdictional gross operating revenues of $11,393,024 annually, based upon a test year ended December 31, 1981. Company contended revenues under present rates are $9,544,604, thereby necessitating an increase of $1,848,420.

3. The test year for this proceeding is the 12 months ended December 31, 1981.

4. The overall quality of the service provided by the Applicant is adequate; however, there are some problem areas which the Company should correct.

5. Westco's reasonable original cost rate base is $20,364,701. This consists of telephone plant in service of $29,949,207 plus a working capital allowance of $322,987 reduced by accumulated depreciation of $7,083,472 deferred income taxes of $2,726,253, unamortized pre-1971 investment tax credits of $45,134 and customer deposits of $52,634.

6. Westco's gross revenues for the test year under present rates, after accounting and pro forma adjustments are $9,584,977.

7. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, end-of-period and after period adjustments is $7,566,743. This amount includes $1,975,104 for investment currently consumed through actual depreciation on an annual basis.

8. The capital structure for Westco which is appropriate for use in this proceeding is:

Item	Percent
Long-term debt	55.99%
Preferred stock	5.56%
Common equity	38.45%
Total	100.00%

9. The Company's proper embedded costs of long-term debt and preferred stock are 9.23% and 8.37%, respectively. The reasonable rate of return for Westco to earn on its common equity is 16.30%. Using the capital structure, heretofore determined, with the cost rates for debt, preferred stock, and common equity yields an overall fair rate of return of 11.90% to be applied to the Company's rate base. Such rate of return will enable Westco, by sound management, to produce a fair return for its shareholders, to maintain its facilities and service in accordance with the reasonable requirements of its customers, and compete in the market for capital funds on terms which are reasonable and fair to the customers and to existing investors.

10. Westco has an annual gross revenue requirement of $10,459,480. This requires an increase in annual gross revenues of $874,503. This increase is required in order for the Company to have a reasonable opportunity to earn the 11.90% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based on the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

TELEPHONE

SCHEDULE I
WESTCO TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF OPERATING INCOME
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Local service revenues	$ 5,681,181	$874,503	$ 6,555,684
Toll service revenues	3,699,445	-	3,699,445
Miscellaneous revenues	204,351	-	204,351
Uncollectible revenues	(11,183)	(1,662)	(12,845)
Total operating revenues	$ 9,573,794	872,841	10,446,635
Operating Revenue Deductions:			
Operating expenses	$ 3,871,745	-	3,871,745
Depreciation expense	1,975,104	-	1,975,104
Operating taxes - other than income	891,115	52,370	943,485
State and federal income tax expenses	828,779	404,000	1,232,779
Total operating revenue deductions	7,566,743	456,370	8,023,113
Net operating income for return	$ 2,007,051	$416,471	$ 2,423,522

SCHEDULE II
WESTCO TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RATE BASE AND RATE OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	After Approved Rates
Investment in Telephone Plant:	
Telephone plant in service	$29,949,207
Accumulated depreciation	(7,083,472)
Customer deposits	(52,634)
Accumulated deferred income taxes	(2,726,253)
Pre-1971 investment tax credits	(45,134)
Total investment in telephone plant	20,041,714
Allowance for Working Capital:	
Cash	322,645
Materials and supplies	313,719
Prepayments	4,106
Tax accruals	(317,483)
Total working capital allowance	322,987
Original cost rate base	$20,364,701
Rate of return:	
Present rates	9.85%
Approved rates	11.90%

SCHEDULE III
WESTCO TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF CAPITALIZATION AND RELATED COSTS
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	Ratio	Original Cost Rate Base	Embedded Cost	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	55.99%	$11,402,196	9.23%	$1,052,423
Preferred stock	5.56%	1,132,277	8.37%	94,772
Common equity	38.45%	7,830,228	10.98%	859,856
Total	100.00%	$20,364,701	-	$2,007,051
	Approved Rates - Original Cost Rate Base			
Long-term debt	55.99%	$11,402,196	9.23%	$1,052,423
Preferred stock	5.56%	1,132,277	8.37%	94,772
Common equity	38.45%	7,830,228	16.30%	1,276,327
Total	100.00%	$20,364,701	-	$2,423,522

11. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the guidelines contained herein, which will produce an increase in annual revenues of $874,503, will be just and reasonable.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Westco Telephone Company, be, and hereby is, allowed to increase its rates and charges so as to produce an annual level of revenue of $10,459,480 from its North Carolina subscribers based on the Company's level of test year operations. Such amount represents an increase of $874,503 above the level of revenue that would have resulted from rates currently in effect based upon the level of operations as of December 31, 1981.

2. That the Applicant is hereby called on to file revised tariffs reflecting changes in rates, charges, and regulations to recover the additional revenues approved herein in accordance with the conclusions set forth in "Evidence and Conclusions for Finding of Fact No. 11" above within 10 days from the date of this Order. Work papers supporting such proposals should be provided to the Commission and all parties of record (formats such as Item 30 of the minimum filing requirements, NCUC Form P-1 are suggested).

3. That parties may file written comments concerning the Company's tariffs within five days of the date upon which they are filed with the Commission.

4. That the Applicant is hereby called on to file a practice which instructs its customer contact people on the proper notification procedures concerning customer rights to perform certain discretionary service charge work functions for themselves.

5. 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 Ordering Paragraph No. 2 above.

6. That Westco shall give notice of the rate increase approved herein by first-class mail to each of its North Carolina customers during the next billing cycle following the filing and acceptance of the rate schedules described in Ordering Paragraph No. 2 above. Such Notice to Customers shall be submitted to the Commission for approval prior to issuance.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of November 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. P-58, SUB 124

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Western Carolina Telephone Company for Authority to Adjust Its Rates and Charges Applicable to Intrastate Telephone Service in North Carolina	ORDER GRANTING PARTIAL RATE INCREASE

HEARD IN: McDowell County Courthouse, Marion, North Carolina, on Tuesday, September 28, 1982

Commissioner's Board Room, Room 204, Buncombe County Courthouse, Courthouse Plaza, Asheville, North Carolina, on Tuesday, September 28, 1982

Community Services Room, First Floor, Community Services Building, Hospital Road, Sylva, North Carolina, on Wednesday, September 29, 1982, and

Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on Monday, October 11, 1982, and Tuesday, October 12, 1982

BEFORE: Commissioner A. Hartwell Campbell, Presiding; and Commissioners Sarah Lindsay Tate and Douglas P. Leary

APPEARANCES:

For the Applicant:

F. Kent Burns, Boyce, Mitchell, Burns and Smith, Attorneys at Law, Post Office Box 2479, Raleigh, North Carolina 27602

For the Public Staff:

Theodore C. Brown, Jr., Acting Chief Counsel and Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On April 30, 1982, Western Carolina Telephone Company (Applicant, Company, or Western Carolina) filed an application with the North Carolina Utilities Commission seeking authority to adjust its rates and charges for intrastate telephone service. The application seeks the approval of rates that will produce $3,721,568 of additional annual revenues from intrastate operations when applied to a test period consisting of the 12 months ended December 31, 1981. The Company proposed that the rates and charges become effective for service rendered on and after May 30, 1982.

By Order issued on May 26, 1982, and corrected on May 27, 1982, the Commission declared the matter to be a general rate case pursuant to G.S. 62-137, suspended the proposed rates and charges for 270 days from the May 30, 1982, effective date, set hearings to begin on September 28, 1982, declared the test period to be the 12 months ended December 31, 1981, required the Company at its expense to give public notice of the proposed increase and hearings, and set the time for the Public Staff and other interested parties to file interventions and/or testimonies.

By Order issued on May 27, 1982, the Commission combined for hearing the applications of Western Carolina, Docket No. P-58, Sub 124, and Westco Telephone Company, Docket No. P-78, Sub 50.

The Public Staff filed Notice of Intervention in this docket on September 3, 1982. The intervention of the Public Staff is deemed recognized pursuant to Rule R1-19(e) of the Commission's Rules and Regulations.

The Commission conducted out-of-town hearings for the purpose of receiving testimony from the using and consuming public. The first such hearing was held in Marion, North Carolina, at 2:00 p.m., on September 28, 1982; the second in Asheville, North Carolina, at 7:30 p.m., on September 28, 1982; and the third in Sylva, North Carolina, at 10:00 a.m., on September 29, 1982.

The following public witnesses appeared and offered testimony in Marion at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Ronald R. Sinclair, Jack Harmon, David Huskins, George Conrad, George Thomas, Ronald Byrd, Daniel Abernethy, Helen McCoy, D. A. Breyson, John English, and Doc Poole.

The following public witness appeared and offered testimony in Asheville at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Fred Sealey.

The following public witnesses appeared and offered testimony in Sylva at the consolidated hearings for Western Carolina and Westco Telephone Companies:

Robert Jakes, Woodrow W. Reeves, Harry Raymond Wright, C. E. Johnson, Richard Parson, Harriet Dillard, Florence Summer, Barbara McDonald, Sam Carlyle, Danice Williams, Nell Davis, and John Moore.

The hearings were resumed in Raleigh at 11:00 a.m., on October 11, 1982, for the purpose of receiving further testimony of public witnesses and the testimony and cross-examination of the Applicant and the Public Staff. Western Carolina Telephone Company offered the testimony and exhibits of the following witnesses: John A. Feaster, President of Continental Telephone Company of North Carolina (formerly Western Carolina Telephone Company and Westco Telephone Company), who testified as to Company operations, service and capital requirements; Brian McCormick, Revenue Requirements Manager of Continental Telephone Service Corporation, who testified as to the Company's accounting and financial information and revenue requirements; Robert B. Morris, III, Vice-President, Wells Fargo Investment Advisors, who testified as to the appropriate capitalization and required rate of return of the Company; and Laura L. Myers, Revenue Analyst of Continental Telephone Service Corporation, who testified as to the Company's rate design and tariffs.

The Public Staff offered the testimony and exhibits of the following witnesses: Hugh L. Gerringer, Engineer with the Communications Division of the Public Staff, who testified as to the Company's intrastate toll revenue; Jesse Kent, Jr., Staff Accountant of the Public Staff, who testified concerning levels of operating revenues, expenses, and rate base of the Company's intrastate operations; Thi-Chen Hu, Engineer - Communications Division of the Public Staff, who testified concerning the adequacy and quality of the Company's service; William J. Willis, Engineer - Communications Division of the Public Staff, who testified as to end-of-period miscellaneous revenues and the Company's tariff proposals; Robert Weiss, Economist of the Public Staff, who testified as to the appropriate capital structure, cost of equity, and rate of return for the Company; and Julie Jacome, Staff Accountant with the Public Staff, who testified as to the relation of the Applicant and Continental Service and Supply Corporation.

Western Carolina Telephone Company offered the rebuttal testimony and exhibits of Robert B. Morris, III, and Brian W. McCormick.

The Public Staff offered the surrebuttal testimony and exhibits of Dr. Robert Weiss.

Based on the foregoing, the testimony and exhibits admitted at the hearings, and the entire record in this docket, the Commission now makes the following

FINDINGS OF FACT

1. The Applicant, Western Carolina Telephone Company, at the time of the filing of the application, was a duly organized North Carolina corporation and is a subsidiary of Continental Telephone Corporation. After the filing of the application but prior to the hearings, Western Carolina and its subsidiary,

Westco Telephone Company, were merged with approval of the Commission and the name of the corporation was changed to Continental Telephone Company of North Carolina. This merger will not affect the operations of the Company nor any of the accounting exhibits presented in this case since the two companies were operated as a single entity prior to the merger. Western Carolina holds a franchise from this Commission to provide public utility telephone service in 11 exchanges located in Western North Carolina. Western Carolina is properly before the Commission in this proceeding, pursuant to G.S. 62-133, for a determination of the justness and reasonableness of its proposed rates and charges.

2. By its application, the Company seeks rates to produce jurisdictional gross operating revenues of $22,164,293 annually, based upon a test year ended December 31, 1981. Company contended revenues under present rates are $18,442,725, thereby necessitating an increase of $3,721,568.

3. The test year for this proceeding is the 12 months ended December 31, 1981.

4. The overall quality of the service provided by the Applicant is adequate; however, there are some problem areas which the Company should correct.

5. Western Carolina's reasonable original cost rate base is $35,881,564. This coiation of
$7,662,210, deferred income taxes of $6,472,747, unamortized pre-1971 investment tax credits of $57,533, and customer deposits of $115,623.

6. Western Carolina's gross revenues for the test year under present rates, after accounting and pro forma adjustments, are $18,353,012.

7. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, end-of-period and after period adjustments is $14,791,840. This amount includes $3,225,684 for investment currently consumed through actual depreciation on an annual basis.

8. The capital structure for Western Carolina which is appropriate for use in this proceeding is:

Item	Percent
Long-term debt	55.99%
Preferred stock	5.56%
Common equity	38.45%
Total	100.00%

9. The Company's proper embedded costs of long-term debt and preferred stock are 9.23% and 8.37%, respectively. The reasonable rate of return for Western Carolina to earn on its common equity is 16.30%. Using the capital structure, heretofore determined, with the cost rates for debt, preferred stock, and common equity yields an overall fair rate of return of 11.90% to be applied to the Company's rate base. Such rate of return will enable Western Carolina, by sound management, to produce a fair return for its shareholders, 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 terms which are reasonable and fair to the customers and to existing investors.

10. Western Carolina has an annual gross revenue requirement of $19,892,268. This requires an increase in annual gross revenues of $1,539,256. This increase is required in order for the Company to have a reasonable opportunity to earn the 11.90% rate of return on its rate base which the Commission has found just and reasonable. This increased revenue requirement is based on the original cost of the Company's property and its reasonable test year operating revenues and expenses as previously determined and set forth in these findings of fact.

SCHEDULE I
WESTERN CAROLINA TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF OPERATING INCOME
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	Present Rates	Increase Approved	After Approved Increase
Operating Revenues:			
Local service revenues	$10,349,808	$1,539,256	$11,889,064
Toll service revenues	7,497,899	-	7,497,899
Miscellaneous revenues	505,305	-	505,305
Uncollectible revenues	(23,882)	(3,386)	(27,268)
Total operating revenues	18,329,130	1,535,870	19,865,000
Operating Revenue Deductions:			
Operating expenses	8,467,928	-	8,467,928
Depreciation expense	3,225,684	-	3,225,684
Operating taxes - other than income	1,732,871	92,152	1,825,023
State and federal income tax expenses	1,365,357	710,887	2,076,244
Total operating revenue deductions	14,791,840	803,039	15,594,879
Net operating income for return	$3,537,290	$ 732,831	$ 4,270,121

TELEPHONE

SCHEDULE II
WESTERN CAROLINA TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF RATE BASE AND RATE OF RETURN
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	After Approved Rates
Investment in Telephone Plant:	
Telephone plant in service	$49,410,925
Accumulated depreciation	(7,662,210)
Customer deposits	(115,623)
Accumulated deferred income taxes	(6,472,747)
Pre-1971 investment tax credits	(57,533)
Total investment in telephone plant	35,102,812
Allowance for Working Capital:	
Cash	705,661
Materials and supplies	549,998
Prepayments	6,810
Tax accruals	(483,717)
Total working capital allowance	778,752
Original cost rate base	$35,881,564
Rate of return:	
Present rates	9.86%
Approved rates	11.90%

SCHEDULE III
WESTERN CAROLINA TELEPHONE COMPANY
NORTH CAROLINA INTRASTATE OPERATIONS
STATEMENT OF CAPITALIZATION AND RELATED COSTS
TWELVE MONTHS ENDED DECEMBER 31, 1981

Item	Ratio	Original Cost Rate Base	Embedded Cost	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	55.99%	$20,090,088	9.23%	$1,854,315
Preferred stock	5.56%	1,995,015	8.37%	166,983
Common equity	38.45%	13,796,461	10.99%	1,515,992
Total	100.00%	$35,881,564	-	$3,537,290
	Approved Rates - Original Cost Rate Base			
Long-term debt	55.99%	$20,090,088	9.23%	$1,854,315
Preferred stock	5.56%	1,995,015	8.37%	166,983
Common equity	38.45%	13,796,461	16.30%	2,248,823
Total	100.00%	$35,881,564	-	$4,270,121

11. The rates, charges, and regulations to be filed pursuant to this Order in accordance with the guidelines contained herein, which will produce an increase in annual revenues of $1,539,256, will be just and reasonable.

NOTE: Due to a shortage of space the Evidence and Conclusions to these Findings of Fact may be found in the official files in the office of the Chief Clerk.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Western Carolina Telephone Company, be, and hereby is, allowed to increase its rates and charges so as to produce an annual level of revenue of $19,892,268 from its North Carolina subscribers based on the Company's level of test year operations. Such amount represents an increase of $1,539,256 above the level of revenue that would have resulted from rates currently in effect based upon the level of operations as of December 31, 1981.

2. That the Applicant is hereby called on to file revised tariffs reflecting changes in rates, charges, and regulations to recover the additional revenues approved herein in accordance with the conclusions set forth in "Evidence and Conclusions for Finding of Fact No. 11" above within 10 days from the date of this Order. Work papers supporting such proposals should be provided to the Commission and all parties of record (formats such as Item 30 of the minimum filing requirements, NCUC Form P-1 are suggested).

3. That parties may file written comments concerning the Company's tariffs within five days of the date upon which they are filed with the Commission.

4. That the Applicant is hereby called on to file a practice which instructs its customer contact people on the proper notification procedures concerning customer rights to perform certain discretionary service charge work functions for themselves.

5. 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 Ordering Paragraph No. 2 above.

6. That Western Carolina shall give notice of the rate increase approved herein by first-class mail to each of its North Carolina customers during the next billing cycle following the filing and acceptance of the rate schedules described in Ordering Paragraph No. 2 above. Such Notice to Customers shall be submitted to the Commission for approval prior to issuance.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of November 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. WU-110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Filing of Revised Tariffs by Western Union Telegraph) RECOMMENDED
Company for Approval of Certain Adjustments in Its) ORDER GRANTING
Rates and Charges Applicable to Intrastate Telegraph) RATE INCREASE
Service)

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on May 11, 1982, at 9:30 a.m.

BEFORE: Hearing Examiner Jim Panton

APPEARANCES:

For the Applicant:

John R. Jordan, Jr., and Henry W. Jones, Jr., Attorneys at Law, Jordan, Brown, Price and Wall, P.O. Box 709, Raleigh, North Carolina 27602

For the Public Staff:

Thomas Austin, Staff Attorney, Public Staff - North Carolina Utilties Commission, P.O. Box 991, Raleigh, North Carolina 27602
For: The Using and Consuming Public

PANTON, HEARING EXAMINER: On December 2, 1981, Western Union Telegraph Company (Applicant) filed revised tariffs with this Commission to increase its rates and charges for Public Message Service and to increase Informaster Service rates for messages filed from Telex I and Telex II terminals.

By Order issued January 11, 1982, the Commission declared the matter to be a general rate case, suspended the proposed rates, and scheduled a public hearing for May 11, 1982, and required the Applicant to give public notice. On March 10, 1982, the Applicant filed the testimony of Joseph Kettenstock, Manager - Regulatory Accounting for the Applicant, and on April 21, 1982, the Public Staff filed Notice of Affidavit and Affidavit of Donald E. Daniel, Assistant Director - Accounting Division. The hearing was held as scheduled; no public witness appeared; and no one testified against the application.

At the public hearing, Applicant's counsel read into the record the Applicant's position concering the Record Carrier Competition Act of 1981 and its relationship to this proceeding. Without prejudice to possible future action by any parties concerning the applicability of the RCCA to the Applicant and the related effects on Applicant's intrastate operations, the Hearing Examiner allowed into the record the Applicant's reading.

Based upon the information contained in the application, the Commission's files, and in the record of this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. The Applicant is properly before this Commission for a rate increase and is subject to the jurisdiction of this Commission.

2. The Applicant's proposed rates will generate additional gross revenues of $44,386.

3. The test year for this proceeding is the year ended December 31, 1980.

4. The Applicant's end-of-period net operating income under present rates is ($554).

5. The Applicant's end-of-period net operating income under proposed rates is $27,816.

6. The Applicant's overall rate of return on end-of-period rate base of $1,704,767 under proposed rates is 1.63%.

7. The proposed increase is not unreasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 7

The evidence for these findings is found in the Commission's files, including the application in this docket, the testimony of Applicant witness Kettenstock, and the Affidavit of Donald E. Daniel and is primarily uncontroverted. Hence, the Hearing Examiner concludes that the proposed rate increase, which was found not to be unreasonable by the Public Staff, should be approved as proposed by the Applicant.

IT IS, THEREFORE, ORDERED as follows:

1. That Western Union Telegraph Company be, and hereby is, allowed to increase its rates and charges, as reflected in the application in this docket, by $44,386 on service rendered on or after the effective date of this Order.

2. That Western Union should file appropriate tariffs reflecting the increase approved herein by the effective date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of May 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. WU-111

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Cancellation of Tariff North Carolina Utilities Commission No. 1 effective August 18, 1982 - Intrastate Deregulation of Western Union Telegraph Company	)	ORDER

BY THE COMMISSION: On July 13, 1982, the Western Union Telegraph Company filed Supplement No. 1 and 118th Revised Page 1 to effect cancellation of Tariff NCUC No. 1 effective August 18, 1982. The purpose of the filing is to effectuate deregulation of Western Union's record services. The Company plans to continue to provide these services in all jurisdictons on a nationwide uniform rate policy. In support of its requests to deregulate its intrastate services, Western Union filed Western Union's Intrastate Record Services and the Record Carrier Competition Act of 1981.

A review of the filings reveals that on December 29, 1981, President Reagan signed into law the Record Carrier Competition Act of 1981, P.L. 97-130 ("RCCA") which inter alia amends the Communications Act of 1934. According to the Report of the House Committee on Energy and Commerce (Report No. 97-356, December 3, 1981), this new statute is intended to pre-empt state jurisdiction over record services, including the services Western Union offers in North Carolina.

The effect of the RCCA on state jurisdiction was recently addressed in an order in which the Federal Communications Commission (acting through the Chief of its Common Carrier Bureau) accepted tariffs filed by several carriers (FTC Communications, Inc., ITT World Communications, Inc., RCA Global Communications, Inc., and Western Union International, Inc.) which proposed to offer domestic telex service. The Commission expressly denied a petition for rejection filed by American Telephone and Telegraph Company, which argued that the proposed tariffs were unlawful because they included rates for purely intrastate service, rates which in AT&T's view should have been tariffed with the several states. The Commission dismissed AT&T's petition for rejection, noting that:

> [AT&T's] argument overlooks the fact that Congress specifically intended in the repeal of former Section 222 and in the adoption of the 1981 Act to preempt state jurisdiction over intrastate record communications.

The effect of the RCCA on state jurisdiction was also addressed in three separate orders very recently issued by the Kansas Corporation Commission, the Massachusetts Department of Public Utilities, and the Rhode Island Public Utilities Commission. All three orders concurred with the FCC Order and adopted the position that the RCCA preempts state jurisdiction over all intrastate record services. As the Massachusetts order explains:

> It was the FCC's opinion that in enacting the RCCA, Congress specifically intended to preempt state jurisdiction over intrastate record communications. Our review of the aforementioned documents did not result in a contradictory interpretation. Thus, we must conclude

that the Department no longer has jurisdiction over Western Union's service offerings within Massachusetts.

Review of the aforementioned documents reveals no contradictory interpretation. This Commission concludes that the North Carolina Utilities Commission no longer has jurisdiction over Western Union's record services offerings within North Carolina.

IT IS, THEREFORE, ORDERED that by virtue of the Record Carrier Competition Act of 1981, the North Carolina record services of Western Union Telegraph Company and any other provider of intrastate record carrier services are no longer subject to the jurisdiction of this Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. W-233, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Corriher Water Service, Inc., Route 3, Box 311, Landis, North Carolina, for Temporary Operation Authority to Furnish Water Utility Service in Tay-Mor Subdivision in Cabarrus County, Sleca-Wa Subdivision in Rowan County, North Carolina, and for Approval of Rates	))))))	RECOMMENDED ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND APPROVING RATES

HEARD IN: Conference Room, City Hall, 136 North Central Avenue, Landis, North Carolina, on Thursday, August 28, 1980, at 9:00 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Brice J. Willeford, Jr., Williams, Willeford, Boger, Grady & Davis, Attorneys at Law, P. O. Box 2, Kannapolis, North Carolina 28081
Appearing for: Corriher Water Service, Inc.

For the Public Staff:

Vickie L. Moir and Karen E. Long, Staff Attorneys, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

BENNINK, HEARING EXAMINER: On June 2, 1980, Corriher Water Service, Inc., ("Applicant," Corriher," or "Company") filed an application with the North Carolina Utilities Comission seeking approval of rates and a certificate of public convenience and necessity to provide water utility service in the following subdivisions: Tay-Mor, Cabarrus County; Sleca-Wa, Rowan County; and Mountain Creek Shores, Catawba County.

The application was scheduled for public hearing on Thursday, August 28, 1980, pursuant to Commission Order dated July 30, 1980. The Applicant was required to give public notice of such hearing. On August 18, 1980, the Applicant filed a "Certificate of Service" with the Commission indicating that public notice of said hearing had in fact been given.

On August 20, 1980, the Public Staff filed a "Notice of Intervention" in this proceeding on behalf of the using and consuming public.

Upon call of the matter for hearing at the appointed time and place, both the Applicant and the Public Staff were present and represented by counsel. Testimony was offered by the following customers who reside in the Tay-Mor Subdivision: J. Gregory Hamilton, Mary Ann Chopko, E. C. Hagwood, Delia Wyatt, Shirley Harkey, Saundra Henry, Elizabeth Smith, and C. Michael Deal.

Bud Morrison, the developer of Tay-Mor Subdivision, also testified at the hearing.

The Public Staff presented the testimony of Harold Saylor, Environmental Engineer with the North Carolina Division of Health Services, and Rudy C. Shaw, Public Staff Utilities Engineer. The Public Staff also offered into evidence the prefiled affidavit of Mark Sherman, Public Staff Accountant. The Applicant offered the testimony of its President, Frank A. Corriher.

Pursuant to Commission Orders dated September 29, 1980, April 1, 1981, and June 5, 1981, the Applicant was required to file monthly progress reports with the Commission detailing the actions which it had taken and what success it had experienced in obtaining approval of the plans and specifications for the Tay-Mor Subdivision from the North Carolina Division of Health Services. These reports were required to be filed until such time as the water system serving the Tay-Mor Subdivision had been installed in accordance with plans approved by the Division of Health Services.

On May 15, 1981, the Hearing Examiner entered an Order in this docket requesting the Public Staff to conduct a further investigation into service problems being complained of by Mrs. Dale B. Allison and Mrs. Elizabeth Smith in the Tay-Mor Subdivision.

On April 26, 1982, Rudy C. Shaw, Utilities Engineer with the Public Staff Water Division, filed the following affidavit for consideration in this proceeding:

"By Commission Order issued on September 29, 1980, and by subsequent Orders dated April 1, 1981, June 5, 1981, July 9, 1981, and September 8, 1981, Corriher Water Service, Inc. (CWSI), was required to file monthly progress reports with the North Carolina Utilities Commission therein detailing the actions which it has taken and what success it has experienced in obtaining the Division of Health Services' approval of the engineering plans and specifications for the Tay-Mor and Sleca-Wa Subdivisions.

"By Order issued on May 15, 1981, the Public Staff was requested to conduct further such investigation into the matters complained of by Mrs. Dale Allison and Mrs. Elizabeth Smith in their letters to Hearing Examiner Robert Bennink.

"I have made three separate investigations into these complaints and have found that Corriher Water Service, Inc., has made certain improvements that have eliminated the low water pressure and undesirable water quality problems addressed by Mrs. Smith and Mrs. Allison. I have contacted both Mrs. Smith and Mrs. Allison and they are satisfied with the water service now being provided by Corriher Water Service, Inc. (Emphasis added)

"On November 17, 1981, I received word that the plans and specifications for the Tay-Mor Subdivision had been approved.

"On April 8, 1982, I learned that the plans and specifications for the Sleca-Wa Subdivision have now been approved.

"Because the engineering plans for both subdivisions are now approved and because the service problems in Tay-Mor Subdivision are now eliminated, I recommend that Corriher Water Service, Inc., be granted a Certificate of Public Convenience and Necessity to provide water utility service in Tay-Mor, Sleca-Wa and Country Creek Shores Subdivisions." (Emphasis added)

Based upon a careful consideration of the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. The Applicant is a corporation duly organized under the laws of the State of North Carolina and is franchised by this Commission to operate as a public utility and to provide water utility service to customers residing in its North Carolina service areas.

2. Corriher proposes to furnish water utility service in the following subdivisions in addition to those which it is already franchised to serve: Tay-Mor Subdivision, Cabarrus County; Sleca-Wa Subdivision, Rowan County; and Mountain Creek Shores Subdivision, Catawba County. The Applicant has filed a proposed schedule of rates for said service.

3. The plans and specifications for the water systems serving the three (3) subdivisions in question have been approved by the Division of Health Services of the State of North Carolina and the systems have been properly installed in conformity therewith.

4. There presently is or will soon be an established market for water utility service in the three subdivisions in question.

5. The Applicant has ownership and control of the three water systems in question.

6. The arrangements made by the Applicant for management of the water systems in question and for providing maintenance and repair services thereto are acceptable.

7. The water rates proposed herein are just and reasonable and are hereby approved as set forth in Appendix A attached hereto and made a part hereof.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

There presently is or soon will be a demand and need for water utility service in the Tay-Mor, Sleca-Wa, and Mountain Creek Shores Subdivisions which can best be met by the Applicant. The rates to be charged for water utility service provided to customers residing in the above-referenced subdivisions are set forth in Appendix A attached hereto, and such rates are found to be just and reasonable. In view of the fact that the Applicant has now secured approval from the North Carolina Division of Health Services for the three water systems in question and since the Applicant has also been successful in eliminating service problems in the Tay-Mor Subdivision, the Hearing Examiner concludes that Corriher Water Service, Inc., should be granted a certificate

of public convenience and necessity to provide water utility service in the Tay-Mor, Sleca-Wa, and Mountain Creek Shores Subdivisions.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant be, and the same is hereby, granted a certificate of public convenience and necessity to provide water utility service in the Tay-Mor, Sleca-Wa, and Mountain Creek Shores Subdivisions. Said certificate is attached hereto as Appendix B.

2. That the Schedule of Rates attached hereto as Appendix A be, and the same is hereby, approved and deemed to be filed with the Commission pursuant to G.S. 62-138.

3. That this docket be, and the same is hereby, closed.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of May 1982.

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

APPENDIX A

SCHEDULE OF RATES
DOCKET NO. W-233, SUB 9
Corriher Water Service, Inc.

Tay-Mor Subdivision in Cabarrus County
Sleca-Wa Subdivision in Rowan County
Mountain Creek Shores Subdivision in Catawba County

METERED RATES :

Up to first 4,000 gallons per month	-	$6.00 minimum
All over 4,000 gallons per month	-	$1.00 per 1,000 gallons

METER FEES :

$100 per customer in Sleca-Wa and Mountain Creek Shores Subdivisions

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 :

1% per month will be applied to the unpaid balance of all bills still past due twenty-five (25) days after billing date

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Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-233, Sub 9, on this the 5th day of June 1982.

APPENDIX B

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-233, SUB 9
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Know All Men By These Presents, That

Corriher Water Service, Inc.
Route 3, Box 311
Landis, North Carolina

is hereby granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service
in
Tay-Mor Subdivision, Cabarrus County, North Carolina
Sleca-Wa Subdivision, Rowan County, North Carolina
Mountain Creek Shores Subdivision, Catawba, North Carolina

subject to orders, rules, regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of May 1982.

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

WATER AND SEWER

DOCKET NO. W-758

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Riverview Utilities, Inc., P.O. Box 558, Knightdale, North Carolina, for a Certificate of Public Convenience and Necessity to Furnish Water Utility Service in Riverview North Subdivision, Wake County, North Carolina, and for Approval of Rates	) RECOMMENDED ORDER) GRANTING FRANCHISE) AND APPROVING RATES

HEARD IN: Commission Hearing Room 537, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on May 14, 1982

BEFORE: Hearing Examiner Linda Chappell

APPEARANCES:

For the Applicant:

Garland L. Askew, Dement, Askew and Gaskins, Attorneys at Law, P.O. Box 711, Raleigh, North Carolina 27602

For the Using and Consuming Public:

Vickie L. Moir, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

CHAPPELL, HEARING EXAMINER: On March 24, 1982, Riverview North Utilities, Inc. (Company, Applicant, or Riverview), filed an application for a Certificate of Public Convenience and Necessity to provide water utility service in Riverview North Subdivision, Wake County, North Carolina, and for approval of rates. On April 16, 1982, the Commission issued an Order setting a public hearing on the matter for Friday, May 14, 1982, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, and requiring that public notice be delivered by the Applicant to all of its customers.

The matter came on for hearing as scheduled on May 14, 1982. The Public Staff appeared at the hearing and requested to intervene in the proceeding. The Applicant offered the testimony of Billy S. Myrick, President of Riverview North Utilities, Inc. The Public Staff offered the testimony of Rudy Shaw, utility engineer with the Public Staff. No one appeared at the hearing to protest the application.

Evidence was presented at the hearing which indicated that the Company had no customers at that time; therefore, public notice required by the Commission's April 16, 1982, Order was not necessary.

Upon consideration of the application, Commission files and records, and the testimony presented at the hearing, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant seeks a Certificate of Public Convenience and Necessity to provide water utility service in Riverview North Subdivision, Wake County, North Carolina, and for approval of rates.

2. Riverview does not currently provide water service for any customers in Riverview North Subdivision but has the capacity to serve 74 customers.

3. The Applicant entered into agreements securing ownership and control of the water system and of the site of the wells.

4. The Applicant proposes to charge the following monthly metered rates:

$6.50 minimum - for the first 3,000 gallons per month
$1.50 - per 1,000 gallons thereafter

5. Water utility service is not now proposed for the subdivision by any other public utility, municipality, or membership association.

6. The applicant has specified that the names and phone numbers of persons responsible for maintenance and repair service to the water system will be listed on the monthly billing statement.

7. Approval of the water system plans has been obtained from the North Carolina Division of Health Services.

CONCLUSIONS

There is demand and need for water utility service in the Riverview North Subdivision which can best be met by the Applicant.

Consequently, the granting of a Certificate of Public Convenience and Necessity to Riverview North Utilities is just and reasonable.

The rates and rate structure proposed by the Applicant with the exception of proposed reconnection charges are both just and reasonable and should therefore be approved. The Applicant proposed reconnection fees resulting from discontinuance of service by the utility for good cause and for discontinuance of service by the utility at the customer's request of $15.00 and $10.00, respectively. Commission Rules R7-20(f) and (g) specify that such charges shall not be more than $4.00 and $2.00, respectively. The Hearing Examiner finds rates of $4.00 and $2.00 as specified by the aforereferenced Commission rules proper. Such schedule of approved rates is attached as Appendix A.

IT IS, THEREFORE, ORDERED as follows:

1. That the application by Riverview North Utilities, Inc., for a Certificate of Public Convenience and Necessity to provide water utility service in Riverview North Subdivision, Wake County, North Carolina, be and the same is hereby approved.

2. That this Order in itself constitutes a Certificate of Public Convenience and Necessity, as stated in Appendix B attached hereto.

3. That the Schedule of Rates attached hereto as Appendix A is hereby approved and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of June 1982.

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

APPENDIX A
SCHEDULE OF RATES
RIVERVIEW NORTH UTILITIES, INC.
DOCKET NO. W-758

Metered Monthly Rates:

$6.50 minimum for the first 3,000 gallons
$1.50 per 1,000 gallons thereafter

Flat Rates: Not Applicable

Connection Charges: $250.00

Reconnection Charges:

If water service cut off by the 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

Billing Frequency: Monthly for service in arrears

Bills Past Due: Fifteen (15) days after billing date

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-758 on this the 7th day of July 1982.

APPENDIX B
DOCKET NO. W-758
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Know All Men By These Presents, That

Riverview Utilities, Inc.
is hereby granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service
in
Riverview North Subdivision
Wake County, North Carolina

subject to such orders, rules, regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of June 1982.

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

DOCKET NO. W-759

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by TET Utility Company, Inc., P. O. Box 497, Philadelphia Church Road, Dallas, North Carolina 28034, for a Certificate of Public Convenience and Necessity to Provide Sewer Utility Service in Dunescape Villas, Carteret County, North Carolina, and for Approval of Rates	)	RECOMMENDED ORDER GRANTING SEWER UTILITY FRANCHISE AND APPROVING RATES

HEARD IN: Commission Hearing Room 217, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602, on June 30, 1982

BEFORE: Commission Hearing Examiner Bliss B. Kite

APPEARANCES:

For the Applicant:

Steven C. Garland, Moore and Van Allen, Attorneys at Law, 3000 NCNB Plaza, Charlotte, North Carolina 28210

For the Using and Consuming Public:

Theodore C. Brown, Jr., Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

KITE, HEARING EXAMINER: On March 29, 1982, TET Utility Company, Inc. (Applicant), filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide sewer utility service in Dunescape Villas located in Carteret County, North Carolina, and for approval of rates.

By Order issued on April 27, 1982, the Commission scheduled the application for public hearing and required that public notice of the hearing be given by the Applicant. Public notice was furnished to each customer in Dunescape Villas by the Applicant advising that anyone desiring to intervene or to protest the application was required to file such intervention or protest with the Commission by the date specified in the notice. No interventions or protests were received by the Commission.

The Public Staff of the North Carolina Utilities Commission filed its Notice of Intervention in this docket on June 21, 1982. That intervention is deemed recognized pursuant to Commission Rule R1-19(e).

The public hearing was held in Raleigh, North Carolina, at 2:00 p.m., on June 30, 1982, as specified in the Commission Order. Bill Goodman, general manager of TET Utility Company, Inc., appeared as a witness for the Applicant and presented testimony in support of the application. Andy Lee, a utilities engineer appeared as a witness for the Public Staff and presented direct testimony concerning his evaluation of the Applicant's plans for the sewer utility operations. No one appeared at the hearing to protest the application.

Based on the information contained in the application, in the Commission files, and in the records of this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. The Applicant, TET Utility Company, Inc., is a corporation duly organized under the laws of the State of North Carolina and is authorized under its Articles of Incorporation to engage in the operation of public utilities, as defined in G.S. 62-3.

2. TET Utility Company, Inc., is a wholly owned subsidiary of Summey Building Systems, Inc., P. O. Box 497, Philadelphia Church Road, Dallas, North Carolina 28034.

3. The Applicant seeks a Certificate of Public Convenience and Necessity to furnish sewer utility service in Dunescape Villas, Carteret County, North Carolina, and has filed for approval to charge a flat rate of $20 per month for said service.

4. Dunescape Villas is a residential condominium development which contains 180 units. The development is located on Bogue Banks, south of Atlantic Beach, North Carolina.

5. The Applicant has installed a sewage treatment plant with a capacity of 60,000 gallons per day and sewer mains which are capable of serving Dunescape Villas and has been serving the development since early April 1982.

6. Water utility service in Dunescape Villas is provided by Carolina Water Service, Inc.

7. There is an established market for sewer utility service in the development and such service is not now proposed for the development by any other public utility, municipality, or membership association.

8. The Applicant's sewer system plans have been approved by the Environmental Management Commission of the North Carolina Department of Natural Resources and Community Development.

9. The Applicant has entered into an agreement with Certified Operators, Inc., of Greenville, North Carolina, to operate and maintain the sewage treatment plant and to provide 24-hour emergency service. The Applicant has specified that the names, addresses, and telephone numbers of the companies and persons responsible for providing maintenance and repair service to the system will be listed on the monthly billing statement.

10. The Applicant and Dunescape Villas Homeowners Association proposed that the sewer charges for Dunescape Villas be billed to and paid for by the Homeowners Association. It is proposed that such billing be done by one bill for all units and submitted monthly to the Homeowners Association for payment of service in arrears.

11. The Applicant lists in its application the net investment in sewer utility plant as $625,000. The Public Staff did not verify the components making up the Applicant's net investment in sewer utility plant but it did suggest that the net investment be adjusted up to $627,000 to reflect the inclusion in plant of a $2,000 storage building which the Applicant included in other operating expenses.

12. The Public Staff recommends a flat rate of $15 per month for sewer service. However, the Public Staff recommends that the Applicant inquire as to the method of measuring service by which Carolina Water Service, Inc., charges its customers in Dunescape Villas to determine the possibility of using metered water data to establish metered sewer rates.

13. The Applicant's proposed rates are based upon estimated revenues and expenses as shown in the application and upon rates of Sanitary Utility Company in New Hanover County. The Public Staff's proposed rates are comparable to rates found reasonable by this Commission for similar sewer system operations.

CONCLUSIONS

1. The Hearing Examiner is of the opinion, and so concludes, that the Applicant, TET Utility Company, Inc., should be granted a Certificate of Public Convenience and Necessity to provide sewer utility service in Dunescape Villas, Carteret County, North Carolina.

2. There is a demand and need for sewer utility service in Dunescape Villas which can best be met by the Applicant at this time.

3. The initial rates approved by the Commission for sewer utility service in Dunescape Villas should be those contained in the Schedule of Rates attached hereto. These rates are not in excess of those rates found to be reasonable by the Commission for similar public sewer utilities under average operating conditions and are concluded to be just and reasonable for a new company starting up without the knowledge of a year's operating experience on which to base a rate. The Applicant should be allowed to recover the reconnection charges contained in the attached schedule; such charges are concluded to be just and reasonable.

4. The Hearing Examiner recommends that the Applicant should, in the future, investigate the possibility of obtaining metered water data from Carolina Water Service, Inc., to be used to develop a metered sewer rate which would be more equitable to the customer than a flat rate.

5. The Applicant should provide one billing statement for all units to the Dunescape Villas Homeowners Association for service in arrears on a monthly basis. Such monthly billing statement should list the names, addresses, and telephone numbers of the companies and persons responsible for providing 24- hour emergency repair service to the sewer system.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, TET Utility Company, Inc., is hereby granted a Certificate of Public Convenience and Necessity in order to provide sewer utility service in Dunescape Villas, as is more particularly described in the application made a part hereof by reference.

2. That Appendix A, attached hereto, shall constitute the Certificate of Public Convenience and Necessity.

3. That the Schedule of Rates, attached hereto as Appendix B, is hereby approved and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G. S. 62-138.

4. That the Applicant shall bill its customers in Dunescape Villas by sending monthly one billing statement for all units for service in arrears to Dunescape Villas Homeowners Association, Salter Path Road, Atlantic Beach, North Carolina 28512. Such statement shall provide the names, addresses, and telephone numbers of the companies and persons to contact for emergency repair service on a 24-hour basis.

5. That the Notice to Customers, attached as Appendix C, the Schedule of Rates, attached hereto as Appendix B, and a statement setting forth the names, addresses, and telephone numbers of the companies and persons to contact for 24-hour emergency repair service shall be delivered by the Applicant directly to each individual customer and the Dunescape Villas Homeowners Association at the time of the first regular monthly billing following the date the Recommended Order issued in this docket becomes effective and final.

6. That the Applicant is hereby cautioned that, in the event the present arrangements for providing dependable and prompt maintenance and repair

service are terminated, the Applicant shall immediately make alternate arrangements which shall be at least as reliable as the present arrangements and the Applicant shall immediately notify the Commission of such alternate arrangements.

7. That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed Annual Report to the Commission can be readily identified from the books and records and can be utilized by the Applicant in the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant with the mailing of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

APPENDIX A
DOCKET NO. W-759
BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Know All Men By These Presents, That

TET UTILITY COMPANY, INC.

P. O. Box 497, Philadelphia Church Road
Dallas, North Carolina 28034

is hereby granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide sewer utility service
in
DUNESCAPE VILLAS
in
CARTERET COUNTY, NORTH CAROLINA

subject to such orders, rules, regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

APPENDIX B
DOCKET NO. W-759
SCHEDULE OF RATES
FOR
SEWER UTILITY SERVICE
PROVIDED BY
TET UTILITY COMPANY, INC.
IN
DUNESCAPE VILLAS
CARTERET COUNTY, NORTH CAROLINA

RESIDENTIAL SEWER RATE:

$15.00 per month per unit

CONNECTION CHARGE: None

RECONNECTION CHARGE:

If sewer service cut off by utility for good cause - $15.00

BILLS DUE: On billing date

BILLS PAST DUE: 15 days after billing date

BILLING FREQUENCY: Shall be monthly for service in arrears

FINANCE CHARGES FOR LATE PAYMENT:

Shall be 1% per month on all bills still past due 25 days after billing date

ISSUED IN ACCORDANCE WITH AUTHORITY GRANTED BY THE NORTH CAROLINA UTILITIES COMMISSION ON THIS THE 17th DAY OF AUGUST 1982.

APPENDIX C
DOCKET NO. W-759
NOTICE TO CUSTOMERS

On August 17, 1982, the North Carolina Utilities Commission issued a Recommended Order granting TET Utility Company, Inc. (Applicant), a Certificate of Public Convenience and Necessity to provide sewer utility service in Dunescape Villas, Carteret County, North Carolina. The rates approved by the Commission to be charged by the Applicant are shown on the attached schedule.

The Commission in its Order approved a billing procedure that allows the Applicant to submit monthly one bill for all units for service in arrears to the Dunescape Villas Homeowners Association. The monthly sewer charge billing for Dunescape Villas is to be paid by the Homeowners Association.

Further in the Commission Order, the Applicant was ordered to prepare and provide to each of its customers and the Homeowners Association a statement setting forth the names, addresses, and telephone numbers of the companies and persons to contact for emergency repair service on a 24-hour basis. Such emergency service information is attached to this Notice.

DOCKET NO. W-102, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Ms. Barbara Meliski, et al.,	)	
Complainants	)	RECOMMENDED ORDER
	)	APPROVING ADDITIONAL
vs.	)	ASSESSMENT AND
	)	CHANGING DESIGNATION
Chimney Rock Water Works,	)	OF TRUSTEE
Respondent	)	

HEARD IN: Chimney Rock Volunteer Fire Department, Highway 64-74, Chimney Rock, North Carolina, on Tuesday, February 2, 1982, at 7:00 p.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Public Staff:

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

BENNINK, HEARING EXAMINER: On December 29, 1981, a Recommended Order was entered in this docket entitled "Recommended Order Appointing Trustee, Scheduling Public Hearing, and Approving Assessment and Interim Rates." By said Order, Leslie B. Cohen was appointed to serve as Trustee of Chimney Rock Water Works pursuant to G. S. 62-118(b), interim water rates and an emergency assessment of $50.00 were approved for the purpose of upgrading the system, and a public hearing was scheduled for the purpose of introducing the Trustee to the customers of Chimney Rock Water Works and to consider whether an emergency assessment greater than $50.00 per customer should be required and whether a monthly assessment to finance improvements to the Chimney Rock water system should be instituted in addition to the interim water rates approved by said Order.

Upon call of the matter for hearing at the appointed time and place, the Public Staff was present and represented by counsel. Leslie B. Cohen testified on behalf of Water Consultants, Inc., with respect to the terms and conditions of the trusteeship and offered recommendations on behalf of the Trustee concerning a further assessment in the amount of $50.00.

Based upon a careful consideration of the entire record in this proceeding, the Hearing Examiner finds and concludes that the Trustee should be authorized to require an additional $50.00 emergency assessment from each customer connected to the Chimney Rock water system to be used for the purpose of upgrading said system. Such additional emergency assessment shall be due not later than May 1, 1982. Furthermore, the Trustee will be required to file monthly reports in this docket for review by the Commission, the Public Staff, and any other interested party.

In concluding this Recommended Order, the Hearing Examiner further notes that the Order previously entered in this docket on December 29, 1981, erroneously appointed Leslie B. Cohen, rather than Water Consultants, Inc., to serve as Trustee of Chimney Rock Water Works. Accordingly, the Hearing Examiner concludes that the Order dated December 29, 1981, should be corrected to name and appoint Water Consultants, Inc., as Trustee.

IT IS, THEREFORE, ORDERED as follows:

1. That decretal paragraph number 1 of the Recommended Order heretofore entered in this docket on December 29, 1981, be, and the same is hereby, amended to name and appoint Water Consultants, Inc., rather than Leslie B. Cohen, to serve as Trustee of Chimney Rock Water Works.

2. That Water Consultants, Inc., the duly appointed Trustee of Chimney Rock Water Works, be, and is hereby, authorized to require an additional emergency assessment in the amount of $50.00 from each customer connected to the Chimney Rock water system, said assessment to be due not later than May 1, 1982.

3. That the Trustee shall file monthly reports in this docket for review by the Commission, the Public Staff, and any other interested party.

4. That the Trustee shall notify the customers of the Chimney Rock Water Works of the additional emergency assessment referred to in decretal paragraph number 2 above by mailing or hand delivering an appropriate written notice to said customers not later than April 1, 1982. The Trustee shall file a copy of said notice with the Office of the Chief Clerk for inclusion in the official file for this docket.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of February 1982.

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

DOCKET NO. W-623, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Wanda L. Browning, et al. v. Masonboro Utilities, Inc. and Application by Masonboro Utilities, Inc., 230 Wilson Street, Baltimore, Maryland, for Authority to Transfer the Water and Sewer Systems in Waterford and Barton Oaks Subdivisions in New Hanover County, North Carolina, from the First National Bank of Maryland to Greenfeld & Zenitz (partnership)	RECOMMENDED ORDER APPROVING STOCK TRANSFER, AUTHORIZING THE PLEDGING OF STOCK AND ASSETS, AND REQUIRING SERVICE IMPROVEMENTS

HEARD IN: Assembly Room, County Administration Building, Wilmington, North Carolina, on December 3, 1981, at 6:00 p.m., and on March 16, 1982, at 5:30 p.m.

BEFORE: Hearing Examiners Robert P. Gruber (December 3, 1981) and David F. Creasy (March 16, 1982)

APPEARANCES:

For the Complainants:

Karen E. Long, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602 (December 3, 1981)

G. Clark Crampton, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602 (March 16, 1982)

For Masonboro Utilities, Inc.:

J. H. Corpening, II, Prickett & Corpening, Attorneys at Law, P.O. Box 867, Wilmington, North Carolina 28401 (Docket No. W-623, Sub 1)

Kenneth A. Shanklin, Newton, Harris & Shanklin, Attorneys at Law, 502 Market Street, Wilmington, North Carolina 28401 (Docket No. W-623, Sub 2)

CREASY, HEARING EXAMINER: This matter was begun July 27, 1981, when Wanda L. Browning and residents of Waterford Subdivision filed a complaint against Masonboro Utilities, Inc. (Respondent or the Company), in Docket No. W-623, Sub 1. The North Carolina Utilities Commission served the complaint upon the Respondent and Respondent answered the complaint on September 10, 1981. On November 20, 1981, Respondent filed a Motion to Dismiss and a Motion for a Bill of Particulars.

By Order of the Commission issued November 23, 1981, the matter was scheduled for hearing December 3, 1981, at 6:00 p.m., in Wilmington, North Carolina.

The Public Staff filed a Motion to Intervene and a Reply to Respondent's Motion for a Bill of Particulars on December 3, 1981.

The matter came on for hearing as scheduled. Respondent was present and represented by counsel.

Public witnesses who appeared and offered testimony included: William Hannafey, Debra M. Hall, Wanda L. Browning, Thomas E. Poole, Gary T. Gray, Chip Browning, Jeannette Gorham, Cathy Squires, Pattie Woodcock, Kirt Woodcock, Vickie Johnson, Charles C. Nixon, Gerald Waller, Phyllis Hannafey, and Betty Robbins.

The Public Staff presented the testimony of Water Engineer Rudy Shaw. Respondent presented the testimony of its General Manager Tim Hale.

Following the public hearing, Masonboro Utilities, Inc. (Applicant or the Company), filed an application with the Commission on December 22, 1981, in Docket No. W-623, Sub 2, whereby it seeks authority to transfer its stock ownership from the first National Bank of Maryland to Greenfeld & Zenitz (a partnership).

By Order issued January 22, 1982, the Commission scheduled the application for public hearing on March 16, 1982, and required that the Applicant give notice of the hearing.

On January 27, 1982, the Public Staff filed its motion to consolidate the proceedings in Docket No. W-623, Subs 1 and 2, contending that:

(a) Service complaints are likely to continue no matter who the owner of the system is unless improvements are undertaken.

(b) The new owners are the appropriate individuals to undertake service improvements and to apply for rate changes; new owners are not parties to the complaint proceeding.

(c) Complainants' fears and frustrations about locating owners of the system, raised in the complaint proceeding, could be quelled, and a dialogue between new owners and Complainants could be better established in a consolidated proceeding.

Proposed Orders were filed in Docket No. W-623, Sub 1, by the Public Staff on January 29, 1982, and by the Company on February 17, 1982.

By Order issued February 22, 1982, Examiner Robert P. Gruber issued an Order Consolidating Proceedings in Docket No. W-623, Subs 1 and 2.

The Public Staff filed its Notice of Intervention in Docket No. W-623, Sub 2, on March 9, 1982.

Public Notice was given as required, and the matters came on for hearing as scheduled. The Company was present and represented by counsel.

Jeannette Gorham appeared as a public witness and testified generally as to the same problems as were discussed in the previous hearing on December 3, 1981.

The Company presented the testimony of B. Ron Staton, C.P.A., and Tim Hale, manager of the Waterford and Barton Oaks water and sewer systems.

At the hearing, the Applicant moved to withdraw the supplement to its application revising the name of the purchasers of the stock, and the motion was granted. The Applicant also moved that it be granted approval to pledge its assets as collateral for a loan from the First National Bank of Maryland in the amount of the purchase price of the Applicant's stock. The Public Staff filed its response to the motion on March 19, 1982.

On March 22, 1982, J. H. Corpening, II, attorney for Respondent, submitted a letter, addressed to Examiner David Creasy, concerning proposed orders in the matter. On March 30, 1982, G. Clark Crampton, attorney for the Public Staff, responded to Mr. Corpening's letter by advising him that the Hearing

Examiner anticipated additional filings from the Applicant which would address the matters contained in the motions concerning the pledging of assets.

On August 20, 1982, a Motion was filed by Masonboro Utilities, Inc., et al., Applicants in Docket No. W-623, Sub 2, requesting: (1) approval of the transfer of the stock of Masonboro Utilities, Inc., from the First National Bank of Maryland to Greenfeld & Zenitz (a partnership); (2) approval for Masonboro Utilities, Inc., to pledge its stock and assets as collateral for a loan from the First National Bank of Maryland; and (3) final determination of the matters at issue in Docket No. W-623, Sub 1.

Based upon the foregoing, the sworn testimony and exhibits of the witnesses offered at public hearings and the Commission's entire files and records regarding this matter, the Hearing Examiner makes the following

FINDINGS OF FACT

1. Complainants are residents of New Hanover County and customers of the Respondent Utility.

2. Respondent is a public utility franchised in this State to provide water and sewer service in Waterford Subdivision, New Hanover County, North Carolina.

3. Complainants find that Respondent's method of computing its sewer rate could be more reasonable.

4. The water in Respondent's system is well within the parameters which are set by the State Division of Health Services; however, the amount of hydrogen sulfide from the ground water fluctuates causing a "rotten egg" smell in the water or causing a chlorine smell in the water as a result of the over treatment by the gas chlorinator when the hydrogen sulfide level is low.

5. Respondent's quality of service is not satisfactory to Complainants.

6. The Respondent should not be required to study systemwide treatment to soften the water at this time.

7. Respondent is planning, subject to the approval of the Utilities Commission, to expand its water and sewer system to serve 148 new customers at Barton Oaks Subdivision, presently under construction.

8. The stock transfer from the First National Bank of Maryland to Greenfeld & Zenitz, a partnership, is compatible with the public interest.

9. The pledging of its stock and assets by the Company will not be detrimental to the ratepayers.

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

Evidence supporting Findings of Fact Nos. 1 and 2 are found in the record of this proceeding and in the Commission's official files. These findings of fact are jurisdictional in nature and were not in dispute in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

Evidence supporting Finding of Fact No. 3 is found in the testimony of all public witnesses and in the testimony of Respondent's General Manager. Witnesses testified they felt the rates were unfair because Respondent charged for sewer service on water which was not processed through the sewer system. Complainants testified they did not believe they should pay sewer rates on water used to wash cars and water grass when that water did not drain into the sewage system. Respondent's General Manager testified he, too, as a user of the system would like to see sewerage rates changed.

Sewer rates in this system are based on metered water usage, which is one of several acceptable methods of computing the sewage rate. The rate presently charged by Masonboro Utilities, Inc., for its sewage was set and approved by the North Carolina Utilities Commission. Public Staff witness Shaw recommended that a maximum limit be set on sewer rates at a point where it was likely water consumption did not include water going into the sewer system. Witness Shaw, however, stated he could not say what that maximum limit should be until he had done a billing and consumption analysis of the system.

From this evidence, the Hearing Examiner concludes that the rate presently charged by the Utility is a rate which has been approved by the Utilities Commission and that Respondent should consider applying for a sewer rate which sets an upper limit for sewage charges, with such a limit to be determined from a billing analysis done either by the Public Staff or the Respondent at the time this system is transferred.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Evidence supporting this finding of fact is found in the testimony of public witnesses and Public Staff witness Shaw. All public witnesses described periodic fluctuations in the smell and tase of the water they were provided. All witnesses testified that, on occasion, the water smelled strongly of sulfur, or rotten eggs, and at other times it smelled of clorox or chlorine in a swimming pool.

The testing conducted by Ralph Harper of the Division of Health Services indicates that the water is well within all of the standards set by the Division of Health Services for water quality.

The "rotten eggs" or sulfur smell is typical for the ground water of southeastern North Carolina which contains a high level of hydrogen sulfide. The level of hydrogen sulfide in the ground water fluctuates depending on the amount of rainfall and other factors. The odor caused by the hydrogen sulfide can be eliminated by chlorination. To improve the present chlorination system Masonboro Utilities, Inc., installed a gas chlorination system on August 11, 1981, at a cost of $4,383.64 in an attempt to improve the odor of the water.

Witness Shaw testified he had tasted the water the day of the hearing and found it to have a hydrogen sulfide taste or smell, a taste public witnesses described as being "nasty" or of "rotten eggs." Public Staff witness Shaw attributed the fluctuations in smell and taste to a possible improper setting or functioning of the feed pump to Respondent's chlorinator. Witness Shaw recommended that Respondent contact Ralph Harper of the State Division of Health Services and work with Mr. Harper to correct the problem.

Public witnesses further testified that the water occasionally had "black specks" in it which were most noticeable when making ice cubes or running bath water. Public witness Cathy Squires brought a jar of what she described as "muddy water" to show the black specks in the water. Respondent's witness Hale testified on direct examination that black specks in the water were caused by hydrogen sulfide in the water reacting with copper plumbing to form copper sulfide which was flushed out of the lines whenever a faucet was turned on. Public Staff witness Shaw acknowledged that it was indeed possible that the chemical reaction was occurring but that the black specks reminded him of manganese rather than copper sulfide.

Numerous public witnesses testified that their water heating elements frequently needed replacement, some at considerable damage and expense. Three Complainants had spent from $500.00 to $800.00 installing water softeners to remedy the problem. Public Staff witness Shaw testified that water heater problems could be a result of hard water or calcium in the system's water, which could be remedied by installing water softening equipment. Company witness Hale testified that most manufacturers recommend flushing water heaters at least every six months, and he testified that failure to flush the water heaters under the conditions existing in the subject water systems would cause replacement water heater elements to burn out quickly. Complainants also testified that their spigots, pipes, and shower door tracts were "eaten out," pitted, and corroded by the water. Public witness Charles C. Nixon, Waste Water Manager for a General Electric Plant, testified that he had, some three years prior to the hearing, submitted a water sample to the lab where he works. He testified that the lab report came back stating that the water was acidic. Witness Nixon also indicated that he felt the problem was not with Masonboro Utilities but was with the State standards for water quality.

Public Staff witness Shaw testified that Complainants' description of pipe erosion could indicate that the water was acidic; however, witness Shaw also testified that laboratory analyses of the water taken from the well heads indicated that the water was not significantly acidic. He further testified that the problem with plumbing erosion could arise from the quality of plumbing installed in the houses. He further testified that it was possible that Complainants' clothes dryers were improperly grounded to their water pipes which could cause an electrolysis and an acid problem. He stated that he believed more testing of the system needed to be done.

From the evidence and testimony presented, the Hearing Examiner concludes that while the quality of the Respondent's water is well within the parameters set by the Division of Health Services for water quality, the hydrogen sulfide problem needs attention. The Hearing Examiner further concludes that Respondent must work with the Division of Health Services to clear up this problem. Such work should include testing and correcting water quality problems as the Division of Health Services sees fit.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

Evidence to support this finding of fact is found in the testimony of public witnesses. Public witnesses Wanda Browning, Thomas Poole, Jeannette Gorham, Cathy Squires, Vickie Johnson, and Betty Robbins all testified that Respondent's General Manager told them there was nothing he could do about their complaints regarding sewer rates and water quality. Complainants

Browning, Poole, and Gray further testified they had trouble discovering who owned the utility so that they could pursue their complaints with the owner.

Public witness Gorham testified that bill payment was a problem. Complainants were told to deliver payment between 8:00 a.m. and 5:00 p.m. at the General Manager's home but frequently no one was home to accept payment. On cross-examination, Company witness Hale agreed to install a mail slot or box to alleviate this problem.

Public witnesses Woodcock and Hannafey testified that water cut-off valves were not located where they could find them, and at least one valve was below the ground outside of the house. Complainant was forced to turn off his water in an emergency by digging to some depth to locate and close the cut-off valves. Company witness Hale corroborated this testimony but also testified that many homes had additional cut-off valves at the water meter box where laterals met the water mains.

From the foregoing, the Hearing Examiner concludes quality of service is not satisfactory to the customers and that Respondent's Water Company should take steps to improve procedures to receive bill payments, to inform all customers of the location of their water cut-off valves and instruct them in the manner of cutting off water, and to improve its responsiveness to customer complaints.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The Proposed Orders filed by the Public Staff and by the Company prior to the March 16 hearing were essentially in agreement, except primarily for the Public Staff's recommendation that a study be made of treating the water for hardness. Nevertheless the Public Staff did not offer further testimony on the subject at the March 16 hearing. The Commission is aware that central treatment for water hardness is expensive and would raise the water rates even higher, particularly in the face of customer contentions that the area is a low cost housing area and the customers cannot afford higher rates. The obvious alternative is for customers who still want softened water, even with the greater expense, to obtain home treatment units, which are widely available commercially, thereby leaving those who cannot afford the extra expense the option of declining to soften the water.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this finding of fact is found in the unrefuted testimony of Company witness Hale.

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

The testimony and evidence presented by Company witnesses Hale and Staton, and unrefuted by any party, is that the transfer of stock ownership will not affect local management of the utility or its services in any way detrimental to the ratepayers. The Company also stipulates that the figures contained on page five of its application showing purchaser's cost of utility system, original cost of utility system, etc., are for illustrative purposes only and are not for rate-making purposes.

The Company contends in its application, as amended by its Motion of August 20, 1982, that when Greenfeld & Zenitz acquires the stock in Masonboro Utilities, Inc., the funds to acquire that stock from the First National Bank of Maryland will be secured by a promissory note in the amount of $198,000.00 secured by a pledge of the stock and all the assets of Masonboro Utilities, Inc. The specific purpose of the guaranty by Masonboro Utilities, Inc., is to enable the First National Bank of Maryland as Lender and former owner of the stock of Masonboro Utilities, Inc., to completely take over the water and sewer facility in the event of default by Greenfeld & Zenitz. In the situation where there is limited personal liability on behalf of Greenfeld & Zenitz, it is critical that the First National Bank of Maryland should be able to continue the operation of the utility service.

The Commission concludes that financial arrangements proposed by Applicant are a pledge, mortgage, and encumbrance of the assets of the utility and that the pledge:

(a) Is for a lawful purpose within the corporate purposes of the public utility;

(b) Is compatible with the public interest in that it will be advantageous for the customers of the utility to have a continual and efficient operation of the utility plant in the event of financial problems with either the company or the shareholders.

(c) Is necessary and appropriate for and consistent with the proper performance of the utility for its service to the public and will not impair its ability to perform that service.

(d) Is reasonably necessary and appropriate for the transfer of the utility plant.

Moreover, the financial arrangements will in no way impede the quality of service of Masonboro Utilities, Inc., and is of no detriment to the public and the ratepayers.

The proposed documentation for the transfer and financing are structured so as to afford compliance with the provisions of North Carolina G.S. 62-290 in that all of the property and the franchises of the utility will be foreclosed in the event there is a default. Each security agreement is specifically subordinate to the provisions and specifications of North Carolina G.S. 62-290.

IT IS, THEREFORE, ORDERED as follows:

1. That Respondent shall contact the North Carolina Division of Health Services and arrange for chemical testing of water both at the well sites and in one or more residences and shall make a good faith effort to work with the Division of Health Services to monitor and adjust on a continuing basis its chlorinator feed pump and shall take whatever additional steps the Division of Health Services deems prudent to alleviate problems with water quality in Waterford Subdivision.

2. That Respondent shall make a good faith effort to improve its customer service, including but not limited to informing all customers by bill inserts

of the name, address, location, and telephone number of the person to contact for customer service and of the place to pay the bills; informing all customers by bill inserts of the location and best manner of operation of their water cut-off valves; informing all customers by bill inserts of the name and mailing address of the owners of the system; and by making a good faith effort to improve responsiveness to customer complaints.

3. That Respondent shall file a report on its progress in carrying out paragraphs 1 and 2 above with this Commission 60 days after the effective date of this Order. Such report shall include, among other things, the results of all lab tests done by the Division of Health Services and shall also include procedures Respondent will follow to properly monitor and operate its chlorinator feed pump.

4. That the transfer of the stock from the First National Bank of Maryland to Greenfeld & Zenitz, a partnership, is hereby approved.

5. That the Company is hereby authorized to pledge its stock and its assets as Collateral for a $198,000 loan from the First National Bank of Maryland as discussed herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of September 1982.

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

DOCKET NO. W-437, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Mrs. James Worth Thompson, Sr., P. O. Box 221, Elizabethtown, North Carolina 28337, Complainant vs. Owen Hill Utilities Corporation, P. O. Box 875, Elizabethtown, North Carolina 28337, Respondent and In the Matter of Owen Hill Utilities Corporation - Show Cause Proceeding	RECOMMENDED ORDER GRANTING COMPLAINT, REQUIRING IMPROVEMENTS AND REQUIRING COMPLIANCE WITH COMMISSION RULES R1-32 AND R7-12

HEARD IN: Superior Courtroom, Bladen County Courthouse, Broad Street, Elizabethtown, North Carolina, on Thursday, July 15, 1982, at 10:30 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Respondent:

No Attorney

For the Intervenors:

Wilson B. Partin, Deputy General Counsel, North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602
For: Mr. and Mrs. James Worth Thompson, Complainants, and the Staff of the North Carolina Utilities Commission

Theodore C. Brown, Jr., Acting Chief Counsel, Public Staff - North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602
For: The Using and Consuming Public

BENNINK, HEARING EXAMINER: This docket involves both a complaint proceeding and a show cause proceeding which have been initiated against the Owen Hill Utilities Corporation (Owen Hill, Corporation, or Respondent).

By letters dated March 18, 1982, and March 29, 1982, Mrs. James Worth Thompson, Sr. (Complainant), filed written complaints with the North Carolina Utilities Commission and the Public Staff against the Respondent. Mrs. Thompson, who is a customer of Owen Hill in Bladen County, alleged in her letters of complaint that since January 1981, she and her family have received water into their home from the utility corporation through a common garden hose stretched from an adjacent lot.

On March 30, 1982, the Commission entered an Order in this docket serving Mrs. Thompson's Complaint upon Owen Hill Utilities Corporation. The above-referenced "Order Serving Complaint" was mailed by the Chief Clerk of the North Carolina Utilities Commission to the Respondent by means of certified mail, return receipt requested, to the address of the Corporation as contained in the files of the Commission. Said Order was returned to the Commission marked "unclaimed."

On January 4, 1982, the Division of Health Services of the North Carolina Department of Human Resources assessed administrative penalties against Owen Hill Utilities Corporation for violation of certain of its water supply regulations occurring at Cape Owen Manor Subdivision, Bladen County, North Carolina. The specific violations and the penalties assessed against the Owen Hill Utilities Corporation by the Division of Health Services are as follows:

A. Failed to have the water at Cape Owen Manor Subdivision properly monitored for microbiological contamination thereby violating regulation 10 NCAC 10D .1622. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

B. Failed to have the water at Cape Owen Manor Subdivision properly monitored for inorganic chemical contamination thereby violating

regulation 10 NCAC 10D .1625. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

C. Failed to have the water at Cape Owen Manor Subdivision properly monitored for radiological contamination thereby violating regulation 10 NCAC 10D .1627. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

The rules and regulations of the Utilities Commission require every water utility to comply with the rules of the Division of Health Services (formerly State Board of Health) governing purity of water, testing of water, and other such lawful rules as the Division may prescribe. Utilities Commission Rule R7-12.

In 1974, the Commission granted Owen Hill Utilities Corporation a certificate of public convenience and necessity to provide water utility service in Cape Owen Manor Subdivision, Bladen County, North Carolina. The corporation is subject to the jurisdiction of this Commission.

The files of the Office of the Secretary of State show that Rueben L. Moore, Jr., P.O. Box 875, Elizabethtown, North Carolina, is the registered agent of Owen Hill Utilities Corporation.

Since the complaint of Mrs. Thompson and the violations set forth in the letter of the Division of Health Services raised matters concerning the health, safety, and welfare of the customers of the Owen Hill Corporation, the Commission entered an Order in this proceeding on June 11, 1982, entitled "Order Establishing Complaint and Show Cause Proceeding and Scheduling Hearing on July 15, 1982, in Elizabethtown" whereby it undertook the following actions:

With respect to the complaint of Mrs. Thompson, the Commission entered an Order serving the complaint upon the registered agent of the Owen Hill Utilities Corporation, by certified mail, return receipt requested, and scheduled a hearing on the complaint in Elizabethtown on July 15, 1982.

With respect to the assessment of administrative penalties by the North Carolina Division of Health Services, the Commission determined that Owen Hill Utilities Corporation should be required to appear before the Commission on July 15, 1982, and show cause, if any it has, why the Utilities Commission should not seek the penalty prescribed in N.C.G.S. 62-310 of up to $1,000 per day for each day there is a violation of the Public Utilities Act and the rules and regulations of the Commission, for the violations set forth in the letter of the Division of Health Services dated January 4, 1982.

On June 21, 1982, the Public Staff filed a "Notice of Intervention" in this proceeding on behalf of the using and consuming public.

Upon call of the matter for public hearing at the appointed time and place, the Respondent was neither present nor represented by counsel. The Commission Staff and the Public Staff were present and represented by counsel. Mr. and Mrs. James Worth Thompson (Complainants) were also present and were represented by counsel for the Commission Staff. The Commission Staff presented the testimony of the following witnesses: Mr. and Mrs. James Worth

Thompson; Rudy Shaw, Utilities Engineer with the Public Staff Water Division; Phillip Joseph Abeyunis, Sanitary Engineer with the Water Supply Branch, Environmental Health Section, North Carolina Division of Health Services; and William Larry Elmore, Environmental Engineer with the Water Supply Branch, Environmental Health Section, North Carolina Division of Health Services.

Based upon a careful consideration of the foregoing and the entire record in this proceeding, including the testimony and exhibits offered in evidence at the hearing in this matter, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Owen Hill Utilities Corporation was duly incorporated under the laws of the State of North Carolina on June 6, 1973. Respondent is authorized under its articles of incorporation to engage in the operations of a public utility as defined in N.C.G.S. 62-3. The name of the Corporation's registered agent and address of its registered office as reflected in the official records maintained by the Department of the Secretary of State of North Carolina are Reuben L. Moore, Jr., P.O. Box 875, Elizabethtown, Bladen County, North Carolina.

2. The articles of incorporation of Owen Hill Utilities Corporation were suspended effective April 28, 1978, by the Secretary of State of North Carolina pursuant to N.C.G.S. 105-230 for failure to pay certain franchise taxes to the North Carolina Department of Revenue and said suspension continues in effect until the present time.

3. On March 4, 1974, the Respondent filed an application with the North Carolina Utilities Commission in Docket No. W-437 seeking a certificate of public convenience and necessity to provide water utility service in the Cape Owen Manor Subdivision located in Bladen County, North Carolina, and for approval of rates. The officers of the Corporation were listed in the application as follows: Ed S. Dennis, President; Elbert Brisson, Vice President; Reuben L. Moore, Jr., Secretary; and Ed S. Dennis, Treasurer. David R. McNeill was listed in the application as holding the position of manager in charge of the operation and maintenance of Respondent's water utility system. Mr. McNeill testified at the public hearing held on May 14, 1974, in support of Respondent's franchise application. On May 29, 1974, a recommended order was entered in such proceeding entitled "Recommended Order Granting Franchise and Approving Rates." Said recommended order became effective and final on June 18, 1974.

4. On June 11, 1982, the North Carolina Utilities Commission entered an Order in this proceeding (Docket No. W-437, Sub 2) entitled "Order Establishing Complaint and Show Cause Proceeding and Scheduling Hearing on July 15, 1982, in Elizabethtown" whereby Owen Hill was directed to have an officer or representative present at the hearing scheduled on July 15, 1982. The above-referenced Order was deposited by the Commission in the United States Post Office for mailing by means of certified mail, return receipt requested, to the registered agent for the Respondent, Reuben L. Moore, Jr., P.O. Box 875, Elizabethtown, North Carolina 28337. Said Commission Order was in fact received by Respondent's registered agent on June 12, 1982.

5. Mr. and Mrs. James Worth Thompson presently reside in the Cape Owen Manor Subdivision located in Bladen County, North Carolina, and have resided

in said subdivision for approximately seven (7) years. The Complainants are water utility customers of the Owen Hill Utilities Corporation and have been provided water service by the Respondent for approximately seven years.

6. On January 1, 1981, water utility service to the Complainants' residence was interrupted when the water pipe serving the Complainants' residence burst at a point located under the street in front of Complainants' home. David McNeill, on behalf of Owen Hill Utilities Corporation, responded to Complainants' request to the Respondent for assistance in the matter. Mr. McNeill immediately ran a common garden hose from the meter vault located on an adjacent lot owned by the Complainants to the outside spigot located on their residence in order to restore water utility service to Complainants' home. Complainants have continuously received water utility service to their residence since January 1, 1981, exclusively by means of the garden hose in question. Although Mr. McNeill told Mr. Thompson at the time he ran the garden hose to Complainants' home that he would return within the next day or two to repair the water line in order to properly restore Complainants' water utility service, Mr. McNeill never returned to effectuate such repairs as might have been appropriate under the circumstances of this case. Nor has any other individual associated with the Respondent ever repaired the water pipe in question so as to properly restore Complainants' water utility service. The Complainants have been entirely unsuccessful in their attempts to contact anyone with Owen Hill Utility Corporation who would be willing to correct the situation in question.

7. The water hose referred to in finding of fact 6 above consists of two (2) lengths, one of which is approximately 37 feet in length and the other being approximately 79 feet in length. The shortest length of hose has been spliced in one place and the longest length of hose is faded, deteriorating, and mildewed in appearance.

8. The garden hose in question is located on top of the ground and, therefore, is subject to freezing during the winter months. The Complainants have had to leave their water running constantly during the last two winters during periods of freezing weather in order to minimize the chances that the water hose serving their home would freeze and thus interrupt water service to their residence. Said water hose has in fact frozen on at least two (2) occasions since it has been in use.

9. On those occasions when the water hose in question has been struck accidentally by Mr. Thompson while mowing his grass, "trash," apparently rust, has been stirred up and transmitted into the Complainants' home by way of their water supply. Complainants' water also smells like iron.

10. The Complainants last received a water bill from the Respondent in May 1981. Complainants refused to pay the water bills which they received from the Respondent during the months of March, April, and May 1981, due to the service problems which they were continuing to experience and which have been more particularly described in conjunction with findings of fact 6 through 9 above. Prior to the month of May 1981, when the Complainants last received a water bill from the Respondent, the Thompsons were regularly billed for water utility service by the Owen Hill Utilities Corporation. Said water bills were paid by the Complainants until the month of March 1981, when they began to refuse payment. Upon satisfaction of their complaint by the Respondent, the Complainants would be entirely willing to again begin to pay Owen Hill Utilities Corporation for water utility service supplied to their residence.

11. The rendering of water utility service by a public utility to a customer through use of a garden hose placed on top of the ground is not consistent with good engineering and sanitary practice. The North Carolina Division of Health Services recommends that a minimum coverage of thirty (30) inches of soil be placed on top of water pipes to prevent problems associated with freezing. Furthermore, a water service pipe should be made of a material that is certified by the National Sanitation Foundation as meeting certain standards for use as a service pipe. The garden hose serving the Complainants' residence is not constructed of any material which would meet the standards of the National Sanitation Foundation governing water service pipes.

12. Commission Rule R7-12 requires every regulated water utility in this state to comply with the rules and regulations of the North Carolina Division of Health Services (formerly State Board of Health) governing purity of water, testing of water, and other such lawful rules as the Division of Health Services may prescribe.

13. Pursuant to its Water Supply Regulations 10 NCAC 10D .2401-.2412; Administrative Penalties, the North Carolina Division of Health Services has assessed an administrative penalty against the Owen Hill Utility Corporation for the following specific violations occurring at the Cape Owen Manor Subdivision:

A. Failed to have the water at Cape Owen Manor Subdivision properly monitored for microbiological contamination thereby violating regulation 10 NCAC 10D .1622. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

B. Failed to have the water at Cape Owen Manor Subdivision properly monitored for inorganic chemical contamination thereby violating regulation 10 NCAC 10D .1625. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

C. Failed to have the water at Cape Owen Manor Subdivision properly monitored for radiological contamination thereby violating regulation 10 NCAC 10D .1627. The penalty assessed for this violation is ten dollars ($10.00) per day for each day that such violation continues.

14. Sampling and analysis of water for microbiological contamination involves testing water for the presence of coliform bacteria, which is an organism that may be indicative of possible water pollution. Testing for microbiological contamination is very important to the North Carolina Division of Health Services since it is that agency's first indicator of any possible water supply contamination.

15. Sampling and analysis of water for inorganic chemical contamination involves testing water for the presence of certain inorganic chemicals in excess of limits established by the United States Environmental Protection Agency (EPA) since the inorganic chemicals monitored by this sampling procedure are known to have harmful side effects to human beings if the pertinent EPA limits are exceeded. The North Carolina Division of Health

Services considers sampling for inorganic chemical contamination to be as essential to the health, welfare, and safety of the public as its required sampling for microbiological contamination.

16. Sampling and analysis of water for radiological contamination involves testing water for the presence of radioactivity in excess of limits established by the United States Government. This test is important as a means of ensuring the health, welfare, and safety of the public.

17. Owen Hill Utilities Corporation has never submitted any water samples or analyses to the North Carolina Division of Health Services concerning tests conducted for either microbiological, inorganic, or radiological contamination.

18. Owen Hill Utilities Corporation has failed to notify its customers of its failure to test for microbiological, inorganic, and radiological contaminants, thereby violating N.C.G.S. 130-166.52 and NCAC 10D .1633.

19. Results of multiple sanitary surveys of the water utility system serving the Cape Owen Manor Subdivision conducted by professional sanitary engineering personnel employed by the Water Supply Branch of the North Carolina Division of Health Services since October 27, 1978, and most recently on July 13, 1982, indicate that the following problems and deficiencies exist with respect to the Respondent's water system in addition to those violations of Division of Health Services rules set forth in conjunction with findings of fact 13 through 18 above:

A. Respondent has consistently failed to properly operate the chlorinator attached to its water system;

B. Respondent has failed to install and maintain an automatic air water volume control in accordance with the approved plans and specifications for the water system in question in violation of N.C.G.S. 130-166.46;

C. The outside of the hydropneumatic tank serving Respondent's water utility system is rusty and iron has apparently been allowed to collect and build up on the inside of said tank; and

D. The two (2) inch PVC pipe which is resting on top of the ground and which leads from the Respondents' hydropneumatic tank to the distribution system where it connects to an eight (8) inch water main is too small. Said PVC pipe should be replaced with an 8-inch pipe and should also be buried to a minimum depth of thirty (30) inches.

20. Pursuant to N.C.G.S. 62-36 and Commission Rule R1-32, each public utility doing business in the State of North Carolina which is subject to regulation by the North Carolina Utilities Commission is required to file an annual report with the Commission concerning its operations during each calendar year. Said annual report must be prepared under oath and on a form approved and furnished by the Commission and must be filed with the Commission as soon as possible after the close of the calendar year, but in no event later than the 30th day of April of each year for the preceding calendar year.

21. Owen Hill Utility Corporation has filed only one (1) annual report with the North Carolina Utilities Commission since it was originally granted a certificate of public convenience and necessity in 1974. Said annual report was filed with the Commission on or about September 8, 1976, and reflected Respondent's operations for the calendar year ended December 31, 1975. The officers of the Corporation were listed in said annual report as follows: Ed S. Dennis, President; Elbert Brisson, Vice President; Reuben L. Moore, Jr., Secretary; and Ed S. Dennis, Treasurer. David McNeill was listed on said annual report as being the General Manager of Owen Hill Utilities Corporation. Respondent has failed to file annual reports with the North Carolina Utilities Commission since 1975, thereby violating N.C.G.S. 62-36 and Commission Rule R1-32. Furthermore, Respondent has also failed to comply with an Order of the Commission which became effective and final on November 19, 1979, in Docket No. W-437, Sub 1. By the terms of said Commission Order, which was entered after notice and hearing in a show cause proceeding, Owen Hill Utilities Corporation was specifically directed to file annual reports with the Commission covering its operations during calendar years 1977 and 1978, no later than thirty (30) days subsequent to November 19, 1979.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

Based upon a careful consideration of the entire record in this proceeding and the foregoing findings of fact, the Hearing Examiner concludes that the relief requested herein on behalf of the Complainants, in particular, and the using and consuming public, in general, should be granted. In this regard, the Complainants and Intervenors have clearly carried the burden of proof in this proceeding which would justify and support entry of an Order requiring the Respondent to expeditiously undertake and implement the following actions and procedures:

1. Take such legal steps as are necessary to have its suspended charter restored and reinstated by the Department of the Secretary of State of North Carolina pursuant to N.C.G.S. 105-232;

2. Properly repair the water connection serving the residence of Mr. and Mrs. James Worth Thompson, the Complainants herein. This repair should comply with all applicable engineering and construction standards as established by the Department of Human Resources of the State of North Carolina, Division of Health Services, Environmental Health Section, Engineering and Planning Branch;

3. Comply with all microbiological, inorganic, and radiological monitoring rules and regulations of the North Carolina Division of Health Services pertaining to sampling and analysis of the water supply serving the Cape Owen Manor Subdivision;

4. Correct the following deficiencies in the water utility system serving the Cape Owen Manor subdivision:

   a. Reactivate and place into proper operation the chlorination equipment;

b. Install an air water volume control device on the storage tank serving the water system in question;

c. Drain, clean, and paint the storage tank; and

d. Replace the 2-inch PVC distribution pipe coming out of the storage tank with an 8-inch PVC pipe buried to a minimum depth of 30 inches;.

5. Begin to immediately read all customer meters and charge said customers the metered water rate which has been approved by this Commission: and

6. Submit an annual report for calendar year 1981 in conformity with N.C.G.S. 62-36 and Commission Rule R1-32..

The Respondent is hereby advised that, if the Corporation does not comply in full with the provisions and requirements of this Order, the Commission will be requested and advised by the Hearing Examiner to seek penalties in the Superior Court of Wake County against Owen Hill pursuant to N.C.G.S. 62-310(a). Said statute provides as follows:

"(a) Any public utility which violates any of the provisions of this Chapter or refuses to conform to or obey any rule, order or regulation of the Commission shall, in addition to the other penalties prescribed in this Chapter forfeit and pay a sum up to one thousand dollars ($1,000) for each offense, to be recovered in an action to be instituted in the Superior Court of Wake County, in the name of the State of North Carolina on the relation of the Utilities Commission; and each day such public utility continues to violate any provision of this Chapter or continues to refuse to obey or perform any rule, order or regulation prescribed by the Commission shall be a separate offense."

Owen Hill Utilities Corporation is further advised that the Commission will also be requested to take such other steps pursuant to N.C.G.S. 62-310(b) as may become necessary to secure compliance with this Order and applicable Commission rules and regulations in order to ensure that adequate and reliable water utility service will henceforth be provided to the Complainants and to the Respondent's other customers residing in the Cape Owen Manor Subdivision.

IT IS, THEREFORE, ORDERED as follows:

1. That Owen Hill Utility Corporation shall, within 20 days from the effective date of this Order, cause to be reinstated its suspended articles of incorporation.

2. That Owen Hill shall repair the water connection serving the residence of Mr. and Mrs. James Worth Thompson. This repair should comply with all applicable engineering and construction standards as established by the Department of Human Resources of the State of North Carolina, Division of Health Services, Environmental Health Section, Engineering and Planning Branch. The present connection (common water hose) should be removed and proper repairs completed within fifteen (15) days of the effective date of this Order.

3. That Owen Hill shall, within fifteen (15) days from the effective date of this Order, comply with the microbiological, inorganic, and radiological monitoring regulations of the North Carolina Division of the Health Services. Compliance shall be had by a contract entered into with either a certified private laboratory or the State Laboratory of Public Health.

4. That Owen Hill shall correct the following deficiencies in the water system serving Cape Owen Manor Subdivision:

a. The chlorination equipment shall be reactivated and placed into operation;

b. An air water volume control device shall be installed on the storage tank;

c. The storage tank shall be drained, cleaned, and painted; and

d. The 2-inch PVC distribution pipe coming out of the storage tank shall be replaced by an 8-inch PVC pipe; the pipe shall be buried to a minimum depth of 30 inches. All elbows at the wellhead shall be properly blocked.

These deficiencies shall be corrected within 30 days from the effective date of this Order.

5. That Owen Hill shall immediately begin reading the meters of its customers and charging to the customers the metered water rates approved by this Commission.

6. That Owen Hill shall file its 1981 annual report with the Commission not later that 30 days from the effective date of this Order.

7. That the Chief Clerk of the North Carolina Utilities Commission shall serve a copy of this Order upon the registered agent of the Owen Hill Utilities Corporation, Mr. Reuben L. Moore, Jr., P.O. Box 875, Elizabethtown, North Carolina 28337, by means of certified mail, return receipt requested.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

DOCKET NO. W-6, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of George D. Anderson, Jr., J Forrest Joyner, H. Barry Leslie, and W.Y. Alex Webb t/a Linden Associates, a Partnership Complainants, vs. Pinehurst, Incorporated Respondent	RECOMMENDED ORDER REQUIRING WATER AND SEWER SERVICE TO LINDEN ASSOCIATES

HEARD IN: Commission Hearing Room, Dobbs Building, 430 N. Salisbury Street, Raleigh, North Carolina, on October 26, 1982

BEFORE: Hearing Examiner Wilson B. Partin, Jr.

APPEARANCES:

For the Complainants:

Jerry B. Fruitt, Eller & Fruitt, P.O. Drawer 27866, Raleigh, North Carolina 27612
For: Linden Associates

For the Respondent:

William B. Crumpler, Van Camp, Gill & Crumpler, P.A., P.O. Box 106, Raleigh North Carolina 27602
For: Pinehurst, Incorporated

PARTIN, HEARING EXAMINER: On March 11, 1981, George D. Anderson, Jr., J. Forrest Joyner, H. Barry Leslie, and W.Y. Alex Webb, t/a Linden Associates, a partnership (hereinafter Linden or Linden Associates) filed a Complaint with the Commission against Pinehurst, Incorporated (Pinehurst or Pinehurst, Inc.). The Complaint requested the Commission to grant the following relief:

"1. Find the Complainants' property is located in Defendant's service area.

"2. Find that Defendant's facilities, both as to water and sewer service, are "adequate" as required by N.C.U.C Rule 7-17(b) and N.C.U.C. Rule 10-13(b).

"3. Require that Defendant cooperate with Complainants in order that Complainants may finalize and coordinate their development plans in such a manner as to comply with all applicable State regulations.

"4. Direct Defendant to provide to Complainants' property sufficient water and sewer services enabling complainants to develop their property as planned.

"5. Such other and further relief as the Commission may deem just and proper."

The Complaint and Exhibits A, B, and C were served on Pinehurst, Inc., by Orders of March 13 and 18, 1981.

On April 29 1981, Pinehurst filed its Answer to the Complaint.

On May 8, 1981, Notice to Complaint to Answer filed by Respondent was served on Linden Associates.

On July 10, 1981, within the time allowed by Commission Order, the Complainants notified the Commission that the Answer filed by Pinehurst was not satisfactory and that Complainants requested a public hearing to present evidence in support of the Complaint.

On July 27, 1981, the Commission set the Complaint for hearing on August 21, 1981.

On August 24, 1981, the Complainants filed Motion for Continuance of Hearing, which was granted. The hearing was rescheduled to October 8, 1981.

On October 1, 1981, Pinehurst requested a further continuance, which was granted. The hearing was rescheduled to October 26, 1981. On October 20, 1981, Pinehurst requested a further continuance, which was denied.

The matter came on for hearing on October 26, 1981. The parties were present and represented by counsel. The Complainants offered the testimony of W.Y. Alex Webb, an attorney and one of the general partners in Linden Associates; Jerry Tweed, Director of the Water Division of the Public Staff of the Utilities Commission; and, as an adverse witness, Fred M. Hobbs, the Project Manager for Pinehurst, Incorporated.

Upon consideration of the testimony and exhibits presented at the hearing and the entire record in this docket, the Examiner makes the following

FINDINGS OF FACT

1. The Complainants are citizens and residents of Moore County, North Carolina, and trade as a general North Carolina partnership known as Linden Associates.

2. The Defendant, Pinehurst Incorporated, is a public utility as defined in G.S. 62-3(23)a.2. and holds a Certificate of Public Convenience and Necessity from this Commission to furnish water and sewer utility service in and near the village of Pinehurst in Moore County.

3. Linden Associates owns aproximately 50 acres of land located on the east side of Linden Road and within the one-mile extraterritorial zoning limit of the village of Pinehurst. This property is surrounded on the southern side and the eastern side completely by Pinehurst, Inc., and partially on the northern side; the fourth side is bordered by Linden Road.

4. Water and sewer lines of Pinehurst, Inc., lie at numerous points around the Complainants' property within a distance of approximately 100 to 300 feet.

5. Pinehurst, Incorporated, is currently providing water and sewer service to areas in and near the village of Pinehurst that are farther from the center of the village than is the property of Linden Associates.

6. Linden Associates are planning to develop their property for sale as residences to the public. Linden plans to develop approximately 250 units over a 10-year period.

7. By letter dated August 13, 1980, Linden Associates requested Pinehurst, Inc., for permission to tap onto the water and sewer systems operated by Pinehurst. Linden expressed its willingness to make cost arrangements pursuant to Commission Rule R7-16(c). On August 20, 1981, Pinehurst by letter declined Linden's request for water and sewer service.

8. By letter dated August 28, 1981, Pinehurst proposed to provide water and sewer service to Linden's development upon the lump-sum payment of $62,500 to reimburse Pinehurst for the improvements and additions needed to provide service (including a well) and upon the payment of a $1,200 or $1,700 monthly debt service charge to Moore County for sewage treatment, the monthly sum to be dependent upon the number of units built.

9. Linden has expressed its willingness to pay the costs of a new well that would be required to serve its development. Linden has also expressed its willingness to install water and sewer mains on its property in order to connect up to Pinehurst, Inc., and to comply with Commission Rule R7-16(c). Linden is opposed to paying any debt service charge to Moore County.

10. Linden Associates needs an approved water and sewer service in order to obtain FHA financing.

11. In Docket No. W-6, Sub 6, the Commission Order setting rates of Pinehurst, Inc., issued August 27, 1979, found and concluded that the debt service charge associated with the Moore County sewer treatment facility should be included in the test-period operating expenses in the amount of $3,850.

12. The sewer facilities of Pinehurst are generally adequate to serve the development proposed by Linden Associates, although some upgrading may be needed. Although the evidence in this proceeding is conflicting with respect to the capacity of the water facilities, Pinehurst has indicated its willingness to serve Linden Associates upon the lump-sum payment to Pinehurst of $62,500 for imp rovements and additions to the water and sewer plant, $50,000 of which would be for a new well to serve the area in question. Moreover, the annual report for Pinehurst for the year 1980 showed that the Company had sufficient mains, etc. to serve 2,000 water customers and that Pinehurst had 1390 water customers.

13. The biggest problem faced by Pinehurst in serving Linden Associates is financing the cost of a new well and the upgrading of the sewer system.

14. The debt service charge proposed by Pinehurst is unreasonable and discriminatory and should be disapproved.

CONCLUSIONS

1. The property of Linden Associates which is the subject of this proceeding is located in the service area of the Defendant, Pinehurst, Incorporated.

The evidence in support of this conclusion is as follows: First, the Examiner takes judicial notice of the application of Pinehurst in Docket No. E-16, Sub 8, for approval of the pledge of assets; this document states that Pinehurst is providing electric, water, and sewer utility service to its customers in and near the village of Pinehurst. Mr. Webb testified that Linden's property is within the one-mile extraterritorial zoning limit of the village; that the property is surrounded by Pinehurst, Inc., completely on two sides and partially on a third side; that water and sewer lines of Pinehurst lie within 100 to 300 feet of Linden's property; and that Pinehurst is presently providing water and sewer service to areas farther from the center of the village than is the Linden property. The Examiner therefore concludes that the Linden property is in the service area of the Defendant.

2. The sewer facilites of Pinehurst are adequate to serve the development proposed by Linden Associates, althouogh some upgrading of these facilities may be needed. The water facilities of Pinehurst, which will include the new well discussed elsewhere in this Order, will be adequate to serve the Linden development.

Mr. Hobbs, the Project Manager, Pinehurst, Incorporated, testified:

"Capacity on the sewer with regard to the general lines is adequate. With regard to, as I said earlier, the pumping stations on line, some improvements would have to be made to them. It is just that the magnitude of those improvements is not as great as regarding the water system." (Tr. pp. 95-96.)

The letter of October 21, 1981, which was introduced as Webb Exhibit 3, stated that Pinehurst would require $2,500 for sewer system improvements including line and lift station improvements. The Examiner concludes that the sewer facilities are adequate. Commission Rule 10-13(b).

With respect to the water facilities of Pinehurst, the evidence in this proceeding is conflicting. Mr. Hobbs testified that the water system is working at capacity and that during some points in the year the utility had experienced deficiencies in its storage capacity. He further testified that Pinehurst has had to buy back property which it had sold to individuals because the Company could not provide water and sewer service to them.

On the other hand the 1980 annual report of Pinehurst on file with this Commission states that the utility's number of water customers at year-end 1980 was 1,390, and that the number of customers that can be served by existing mains is 2,000. Moreover, Pinehurst by letter dated August 28, 1981, expressed its willingness to provide water and sewer service to Linden upon a lump-sum payment of $62,500. (Webb Exhibit 2.) Of this amount $50,000 would be used for a new well that would be required to serve the Linden property. (Webb Exhibit 3.) Mr. Hobbs testified that an adequate well would be necessary to serve the Linden property and that the well should be in place at the time a service agreement is entered into.

The Examiner concludes that the water facilities of Pinehurst, including the new well that will be approved by this Order, will be adequate to serve the Linden property. Commission Rule R7-17(b). This Order will require that a well to serve the development be in place prior the the connection to Pinehurst's system. This Order will further require compliance with Commission Rule R716(c) with respect to the facilities.

3. Pinehurst, Incorporated, has the obligation as a public utility to provide the Complainants' property with sufficient water and sewer service to enable Complainants to develop their property as planned. This obligation requires Pinehurst to cooperate with Linden Associates to the end that Complainants may finalize and coordinate their development plans in such a manner as to comply with all applicable State regulations.

Ordinarily a public utility has the duty to provide service to all existing and prospective customers in its service area. With respect to water and sewer utilities, however, the obligation to serve prospective customers is modified by certain rules of the Commission. Commission Rules R7-17(b) and R10-13(b) authorize a utility to decline water and sewer service to an applicant therefor, if in the best judgment of the utlity it does not have adequate facilities to render the service applied for. This Order has found and concluded that the water and sewer facilities of Pinehurst will be adequate to provide the service requested by Linden.

Commission Rule R7-16(c) provides that an applicant for a main extension to serve a new subdivision, tract, etc. shall be required to advance to the utility before construction is commenced the estimated reasonable cost of installation of the mains and other facilities. The complainants have expressed their willingness to comply with this Rule.

The contention of Pinehurst that it is obligated only to serve its own properties is expressly disapproved.

This Order will direct Pinehurst, Incorporated, to provide water and sewer utility service to the 50-acre tract of Linden Associates under consideration in this proceeding. The provision of such water and sewer service shall be made in compliance with Commission Rule R7-16(c). In addition, Linden Associates shall contribute a new well to serve its proposed development. The new well shall be in place prior to the connection of Linden's property to the existing system of Pinehurst. In so deciding, the Examiner agrees with Mr. Hobbs that Pinehurst should not share in the risk of developing the Linden Property.

The proposal of Pinehurst, Incorporated, to charge the Complainants a monthly debt service charge for sewer treatment is disapproved. The proposed charge for a 180-unit development would be $1,200 and for a 250-unit development would be $1,700. In the Commission's rate Order in Docket No. W-6, Sub 6, the Commission allowed only $3,850 of the debt service charge as a proper operating expense for Pinehurst. Under the proposal submitted by Pinehurst, Linden will pay in three months approximately the same cost which the Commission allowed on an annual basis. Such proposal is unreasonable and discriminatory.

IT IS, THEREFORE, ordered:

1. That Pinehurst, Incorporated, shall provide water and sewer utility services to the property of Linden Associates under consideration in this proceeding. Pinehurst shall cooperate with Linden Associates in order that Linden Associates may finalize and coordinate their development plans in such a manner as to comply with all applicable State regulations.

2. That the provision of water and sewer utility services ordered herein shall be done in compliance with Commission Rule R7-16(c). Provided, that Linden Associates shall contribute a new well to serve the proposed development on its property. Such well shall be in place prior to the connection of Linden's property to the existing system of Pinehurst.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

DOCKET NO. W-365, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Bailey's Utilities, Inc., P. O. Box 58245, Raleigh, North Carolina, for Authority to Increase Rates for Water Utility Service in all of its Service Areas in North Carolina	)))))	RECOMMENDED ORDER GRANTING INCREASE IN RATES AND REQUIRING IMPROVEMENTS

HEARD IN: The Hearing Rooms of the Commission, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on March 1, 2, 3, and 4, 1982

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

M. Jean Calhoun, Barringer, Allen & Pinnix, Attorneys at Law, Suite 1000, Raleigh Building, Raleigh, North Carolina 27602

For the Using and Consuming Public:

G. Clark Crampton, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: This matter is before the Commission by virtue of the application of Bailey's Utilities, Inc. (hereinafter sometimes "Company" or "Applicant") filed on November 6, 1981, seeking authority to increase its rates for water utility service in all of its service areas in North Carolina.

By Order issued November 24, 1981, the Commission, pursuant to G.S. 62-137, declared this proceeding to be a general rate case, established the test period, suspended the Applicant's proposed new rates for a period of up to 270 days pursuant to G.S. 62-134, set the matter for public hearing, and required Applicant to give public notice. Public hearings were scheduled to begin March 2, 1982, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina.

The Public Staff of the North Carolina Utilities Commission filed Notice of Intervention on December 21, 1981.

On January 19, 1982, the Public Staff filed a motion seeking to have the Commission to include a night hearing in order to better facilitate public participation. By Order issued February 3, 1982, the Commission rescheduled hearings in this matter to begin the evening of March 1, 1982, in the Commission Hearing Room, Dobbs Building, Raleigh, North Carolina, and to continue as previously scheduled if necessary. The Commission further directed the Applicant to give public notice of such new hearing arrangements.

This matter came on for hearing at the times and places indicated hereinabove. All parties were present and represented by counsel.

During the course of the hearings held in this matter some twenty-seven water utility customers of the Applicant presented testimony as public witnesses. Generally their testimony dealt with water quality and service problems and opposition to the proposed rate increase. Customers from six of the fourteen subdivisions to which Applicant provides service offered testimony. Those subdivisions and the customers from each who testified were as follows:

Greenbriar Estates: Charles J. Dohun, Robert D. Gaddy, Myrtle Howell, T.R. Cook, John M. May, Alton L. Howard, Jr., and C.L. Byrd.

Ashley Hills: Mark Abbott, Vernon Janke, Graham Baker, Mike Holt, Wanda Williford, Phyllis Rush, Willie Patterson, Susan Duncan, Valerie Wood, Sharon Pace, James L. Nunnery, Reba Long, Linda Janke, and Glennie Phelps.

Willow Creek: Melanie Taylor.

Rolling Acres: William Joseph Crutchfield.

Friendship Village: Eddie Nance, Celia R. Winters, and Dennis Winters.

Dutchess Downs: Kenneth Steele.

The Applicant presented the direct testimony of the following witnesses:

Thomas L. Bailey, President, Manager, and Stockholder in Bailey's Utilities, Inc., and

Gary A. Jewell, of the Raleigh, North Carolina, Certified Public Accounting firm of Jewell and Gibson. Mr. Bailey and Mr. Jewell also testified as rebuttal witnesses for the Applicant.

The Public Staff presented direct testimony of the following witnesses:

Jerry Tweed, Director of the Public Staff Water Division;

Philip J. Abeyounis, Sanitary Engineer with North Carolina Division of Health Services, Water Supply Branch, Fayetteville, North Carolina;

Don Williams, Environmental Protection Technician with the North Carolina Division of Health Services, Fayetteville, North Carolina;

Dr. Richard G. Stevie, Director of the Public Staff Economic Research Division, and

James G. Hoard, Jr., Staff Accountant with the Public Staff Accounting Division.

Having carefully considered and weighed all of the evidence offered at the hearings and having reviewed the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation which has been duly franchised by this Commission to operate as a public utility to provide water utility service to customers residing in its North Carolina service areas and is subject to the jurisdiction of this Commission.

2. The test period used in this proceeding as established by Commission Order consists of the 12-month period ended August 31, 1981.

3. The Applicant's present and proposed rates for metered water utility service are as follows:

	Present	Proposed
First 2000 gallons per month, minimum charge	$7.00	$8.50
Next 6000 gallons per month per 1000 gallons	$1.70	$2.30
All over 8000 gallons per month per 1000 gallons	$1.70	$2.80

4. The Applicant proposes to charge a finance charge for late payment of 1.5% per month on the unpaid balance for bills still due 25 days after billing date. That proposed finance charge is in excess of the maximum reasonable finance charge permitted by this Commission which is 1.0% per month on the unpaid balance of bills still due 25 days after billing date.

5. The approximate total operating revenues of Bailey's Utilities, Inc., for the test year on an end-of-period basis are $122,126. Under the Company's proposed rates such revenues would be $158,386.

6. The appropriate salary level for the services provided by Thomas L. Bailey to the Applicant is $10,000 annually.

7. The reasonable level of Applicant's operating expenses (other than operating taxes) for the test year under present rates after accounting and pro forma adjustments is $108,702, which amount includes $18,422 for actual investment currently consumed through depreciation.

8. The reasonable level of Applicant's operating taxes under present rates appropriate for use in this case is $7,178.

9. The reasonable level of Applicant's test year operating revenue deductions after accounting, pro forma and end-of-period adjustments is $115,880, consisting of operating expenses (other than taxes) of $108,702 and operating taxes of $7,178.

10. Applicant's reasonable original cost of net investment in water plant is $247,868, consisting of water plant in service of $649,124 (which amount reflects an adjustment of $3,575 to eliminate the cost of two dry wells in Ashely Hills) reduced by accumulated tap fees and other contributions in aid of construction of $253,999 and reduced by accumulated depreciation of $147,257.

11. The reasonable allowance for working capital appropriate for use in this case is $9,647.

12. Applicant's reasonable original cost rate base is $257,515 consisting of net original cost of water plant of $247,868 plus a reasonable allowance for working capital of $9,647.

13. Therate of return method of setting rates is appropriate for use in this case.

14. The reasonable capital structure for use herein is as follows:

Debt	50%
Equity	50%
Total	100%

15. The reasonable overall rate of return which Applicant will and should have the opportunity to earn on its original cost rate base once Applicant is permitted to put the increased rates approved herein into effect in all of its service areas (i.e., in its Ashely Hills and Friendship Village servioe areas for which delayed implementation of any rate increase is found to be appropriate hereinafter, as well as in Applicant's other 12 service areas) as provided for hereinafter in this Order, is 13.55%. That 13.55% overall rate of return incorporates a cost of debt of 9.8% and a 17.29% return on equity weighted by the capitalization ratios hereinabove found to be appropriate.

16. Based on the foregoing, Applicant should be allowed in addition to the $122,126 of annual gross revenues which would be realized under its present rates, an increase not to exceed $36,260. This increase is that which would be realized by the Applicant when it is allowed to implement the rates approved herein in its Ashley Hills and Friendship Village service areas as well as in the other twelve service areas. The amount of the increased annual gross revenues which the Applicant will have the opportunity to realize during the interim period necessary for Applicant to implement the corrective actions ordered herein in Applicant's Ashley Hills and Friendship Village service areas will, of course, be somewhat less than $36,260. That increase will allow the Applicant to have a reasonable opportunity to earn the 13.55% rate of return on its rate base which the Hearing Examiner has dealt with in Finding of Fact No. 15.

17. Applicant's service to its Ashley Hills service area has been and is inadequate and Applicant should not be permitted to increase its rates charged to its customers in that service area unless and until the corrective actions specified in this order have been taken.

18. Applicant's service to its Friendship Village service area has been and is inadequate and Applicant should not be permitted to increase its rates charged to its customers in that service area unless and until the corrective actions specified in this order have been taken.

19. Some service problems have been experienced by Applicant's customers in its Greenbriar Estates, Willow Creek, and Dutchess Downs service areas.

20. There have been leaks in Applicant's water mains in various of its service areas which have been reported to the Applicant, but which Applicant has not repaired in a timely manner.

21. TheApplicant has not always given its affected customers required advance notice of planned water outages or has taken all steps reasonably necessary to avoid or limit energency outages.

22. The Applicant frequently has not adequately responded to customer complaints and has had unsatisfactorily poor customer relations. The measures which are ordered herein to correct and improve these problems are reasonable and necessary.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-3

The evidence supporting these findings of fact is found in the verified application, in prior Commission Orders in this docket, and in the record as a whole. These findings are essentially jurisdictional and procedural in nature and are not matters in controversy.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

This finding, insofar as it relates to the amount of the proposed finance charge, is based on information contained in the application of Bailey's Utilities, Inc., filed in this docket. Commission Rule R12-9 specifies that late payment charges shall not exceed 1.0% per month on the unpaid balance for bills still overdue 25 days after the billing date. The Applicant failed to prove that any variance from the provisions of that rule was either necessary or appropriate. The Hearing Examiner concludes that the maximum reasonable finance charge which the Applicant should be permitted to charge is that permitted by Commission Rule R12-9.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence supporting this finding is contained in Tweed Exhibit 2 and the testimony of Public Staff Witness Tweed relative to that exhibit. Additionally, Public Staff Witness Hoard utilizes in his testimony and exhibits the end-of-period levels of revenues under present rates and under Company proposed rates as thus developed and supplied to him by Witness Tweed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

Evidence on this issue was presented by Company Witnesses Bailey and Jewell and by Public Staff Witnesses Tweed and Hoard. The Applicant made a $20,000 pro forma adjustment to its test year operating expenses which was intended to reflect compensation for the time and effort spent by Mr. Thomas L. Bailey in the utility operations. That adjustment was reflected on Jewell Exhibit A as adjustment number 8. Company Witness Jewell testified with respect to that adjustment as follows:

> "While Bailey's Well and Pump Company does bill for certain repair work performed by Mr. Bailey, a large amount of time and effort that Mr. Bailey puts towards the utility is reflected nowhere. While we feel that the fair market value is much greater, we have used $20,000 adjustment to reflect this particular cost of service. We have allocated this cost half to administrative costs and half to maintenance and repairs." (Tr. Vol. 3, pp. 22, 23).

The Public Staff eliminated the aforementioned adjustment on the theory that Mr. Bailey was already being adequately compensated.

Evidence presented during the proceeding indicated that the Applicant, Bailey's Utilities, Inc., is owned and operated by Mr. and Mrs. Thomas L. Bailey. Services, including billing, administrative, meter reading, maintenance and repair services were provided to the Applicant during the test year by and through an affiliated concern, Bailey's Well and Pump Company, also wholly owned by Mr. and Mrs. Bailey. Public Staff Witness Hoard testified that the charges paid by the Applicant to Bailey's Well and Pump Company during the test year totalled $139,555. Witness Hoard testified that the aforementioned fee was paid to Bailey Well and Pump Company by the Applicant for services rendered including meter reading, maintenance, repairs, management fees, capital improvement and construction. It was Witness Hoard's testimony that the previously described fees of Bailey Well and Pump Company reflected a 50%-100% markup on materials purchased and labor rates of approximately $25 per hour. Additionally Witness Hoard stated that the fees paid Bailey Well and Pump Company included a management fee equivalent to full-time compensation for bookkeeping and related services rendered by Mrs. Bailey. Thus, the Public Staff maintains that Mr. Bailey has in the past been adequately compensated for his time devoted to the utility's business through the payment of excessive fees by the Applicant to the affiliated well and pump company which includes the aforementioned items.

Throughout the entire test period Bailey's Utilities, Inc., had no employees. Subsequent to the end of the test year a full time employee was hired by the Applicant to perform certain functions previously provided by Bailey Well and Pump Company including meter reading, maintenance, and repairs. The appropriate compensation for said employee has been reflected in the Company's cost of service and is not a matter in dispute in this proceeding.

It is obvious from the foregoing discussion that the evidence presented by the Applicant and Public Staff in this regard is quite conflicting. The Company maintains that Mr. Bailey has not been compensated in the past for services rendered the water utility and that the value of said services is $20,000. Alternatively, the Public Staff asserts that Mr. Bailey has been in the past adequately compensated for services rendered the utility through the payment of inflated prices for services provided by Bailey's Well and Pump Company to the Applicant. Based upon the testimony of Mr. Bailey, the Hearing Examiner is persuaded that a great deal of time is devoted by Mr. Bailey to the Company on an ongoing basis for which he is entitled to be compensated. The question remains whether Mr. Bailey in the past and in the future will be adequately compensated for such services through the payment of fees to Bailey's Well and Pump Company, as the Public Staff maintains.

In evaluating the evidence presented by the Public Staff in this regard, the Hearing Examiner is persuaded that certain of the labor charges incurred by the Applicant may have been excessive for specific services rendered by Bailey Well and Pump Company to the Applicant such as meter reading. However, the labor rates specified may be reasonable for other services provided by Bailey Well and Pump Company. The amount of overstatement of such charges was not quantified by the Public Staff nor was an adjustment recommended in that regard. However, the Hearing Examiner believes that the problem of overstatement of labor charges which occurred during the test year has been

eliminated with the hiring of the new employee who will provide the services previously described. A reasonable level of compensation to the Company's employee has been included in the test period operating expenses and agreed upon by the Company and Public Staff. During the period in question Mr. Bailey received no salary from the Applicant.

With regard to the Public Staff's contention that material prices paid to Bailey Well and Pump Company were excessive, the Hearing Examiner notes that the asserted excessive amounts were not quantified by the Public Staff. Although exhibits were offered concerning earnings of Bailey's Well and Pump Company, no price comparison studies nor comparable earnings studies were presented showing a comparison of Bailey's Well and Pump Company to similar non-affiliated businesses. The Hearing Examiner concludes that based on the evidence presented in the proceeding no definitive conclusions can be reached in this regard.

Based upon the preceding discussion and the testimony of Company Witness Bailey concerning duties performed by himself, the Hearing Examiner concludes that compensation of $10,000 annually is a reasonable amount to include in test period operating expenses for the services rendered by Mr. Bailey. The Hearing Examiner has decreased the amount advocated by the Company for various reasons including the fact that Mr. Bailey could not quantify his time spent in the utility business, the fact that Mr. Bailey's time must be allocated to several businesses, the fact that the hiring of a new employee by the Applicant should lower the amount of time spent by Mr. Bailey to utility business, and finally the fact that certain excessive labor charges are already included in test period operating expenses.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this Finding of Fact consists of the testimony and exhibits of Company Witnesses Jewell and Bailey and Public Staff Witnesses Hoard and Tweed. The following chart presents the differences between the Company and the Public Staff:

Item	Amount
Operating expenses per Company	$122,568
Public Staff adjustments:	
Reversal of Company adjustment for Mr. Bailey's salary	(20,000)
Adjustment to bad debts expense due to increased operating revenues	104
Adjustment for discontinued medical insurance	(223)
Adjustment to amortize legal and professional fees associated with the Ponderosa acquisition	(617)
Adjustment to postage expense due to customer growth and increased postal rates	435
Annualization of rental expenses	100
Adjustment to electric power expense for customer growth	1,231
Adjustment to depreciation expense for Public Staff change in the depreciation rate on wells and the exclusion of two Ashley Hills dry wells from water plant in service	(1,563)
Adjustment for rate case expenses	(5,000)
Operating expenses per Public Staff	$ 97,035

The first item of difference concerns the Company's $20,000 pro forma adjustment to operating expenses for Mr. Bailey's salary. In Finding of Fact No. 6 and the Evidence and Conclusions therefor, the Hearing Examiner has found and concluded that the appropriate salary level for Mr. Bailey's services is $10,000 annually.

The next item of difference concerns the appropriate level of bad debts expense. Based on the uncontested testimony of Public Staff Witness Hoard, the Hearing Examiner concludes that bad debts should be adjusted relative to increased gross operating revenues in the ratio of actual test year bad debts to actual gross operating revenues (.005212). The Hearing Examiner therefore finds the Public Staff's adjustment of $104 to bad debts expense appropriate.

The next areas of difference concern uncontested Public Staff adjustments to reduce insurance expense by $223, increase postage expense by $435, increase power expenses by $1,231, and annualize rental expenses by $100. The Hearing Examiner, therefore, concludes, based on the uncontested testimony of Public Staff witness Hoard and consistent with Finding of Fact No. 5, that the Public Staff adjustments decreasing insurance expense by $223, increasing postage expense by $435, increasing electric power expenses by $1,231, and increasing rental expense by $100 are appropriate for inclusion herein.

The next difference involves an adjustment to amortize the professional and legal fees associated with the Ponderosa acquisition over a three year period. The Hearing Examiner finds it reasonable to amortize such expenses over a three year period since these expenses are not expected to recur on an annual basis.

The next area of difference concerns the Public Staff's adjustment to depreciation expense for a change in the depreciation rate on wells and the exclusion by the Public Staff of two Ashley Hills dry wells from water plant in service. Based upon Evidence and Conclusions for Finding of Fact No. 10, the Hearing Examiner concludes that the portion of the depreciation adjustment addressing depreciation on the two Ashley Hills dry wells is appropriate. The portion of the adjustment relating to the change in the depreciation rate on wells proposed by the Public Staff is based on the testimony of Public Staff Witness Tweed. Witness Tweed testified that a 4% depreciation rate is the minimum rate recommended by the National Association of Regulatory Utilities Commissioners (25 years - 35 years). Based on the foregoing, the Hearing Examiner finds the Public Staff's adjustment to the depreciation rate for wells appropriate. The Hearing Examiner further concludes that the Public Staff's $1,563 reduction in depreciation expense is proper.

The final area of difference deals with rate case expenses. The Company included an amount of $5,000 in test year operations for expenses related to the current rate proceeding. The Hearing Examiner finds rate case expenses a reasonable cost of providing utility service. However, said amount should be amortized over a three year period, and therefore, the amount of $1,667 is included for this item on the Applicant's end-of-period cost of service.

Based on the foregoing, the Hearing Examiner finds the reasonable level of operating expenses under present rates to be $108,702.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Company Witness Jewell and Public Staff Witness Hoard offered testimony and exhibits concerning the proper level of operating taxes. The differences between the parties are presented as follows:

	Company	Public Staff	Difference
Gross receipts taxes	$4,327	$4,885	$ 558
Property taxes	1,930	1,648	(282)
Income Taxes	0	1,265	1,265
Total operating taxes	$6,257	$7,798	$1,541

The differences in gross receipts taxes shown above is due to differing gross operating revenue amounts. Since the Hearing Examiner under Finding of Fact No. 5 finds operating revenues of $122,126 appropriate, and under Finding of Fact No. 5 finds related uncollectible expenses of $637 proper, the Hearing Examiner correspondingly finds gross receipts taxes of $4,860 proper.

The next area of difference concerns the proper level of property taxes. Public Staff Witness Hoard used the 1981 property tax amount for each of the subdivisions; the Company used the per books property tax amount which included some property taxes related to prior years. The Hearing Examiner finds the 1981 property taxes of $1,648 included by the Public Staff appropriate for use herein.

The Hearing Examiner in Finding of Fact No. 6 finds it proper to include a salary for Mr. Bailey of $10,000 in test period operating expenses and likewise finds it appropriate to include related payroll taxes of $670 in the Company's test period level of operating taxes.

Based upon the foregoing, the Hearing Examiner has found operating income before income taxes and interest expense under present rates to be $6,246. The appropriate amount of interest expense is $12,618 resulting in a net loss for the period of $(6,372). Therefore, no income taxes are applicable under present rates.

In summary the Hearing Examiner finds the appropriate level of operating taxes under present rates to be $7,178 consisting of gross receipt taxes of $4,860, property taxes of $1,648, and payroll taxes of $670.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

This finding of fact is based upon Findings of Fact Nos. 7 and 8 and the Evidence and Conclusions supporting each of those.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The Applicant's verified application in this matter reflects, on page 3, line 13, Applicant's original cost of water plant in service at the end of the test year, prior to adjustments for accumulated depreciation and accumulated tap fees and other contributions in aid of construction, to be $664,797. After the adjustment of $12,098 as shown on Jewell Exhibit B to eliminate construction work in progress at the end of the test year, the Applicant's original cost of water plant in service, as thus adjusted, is $652,699 (i.e.,

$664,797 - $12,098 = $652,699). The Public Staff made a further adjustment, in the amount of $3,575, in order to eliminate from gross plant the amount of Applicant's original cost investment in two dry wells in Applicant's Ashley Hills water system. With that Public Staff adjustment the Applicant's reasonable original cost of water plant in service would be $649,124 (i.e., $652,699 - $3,575 = $649,124).

Public Staff Witness Tweed testified that the two dry wells which had been drilled by Applicant during construction of the Ashley Hills Subdivision should be disallowed for rate-making purposes. Witness Tweed testified that it was not appropriate for the utility to invest in drilling wells during construction of a subdivision so as to be in the position of speculating as to whether the subdivision would, in fact, develop or not. In that regard, Witness Tweed pointed out that Commission Rule R7-16 allows for the construction of a water system without the utility having to speculate as to whether or not the facilities will be used and properly places the burden of speculation on the developer. The Hearing Examiner agrees with the Public Staff's position on this matter and concludes that its $3,575 adjustment is appropriate. The Hearing Examiner further concludes that Applicant's reasonable original cost of water utility plant in service is $649,124.

Both the Company and the Public Staff agreed that the appropriate amount of accumulated tap fees or other contributions in aid of construction to properly be deducted from Applicant's original cost of utility water plant in service in this case is $253,999. (Jewell Exhibit B, Hoard Exhibit I, Schedule 2). The Hearing Examiner, therefore, concludes that that $253,999 amount of accumulated tap fees and other contributions in aid of construction is appropriate for use in this case.

The Hearing Examiner will now discuss the level of accumulated depreciation appropriate for use in this case. Both Company Witness Jewell and Public Staff Witness Hoard presented testimony and exhibits concerning this matter. The following chart summarizes the differences between the Company and Public Staff with regard to the proper accumulated depreciation amount:

Item	Amount
Accumulated depreciation per Company	$149,297
Public Staff adjustments:	
Adjustment to year end depreciation expense	(1,563)
Adjustment to exclude accumulated depreciation related to two Ashley Hills dry wells	(477)
Accumulated depreciation per Public Staff	$147,257

The first area of difference is due to the differing Company and Public Staff year-end depreciation expense amounts. The Hearing Examiner, having found the $1,563 Public Staff adjustments to depreciation expense appropriate (in Evidence and Conclusions for Finding of Fact No. 7), consequently finds and concludes that the matching adjustment to the depreciation reserve is appropriate.

The other area of difference concerns the Public Staff's exclusion of accumulated depreciation related to two Ashley Hills dry wells. This

adjustment was recommended by Public Staff Witness Hoard as a correction to his prefiled testimony and exhibits. Public Staff Witness Hoard testified that the $477 reduction in accumulated depreciation represents the January 1, 1979, to August 31, 1980, depreciation related to the two dry wells in Ashley Hills ($3,575 x 8% x 20/12). Based on the foregoing and the Hearing Examiner's determination that it is appropriate to exclude the Company's investment in the two dry wells in Ashley Hills, the Hearing Examiner finds the Public Staff adjustment to accumulated depreciation to exclude that portion of the depreciation reserve related to the two Ashley Hills dry wells proper. The Hearing Examiner further concludes that the proper level of accumulated depreciation for use herein is $147,257.

Based upon the foregoing, the Hearing Examiner finds and concludes that Applicant's reasonable original cost of net investment in water plant in service is $247,868, consisting of water plant in service of $649,124, reduced by accumulated tap fees and other contributions in aid of construction in the amount of $253,999, and reduced by accumulated depreciation in the amount of $147,257.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Company witness Jewell and Public Staff witness Hoard offered testimony and exhibits concerning the proper level of a working capital allowance. The difference in their respective recommeded levels results from several calculation differences which are summarized as follows:

Item	Company	Public Staff	Difference
Total operating expenses and operating taxes	$126,398	$104,833	$21,565
Less: Depreciation expense	19,985	18,422	(1,563)
Operating taxes	*	7,798	7,798
Subtotal	106,431	78,613	27,800
Cash working capital (Subtotal ÷ 8)	13,302	9,827	3,475
Less estimated average tax accruals:			
Gross receipts taxes	*	814	(814)
Property taxes	*	824	(824)
Working capital allowance	$ 13,302	$ 8,189	$ 5,113

*Item not deducted

The first item of difference entering into the calculation arises from the different operating expenses used by the parties to complete the cash component of the working capital allowance. The Hearing Examiner, having previously found operating expenses exclusive of depreciation expense of $90,280 to be proper, therefore finds $90,280 as the appropriate level of operating expenses for use in calculating the cash component of the working capital allowance.

The final working capital allowance calculation item of contention concerns the appropriateness of deducting average tax accruals from cash working captial in calculating the proper working capital allowance. Based on the testimony of Public Staff witness Hoard, the Hearing Examiner concludes that it is appropriate to deduct average tax accruals in calculating working capital.

Based upon the foregoing, the Hearing Examiner concludes that the proper working capital allowance for use herein is $9,647.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

This finding of fact is based upon Findings of Fact Nos. 10 and 11.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The Company filed its case using the rate base and rate of return method. Moreover, Public Staff witness Stevie testified that revenue requirements would be insufficient if determined under the operating ratio method because rate base was so large compared to operating expenses. Consequently, the Hearing Examiner concludes that the rate of return method is appropriate for use in setting rates in this case.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 AND 15

The evidence supporting Finding of Fact No. 14 is found in the testimony of Public Staff witness Stevie. The Hearing Examiner agrees with Dr. Stevie that use of a pro forma capital structure composed of 50% debt and 50% equity is appropriate for this case.

The evidence suporting an overall rate of return of 13.55% is also found in the testimony of Public Staff witness Stevie. It should be noted that Dr. Stevie testified that his recommended 17% overall rate of return did not reflect any downward adjustment or penalty for inadequate or poor service.

The testimony and exhibits of Public Staff witness Hoard establish that the Public Staff's recommended rates are based upon a 17% overall rate of return on original cost rate base, which is in turn based upon a 24.2% return on equity and a 9.8% embedded cost of debt, weighted by the capitalization rates recommended by Dr. Stevie.

The rates approved herein, which are the rates proposed by the Applicant, will produce an overall rate of return of 13.55%. The Hearing Examiner concludes that the rate of return of 13.55% does not exceed a just and reasonable rate of return.

In Findings of Fact Nos. 17 and 18 of this Order, the Hearing Examiner has found that Applicant's service in its Ashley Hills and Friendship Village service areas has been inadequate and that Applicant should not be permitted to increase the rates charged to its customers in those service areas until the Applicant has taken certain specified actions to correct certain service problems as is provided by the Commission in this Order. The Examiner is of the opinion that this approach is preferable to denying outright the increases for these two subdivisions, in that Applicant should have a real incentive to correct service problems.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The Hearing Examiner has previously discussed its findings and conclusions regarding the fair rate of return which Bailey's Utilities, Inc., should be given the opportunity to earn.

The following schedules summarize the gross revenues and 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 findings and conclusions heretofore and herein made by the Hearing Examiner.

SCHEDULE I
BAILEY'S UTILITIES, INC.
DOCKET NO. W-365, SUB 12
STATEMENT OF OPERATING INCOME
For the Test Year Ended August 31, 1981

Item	Present Rates	Increase Approved	After Approved Increase
Operating Revenues			
Net operating revenues	$122,126	$ 36,260	$158,386
Operating Revenue Deductions			
Administrative and office expenses	31,248	188	31,436
Meter reading and maintenance	44,119	-0-	44,119
Electric power	14,913	-0-	14,913
Depreciation	18,422	-0-	18,422
Gross receipts taxes	4,860	1,442	6,302
Property taxes	1,648	-0-	1,648
Payroll taxes	670	-0-	670
State income taxes		1,695	1,695
Federal income taxes		4,297	4,297
Total operating revenue deductions	115,880	7,622	123,502
Net operating income	6,246	28,638	34,884

SCHEDULE II
BAILEY'S UTILITIES, INC.
DOCKET NO. W-365, SUB 12
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended August 31, 1981

Item	Present Rates	After Approved
Investment in Water Plant		
Water plant in service	$649,124	$649,124
Less: Accumulated depreciation	(147,257)	(147,257)
Accumulated tap fees	(253,999)	(253,999)
Net investment in water plant	247,868	247,868
Working Capital Allowance		
Cash	11,285	11,285
Less: Average tax accruals:		
Gross receipts taxes	(814)	(814)
Property taxes	(824)	(824)
Total	9,647	9,647
Original cost rate base	$257,515	$257,515
Rate of return	2.43%	13.55%

SCHEDULE III
BAILEY'S UTILITES, INC.
DOCKET NO. W-365, SUB 12
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended August 31, 1981

Item	Original Cost Rate Base	Ratio %	Embedded Cost %	Net Operating Income
	Present Rates - Original Cost Rate Base			
Long-term debt	$128,758	50.00%	9.8 %	$12,618
Common equity	128,757	50.00	(4.95%)	(6,372)
Total	$257,515	100.00%	-	$ 6,246
	Approved Rates - Original Cost Rate Base			
Long-term debt	$128,758	50.00%	9.8 %	$12,618
Common equity	128,757	50.00	17.29	$22,266
Total	$257,515	100.00%	-	$34,884

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The evidence supporting this finding appears in the testimony of public witnesses Abbott, Vernon Janke, Linda Janke, Baker, Holt, Williford, Rush, Patterson, Duncan, Wood, Pace, Nunnery, Long and Phelps. This finding is also based on the testimony of State Division of Health Services Engineer Don Williams, Public Staff witness Jerry Tweed, and Applicant's witness Thomas L. Bailey.

Numerous water utility customers of the Applicant residing in the Ashley Hills Subdivision testified regarding a number of service complaints. Some of those complaints related to lack of adequate response to complaints made by them to the Applicant or to the applicant's rude treatment in dealings with the customers. These matters are dealt with in other portions of this Order. The remaining complaints fall into two general areas, water quality problems and low presure problems.

The Examiner notes that the evidence with respect to water pressure problems generally indicates that such problems were experienced last summer, with some of the witnesses testifying that the problems appeared to be related to periods when lawn watering by many customers was occurring. The evidence generally further indicates that other low pressure problems have been of an intermittent nature and generally of relatively short duration. The Examiner cannot conclude on the evidence in this record that the low pressure problems were the fault of the Applicant; however, the Examiner does conclude that the Applicant should establish a periodic water pressure testing procedure which will result in Applicant conducting at least random pressure tests on the customers distribution system every month in order to ascertain whether or not the pressure requirements of Commission Rule R7-13 are being met.

The evidence of the customers regarding poor water quality discloses the persistent occurrence of cloudy or discolored water, a bad taste or smell to the water, and a greasy film on the water. Several customers testified that they did not drink the water. Some customers also complained about the staining of bathroom fixtures.

Don Williams, an engineer with the Division of Health Licenses, testified that he had observed discolored water on some of his visits to Ashley Hills. Water samples taken by Mr. Williams from the Ashley Hills water system indicated that on four out of six occasions during the period between June 2, 1981, and January 25, 1982, the level of pH was below the State-specified minimum level of 6.5. Public Staff witness Tweed testified that this indicated that soda ash was not being fed in a quantity appropriate to adjust the pH. Mr. Tweed further testified that inadequate soda ash and resulting inadequate pH levels can cause blue stains on fixtures. Several customers testified that they had experienced excessive amounts of chlorine in the water. On the other hand, Mr. Tweed testified regarding an occasion when the water was tested in Ashley Hills where no chlorine residual at all was found, which suggests that the chemical feed equipment was not working properly.

Mr. Williams testified that the Applicant's water system in Ashley Hills was basically in compliance with the minimum standards of the Division of Health Services and that the system has plenty of capacity to service the customers. Mr. Tweed testified that, during his field investigation in January 1982, "the pressure was adequate and the facilities appeared to be capable of providing adequate service to the existing customers."

Mr. Bailey testified in detail about the Company's operation and maintenance of the water system in the Ashley Hills Subdivision (Tr. Vol. 2, pp. 31ff). Ashley Hills is a new subdivision, having gotten underway in 1980, and many of the problems experienced with the water system are the result of the continuous construction that is going on. For example, Mr. Bailey testified that the water lines in the subdivision had been cut accidentally by construction workers on several occasions. Mr. Bailey's testimony generally indicated that he and his Company responded in a timely manner to the problems that occur in Ashley Hills. Many of Mr. Bailey's emergency service calls to the subdivision have occurred late at night, or on weekends, or on holidays.

Nevertheless the record in this proceeding does disclose that the customers at Ashley Hills have experienced significant and recurring water quality and water pressure problems. Mr. Tweed of the Public Staff noted during his inspection of the water system that the chemical feed equipment at Well Number 1 was not working. He also testified on the recurring complaints of muddy or cloudy water. He stated: "This could come from mud in the mains which may occur in conjunction with new connections to the system or broken mains which allow backflow draining mud into the distribution system." He recommended that the water system in Ashley Hills be flushed once every month until construction is complete and as needed after completion of construction.

The Examiner concludes that the level of water utility service at Ashley Hills is less than it should be, and that the problems at Ashley Hills result largely from the improper operation of the chemical feed equipment and the lack of a routine main flushing program. The Examiner further concludes that, because of the significant and recurring nature of the customer complaints,

the implementation of increased rates to customers in the Ashley Hills service area should not be permitted until Applicant establishes to the satisfaction of the Commission that it has (1) established and implemented in Ashley Hills a routine monthly main flushing program; (2) established and implemented a program which results in its operating and monitoring its chemical feed equipment in Ashley Hills in a proper manner; and (3) established and implemented a monthly water pressure testing program in Ashley Hills.

The Applicant may file a report with the Commission at any time setting forth the manner in which it has satisified these requirements. These requirements should not be difficult to meet. The only alternative available to the Examiner would have been to deny outright an increase in rates in Ashley Hills.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The evidence supporting this finding is contained in the testimony of public witnesses Eddie Nance, Celia Winters, Dennis Winters, the testimony and exhibits of North Carolina Division of Health Services Engineer Phillip Abeyounis, and the testimony and exhibits of Public Staff witness Jerry Tweed and Company witness Thomas L. Bailey.

Friendship Village Subdivision is located near Moncure in Lee County, North Carolina, and is one of the service areas for which Applicant has been granted a franchise by this Commission to provide water utility service. The testimony of Company witness Bailey discloses that he built and installed the water system for Friendship Village in the early 1970's. Mr. Bailey's own testimony and Bailey Exhibit D, a letter to him and the Applicant from the North Carolina State Board of Health dated December 16, 1977, establish that as of December 1977, the Friendship Village Subdivision water system was approved to serve only 36 connections and that any expansion of that system required the submission of plans and specifications to the appropriate State agency and obtaining its approval of such expansion.

Mr. Phillip Abeyounis, Sanitary Engineer with the North Carolina Division of Health Services, testified that he first inspected Applicant's Friendship Village water system in February 1979. He testified that at that time the system had been approved to serve a maximum of only 36 connections, but that the system had been expanded without approval to serve approximately fifty homes. Mr.Bailey testified at the hearings in this docket that Applicant's Friendship Village water system was now serving 58 homes, or 22 more than the system had been approved to serve by the Division of Health Services.

In Public Staff Abeyounis Exhibit 1, a letter dated June 24, 1981, to Mr. Thomas Bailey from Mr. Phillip Abeyounis of the North Carolina Division of Health Services, Mr. Abeyounis indicated that the purpose of the letter was to help document the water system situation at the Friendship Village Subdivision. In that letter Mr. Abeyounis stated in part as follows:

> "The system has been plagued with low water pressure, a lack of water, and air in the distribution. The air was caused by overpumping the main well. The low pressure and the lack of water has been caused by the system demand exceeding the system capacity."

Mr. Abeyounis, in his letter dated February 4, 1982, addressed to Mr. Bailey and the Applicant, reported on a sanitary survey of the Friendship Village water system conducted on January 21, 1982:

> "...The distribution system was expanded beyond the previously approved plans and specifications by running a water main on the southeastern side of SR 1466. The number of connections that the system was approved to serve was exceeded. Well 2A, its ground storage tank, and its transfer pump were constructed, connected to the system, and used without approved plans. A ground storage tank and a transfer pump were added to the system as well 1 and used without approved plans.
>
> "As a result of having too many service connections and an apparent drop in the yield of well 1, the system often cannot supply an adequate quantity of water at an adequate pressure to the customers. NCAC 10D.002(f)(3) requires the combined yield of all the wells of a water system to be sufficient to provide the average daily demand in not more than 12-hours pumping time. NCAC 10D.1002(f)(7) is interpreted as setting the minimum design average daily demand at 400 gallons per residence. The combined yield of both wells falls far short of the above requirements."

Mr. Tweed testified that his investigation of the Friendship Village water system disclosed that the water shortage problem was serious, that there was a shortage of water on the day of his field inspection on January 21, 1982, and that there will be severe problems this summer if an additional source of water is not found.

Public witness Celia Winters is a resident of Friendship Village and has been a customer of the water system since August 1978. She was a spokesperson for the residents. She testified that the subdivision water system has been an "off and on problem" since 1978 and that the subdivision has been "without water for periods of time" (Tr. Vol. 2, p. 8). The worst time was in the early part of June 1981, when the subdivision went without water for parts of four consecutive days. She and her neighbors are concerned that another summer is approaching with no additional water supply in sight. Eddie Nance corroborated her testimony about the shortage of water in June 1978.

In finding the Applicant's service to Friendship Village to be inadequate the Examiner particularly notes that the problems with the inadequacy of water supply and related pressure problems have been repeatedly brought to the Applicant's attention in various prior proceedings before this Commission. In the Applicant's last general rate case, Docket No. W-365, Sub 7, heard on March 6, 1980, the Recommended Order issued September 18, 1980, noted that air in the lines in the Friendship Village Subdivision was a specific service complaint. Moreover, at the Applicant's request this Commission issued an Order in Docket No. W-365, Sub 9, on July 1, 1981, restricting nonessential use of water in Friendship Village Subdivision from July 1, 1981, through September 30, 1981, or until an acceptable source of water supply had been found by Applicant. The Commission takes judicial notice of that Order.

Additionally the Commission takes judicial notice of the pleadings and the affidavit of Jerry Tweed filed in Docket No. W-365, Sub 10. That docket involves a formal complaint against the Applicant by property owners in

Friendship Village Subdivision. The complaint, dated June 21, 1981, and filed July 2, 1981, complains primarily of the inadequacy of water supply and pressure in the subject system.

The evidence in this record clearly establishes that the Friendship Village Subdivision has experienced recurring water shortage and associated low pressure problems since at least the latter part of 1979. The evidence further clearly establishes that Applicant has allowed the subject water system to be expanded to serve more customers than the system had been approved to serve by the State Division of Health Services. The evidence is equally clear that the expansion and operation of the subject system by the Applicant in such manner as to fail to comply with the applicable requirements of Division of Health Services has been a primary cause of the water shortage and low pressure problems which have been experienced at Friendship Village. The applicant has persistently failed to bring the subject water system into compliance with applicable rules and regulations of the North Carolina Board of Health or the North Carolina Division of Health Services since at least February of 1979. Even as of the time of the hearings held in this case in March of 1982, the Applicant's Friendship Village Subdivision water system was still not in compliance with the Division of Health Services regulations.

Moreover, the Examiner concludes that the Applicant has failed to comply with Commission Rule R7-7(a) with respect to its Friendship Village Subdivision water system. That Rule requires that all water utility producing equipment must be sufficiently adequate to meet all normal as well as reasonable emergency demands for service.

While the Examiner is aware of the efforts which the Applicant has made to improve the water supply situation in Friendship Village Subdivision, such as the drilling of a new well and the installation of a new storage tank, and of the Applicant's claim that drought conditions have contributed to the water shortage problem, the evidence is clear that the Applicant's level of service to the subdivision has been and remains grossly inadequate and that the water shortage and pressure problems have been primarily the result of Applicant's unauthorized expansion of the system beyond its approved capacity.

Both Public Staff witness Tweed and Phillip Abeyounis testified that unless improvements were made to the system before this summer it would again be necessary to ration or restrict water usage in Friendship Village.

The Examiner concludes that the Applicant's water utility service in its Friendship Village Subdivision service area has been and remains grossly inadequate and that it is essential that Applicant forthwith bring that water system into compliance with the rules and regulations of the North Carolina Division of Health Services, particularly those rules relating to the adequacy of water supply. The Examiner further concludes that he would be severely remiss in his duties under N.C. G.S. 62-32, were he to allow Applicant to implement any rate increase to its water utility customers in Friendship Village until Applicant has established to the satisfaction of the Commission that it has obtained the approval of the Division of Health Services of its Friendship Village water system having a water supply which is adequate under the rules and regulations of that agency to serve the Applicant's customers in that subdivision.

The Examiner is of the opinion that the deferral of the implementation of increased rates in this service area until the showing ordered herein has been made is preferable to an outright denial of any rate increase for Friendship Village. Since Applicant has been aware of the serious problems for several years, the Hearing Examiner assumes that the Applicant is now diligently working to bring the system into compliance with the Division of Health Services' regulations.

In its proposed Order the Applicant requested the reinstatement of the Order restricting the use of water in Friendship Village Subdivision, which was issued in Docket No. W-365, Sub 9, on July 1, 1981. The Examiner is of the opinion, and so concludes, that good cause exists to reinstete the restriction of water requirements set forth in Docket No. W-365, Sub 9. Such restrictions shall become effective on and after June 7, 1982

Since the matters complained of in Docket No. W-365, Sub 10, have been adddressed in this Order, the Examiner is of the opinion that Sub 10 should be closed.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 19

Seven of Applicant's water utility customers who lived in the Greenbriar Estates service area appeared and testified as public witnesses. Three of those witnesses, Charles J. Dohun, T. R. Cook, and C. L. Byrd, indicated that they generally had no service complaints and were generally complimentary of Applicant's service. Witness Robert D. Gaddy complained of problems experienced with muddy water or air in the water. He estimated having experienced such problems from a week to a half a week out of each month over the last year. He testified that he had complained to the Applicant concerning air in the lines approximately two months ago. Witness Myrtle Howell complained of having experienced occasional discoloration in the water; she testified that she had not recently complained to the Applicant of such problem. Witness John M. May testified that he had experienced problems with muddy water two or three times within the last year and had also experienced occasional pressure problems. He indicated, however, that he believed that the utility had taken care of such problems fairly promptly. Mr. May also mentioned "streaking" in a tub and his desire for further well site beautification efforts. Witness Alton L. Howard, Jr. testified that he had experienced problems with murky water and low presssure. He indicated that the pressure problems were apparently associated with work being done by the utility on its lines. He stated he had not experienced a pressure problem or cut off since last summer, but he did complain of lack of advance notification. The mucky water problem he indicated was associated with small bubbles in the water and was an on-going problem. He further testified that his wife had complained to the utility of this problem on one occasion, but that it had not been resolved.

Since it appears that the water pressure and water discoloration problems in the Greenbriar Estates service area have not been experienced throughout the service area with any degree of frequency, these problems could have been caused by broken mains, improper flushing after a main break, lack of routine flushing of dead-end mains, or a combination of these. The evidence is, however, insufficient to determine the exact cause. The Examiner concludes that the Applicant should carefully study and consider its flushing procedures with a view to determining whether any change or improvement in these might

alleviate the problems complained of. Since the problems described by witnesses Gaddy and Howard appear to be of such a reoccurring or on-going nature, the Commission concludes that Applicant should conduct an investigation of the nature and extent of those problems and file an affidavit with the commission and the Public staff Water Division describing the results of such investigations within 30 days after the date of this Order.

The testimony of some of the customers in the Greenbriar Estates service area indicated that complaints made by them to the Applicant had not been satisfactorily resolved. The testimony of those witnesses in this regard is similar to that of Applicant's customers in other service areas. The Hearing Examiner has addressed the need for improved customer relations and customer complaint procedures, especially follow-up activities, hereinafter in this Order.

Melanie Taylor, a water utility customer in Applicant's Willow Creek service area, testified generally regarding two basic problems. The first of those was a blue staining of showers and bathtubs; the second, the lack of advance notice when service was to be discontinued. Mrs. Taylor indicated that she believed that the blue staining was related to copper piping in her home. Mrs. Taylor also described a leak in Applicant's mains which persisted for some time.

Kenneth Steele, a water utility customer in Applicant's Duchess Downs service area, complained of a leak in Applicant's mains which persisted for a month and a half and the lack of advance notice when service was cut off to fix it.

The problems with persistant leaks in Applicant's mains and the lack of advance notice of service cut-offs are specifically addressed hereinafter in this Order. The Commission believes that each of those problems must be appropriately handled by Applicant not only as a part of providing reasonable and adequate service but also as an important part of Applicant's efforts to improve customers relations.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The evidence supporting this finding is found in the testimony of public witnesses Reba Long (Ashley Hills), Melanie Taylor (Willow Creek), Kenneth Steel (Duchess Downs), and Dennis Winters (Friendship Village). Public Staff witness Tweed also testified with regard to a reported leak near the residence of Ann Parrish in Country Squire Subdivision. Moreover, Public Staff Abeyounis Exhibit 2 establishes that Applicant allowed its ground storage tank in its Friendship Village service area to overflow during a period of water shortage there.

Leaks result in an additional expense to the utility which is ultimately borne by its ratepayers. The waste entailed by a utility failing to promptly investigate and repair reported leaks in its mains thus creates not only unnecessary added costs of operation, but also poor customer relations. Not only should the Applicant investigate and repair leaks in its mains which are reported to it, it should also promptly advise the customer(s) or party reporting the leak regarding what was found upon investigation and what corrective action, if any, was taken. Applicant, of course, should also be reasonably vigilant in attempting itself to detect leaks on its systems. The

newly hired maintenance employee of the Applicant should routinely make appropriate inspections for leaks.

The improved record keeping and response procedures regarding the handling of customer complaints which the Commission has ordered the Applicant to implement as hereinafter provided in this Order should help insure that reported leaks are handled by the Applicant in a reasonable and appropriate manner and also provide a basis for evaluating whether that has been the case.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 21

This finding is supported by the testimony of public witnesses Abbott (Ashley Hills), Patterson (Ashley Hills), Taylor (Willow Creek), Steel (Duchess Downs), Winters (Friendship Village), and Public Staff witness Tweed.

Commission Rule R7-8 requires every water company operating as a public utility within this State to keep a record of all scheduled and unscheduled interruptions to service of more than two hours' duration where ten or more customers are affected. The rule requires that such record be maintained by the utility for a period of three years. The Rule further requires the utility to file a report of any such service interruptions which occurred during a given month within fifteen days after the end of such month. That report is to be filed with the Chief Clerk of the Commission with a copy being provided to the Public Staff. An appropriate reporting form is attached as Appendix A to this Order. The Commission concludes that Applicant should henceforth strictly comply with the provisions of this Rule and particularly should timely file any and all reports required by said Rule using the format of the form attached hereto for such purpose. Strict adherence to the provisions of this Rule should provide the basis for evaluating in the future many of the outages experienced by Applicant's customers.

Commission Rule R7-8(b) requires the utility insofar as practical to give advance notice to every customer affected of any contemplated work which will result in interruption of service of any long duration. The Rule further provides, however, that such notice is not required in the case of interruptions due to accident, the elements, public enemies, and strikes which are beyond the control of the utility.

In view of the many customer complaints about unannounced service cutoffs, the Commission urges the Applicant, whenever at all reasonably possible to do so, to give advance notice of service cutoffs. Moreover, even in instances where the service cutoff is not planned in advance but is due to reasons beyond the Applicant's control, the Applicant should make every effort to give its customers who call to complain or inquire, an explanation of the cause of the service interruption and its best estimate of how long service will be interrupted. If such information is not known when such complaints or inquiries are initially received by the Applicant, then the name and telephone number of the customer should be recorded and the Applicant should call the customer back in order to provide such information as soon as it is available. The Examiner is of the opinion that this procedure will improve the Applicant's customer relations.

With respect to the measures which Applicant should take in order to help detect leaks and thus help eliminate waste and emergency outages, the Examiner concludes that those recommended by Public Staff witness Tweed should be

implemented. Specifically, the Applicant's newly hired full-time maintenance employee should be made responsible for keeping all meters in good repair and for reading master meters and customer meters in each service area monthly and comparing the totals, thus enabling the utility to detect water losses indicated by the difference. Additionally, the Examiner concludes that the Applicant should install hour meters on each of its pumps in order that a record can be kept of the total gallons pumped through the master meter versus the number of hours the pump runs which can be compared on a monthly basis. This information will provide the Applicant with an indication of when a particular pump is losing efficiency and should thus help avoid emergency outages.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 22

This finding is based upon the testimony of public witnesses Vernom Janke, Graham Baker, Mike Holt, Wanda Williford, Phyllis Rush, Susan Duncan, and Reba Long (all of the foregoing being Ashley Hills customers), William Joseph Crutchfield (Rolling Acres customer), Kenny Steele (Dutchess Downs customer), and Alton L. Howard, Jr., and Myrtle Howell (Greenbrier Estates customers), as well as the testimony of Public Staff witness Jerry Tweed and Applicant witness Bailey.

This finding and conclusion addresses the difficult problem of customer relations, including the Applicant's response to the complaints of its customers.

Many of the witnesses listed above testified that they had complained to the Applicant regarding poor water quality or other problems and had no results or follow-up by the Applicant. That in itself promotes poor custoner relations. The Hearing Examiner concludes that Applicant's procedures for recording the facts relating to customer complaints and for following up upon such complaints must be significantly improved. Consequently, the Hearing Examiner concludes that it will order Applicant from and after the effective date of this Order to maintain for a period of one year a written record of every customer service complaint received by it, which shall be signed and dated by the employee, or agent, or other person acting for the Applicant in receiving such complaint and which signed written record shall contain the following items of information:

(a) Name and address of the complainant and the service area he or she lives in;
(b) Time of day and date complaint was received:
(c) A description of the complaint received:
(d) The name and business address of the individual person who received the complaint for or on behalf of the Applicant; and
(e) The signature of the person receiving the complaint.

The report ordered to be maintained shall also contain a separate section which contains the following items of information with respect to the complaint:

A description of any action taken by or on behalf of the Applicant in order to resolve the complaint including the time and date thereof, signed by an officer or employee of the Applicant.

The entire report shall be filled out in triplicate, with the original copy being maintained by the Applicant. Within five working days of the date the complaint was received a completed copy of the report shall be mailed by the Applicant to the complainant and the other completed copy shall be filed with the Consumer Services Division of the Public Staff - North Carolina Utilities Commission.

The Notice to the Customers attached to this Order as Appendix C will contain a statement with respect to the above-described record keeping and reporting requirements. Service of this Notice will satisfy the Notice requirements of ordering paragraph number 5.

Several customers testified that they encountered rudeness when they attempted to call the Applicant to report service problems. For example, public witness Wanda Williford testified:

> "I have experienced rudeness on a couple of times when calling. They probably feel as frustrated as we do. You know, there is no way that we have of knowing how many people have called about the same problem. I can't poll all the neighborhood and say has anybody called Bailey's. All I can do is know what has happened at my home and that is, you know, a concern of mine. When I called on two occasions I have been hung up on, you know, the water will be fixed - wham. No 'I am sorry you are having a problem' or, your know, I guess I would expect more congenial treatment that I got, at least 'I am sorry you are having a problem' or 'Thank you for calling' or 'We will get back to you' or something but it has been very blunt and receiver, you know, just kinds of stands there and you think, well I guess I called." (Tr. Vol. 1, p. 73).

The testimony of Vernom Janke, Susan Duncan, and Reba Long is also noted on this issue.

The Hearing Examiner recognizes that the job of a water utility operator is not an easy one. An examination of the testimony of Applicant's President, Thomas L. Bailey, discloses that he and other employees of the Company must be available at all times to respond to service and emergency calls. Mr. Bailey stated: "I am on call 24 hours a day, seven days a week, 12 months out of the year." Nonetheless, the press of emergencies cannot excuse rude or abrupt behavior by a public utility toward its customers. The evidence in this proceeding requires that the Applicant take all steps at its disposal to eliminate such behavior toward its customers. Rudeness will not be sanctioned or tolerated by this Commission.

Indeed this Commission has a positive duty pursuant to G.S.62-2 to encourage and promote harmonious relations between public utilities and their customers. Although the procedures adopted in this Order may at first seem burdensome, the Examiner concludes that such procedures are necessary and appropriate to bring about an improvement in the Applicant's relations with its customers.

The Applicant shall instruct all employees of Bailey's Utilities, Inc., and other people who deal with the customers on behalf of Bailey's Utilities, Inc., to be courteous in all of their dealings with the customers. Applicant should be responsive to the needs of its customers and explain fully and

politely when the resolution of a particular problem is not its responsibility.

The Commission concludes that the Applicant's unsatisfactorily poor customer relations result from (1) the lack of response to or follow-up of customer complaints, (2) instances of rudeness or abrupt behavior in dealing with customers, (3) allowing leaks to persist, and (4) inadequate service in the Friendship Village and Ashley Hills Subdivisions. While the Examiner has dealt with each of those matters to the best of his ability in this Order, the Examiner solicits the voluntary cooperation of the Applicant in recognizing and resolving the problems which exist.

IT IS, THEREFORE, ORDERED as follows:

1. That the schedule of rates attached hereto as Appendix B is approved for service rendered by Applicant on and after the effective date of this Order in all of its service areas other than Ashley Hills Subdivision and Friendship Village Subdivision and said schedule is deemed to be filed with the Commission pursuant to G.S. 62-138.

Permission and authority for Applicant to implement the rates set out in Apppendix B hereto in its Friendship Village Subdivision service area is hereby withheld pending compliance by Applicant with the provisions of decretal paragraph number 2 hereinafter and pending further order of this Commission.

Permission and authority for Applicant to implement the rates set out in Appendix B hereto in its Ashely Hills Subdivision service area is hereby withheld pending compliance by Applicant with the provisions of decretal paragraph number 3 hereinafter and pending further order of this Commission.

2. That the Applicant shall forthwith take such actions as are necessary to obtain the approval of the North Carolina Division of Health Services of Applicant's water system serving its Friendship Village Subdivision service area, and as soon as such is obtained shall file proof thereof with this Commission.

3. That the Applicant shall forthwith establish in its Ashely Hills Subdivision the periodic water pressure monitoring program, the once-a-month routine main flushing program, and the program to properly operate and monitor its chemical feed equipment, all as more fully described in the portion of this Order entitled "Evidence and Conclusions for Finding of Fact No. 17," and shall file with this Commission no later than sixty (60) days from the effective date of this Order a verified report describing in detail each such program thus established and the specific actions which Applicant has taken in order to implement and make effective each such program.

4. That Applicant shall take such actions as are necessary to implement the measures which are specified in the portion of this Order entitled "Evidence and Conclusions for Finding of Fact No. 21" in order to help detect and avoid leaks and emergency outages and shall file a verified report with this Commission within sixty (60) days from the effective date hereof indicating that such has been done.

5. That Applicant shall forthwith implement procedures for handling, recording, reporting and acknowledging customer complaints, which procedures are described in the portion of this Order entitled "Evidence and Conclusions for Finding of Fact No. 22," shall advise all of its utility customers of such procedures in the manner specified by the Commission, and shall file with this Commission a verified report within sixty (60) days from the effective date hereof indicating that such has been done.

6. That Applicant shall forthwith instruct or cause to be instructed all of its employees, agents, or others handling customer complaints to be courteous in dealing with the complaints of the Applicant's customers.

7. That Applicant shall within thirty (30) days of the effective date hereof conduct an investigation into the service problems complained of by public witnesses Gaddy and Howard residing in Greenbriar Estates and file a verified report with the Commission with a copy to the Public Staff setting forth the results of such investigation.

8. That a copy of the Notice to Customers attached hereto as Appendix C shall be mailed or hand delivered to all of the Applicant's customers in conjunction with the next regularly scheduled billing process which shall occur after this Recommended Order becomes final.

9. That, on and after June 7, 1982, the use of water by Applicant's customers in Friendship Village Subdivision shall be restricted in the following manner:

(a) Water use will be restricted to domestic use only.
(b) Water shall not be used to water lawns or shrubs or to wash cars, boats, or trucks, or to irrigate gardens.
(c) The hours of this restriction shall be from 5:30 a.m. until 9:00 a.m. and from 4:00 p.m. until 9:00 p.m. on Monday through Friday and from 5:30 a.m. until 9:00 p.m. on Saturday and Sunday.
(d) This restriction shal begin on Monday, June 7, 1982, and continue through September 30, 1982, or until an acceptable source of water supply has been found by the Applicant, whichever occurs first.

The Applicant shall mail or hand deliver a copy of the Notice to Customers attached hereto as Appendix D to all customers in Friendship Village Subdivision not later than four days after the date of this Order; the Applicant shall submit to the Commission the attached Certificate of Service properly signed not later than seven days after the date of this Order showing service of the Notice.

10. That Docket No. W-365, Sub 10, be closed.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of June 1982.

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

NOTE: Please see the official files in the Office of the Chief Clerk for Appendix A.

APPENDIX B
BAILEY'S UTILITIES, INC.
DOCKET NO. W-365, SUB 12
SCHEDULE OF RATES
FOR
WATER UTILITY SERVICE

Metered Rates:

Up to first 2,000 gallons per month, minimum charge	- $8.50
Next 6,000 gallons per month, per 1,000 gallons	- $2.30
All over 8,000 gallons per month, per 1,000 gallons	- $2.80

Connection Charge:

Kilt Valley	- $600.00 (to be paid by developers)
Other Service Areas	- $550.00 (to be paid by developers)

Reconnection Charge:

If water service cut off by utility for good cause:

First Reconnection	- $ 5.00
Second Reconnection	- $10.00
Third Reconnection	- $15.00

If water service discontinued at customer's request: $2.00

Returned Check Charge: $5.00

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing Frequency: Shall be monthly for service in arrears

Finance Charge for Late Payment:

1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date

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Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-365, Sub 12 on the 26th day of June 1982

APPENDIX C

DOCKET NO. W-365, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Bailey's Utilities, Inc., P.O. Box 58245, Raleigh, North Carolina, for Authority to Increase Rates for Water Utility Service in All of Its Service Areas in North Carolina	) NOTICE TO CUSTOMERS OF INCREASE IN RATES

On June 14, 1982, the North Carolina Utilities Commission approved an increase in water utility rates for Bailey's Utilities, Inc. ("the Company"). The new rates are as follows:

Metered Rates:

Up to first 2,000 gallons per month, minimum charge	- $8.50
Next 6,000 gallons per month, per 1,000 gallons	- $2.30
All over 8,000 gallons per month, per 1,000 gallons	- $2.80

The new rates will not be applicable in the Ashley Hills and Friendship Village Subdivisions until the Company complies with certain requirements set forth in the Order approving the rate increase.

Hearings on the rate increase were held in Raleigh on March 1, 2, 3, and 4, 1982. Many customers of the Company appeared and testified.

The Order approving the rate increase required the company to make a number of service improvements, which are summarized below:

1. In Ashley Hills Subdivision the Company is required to establish a water pressure monitoring program, a monthly main flushing program, and a program for the proper operation of the chemical feed equipment.

2. In Friendship Village Subdivision the Company is required to take the necessary action, including the securing of an adequate water supply, to obtain State approval of the water system serving the subdivision. The Applicant was also permitted to restrict customer water use to domestic purposes during the summer months.

3. The Company was required to take measures which would detect leaks and avoid emergency outages in all of its subdivisions

4. The Company was required to instruct its agents and employees to be courteous in all of their dealings with the customers of the Company.

5. The Company was required to set up a program for recording, handling and acknowledging customer complaints. This program requires the Company to record in writing all complaints from its customers and to acknowledge such complaints within five days from the receipt thereof. A copy of this report is to be sent to the customer and to the Public Staff. Customers of the Company are hereby advised that they may call the Public Staff of the Utilities Commission if they are not satisfied with the Company's handling of

a specific complaint. The telephone number of the Public Staff in Raleigh is (919) 733-4271.

The rates approved by the Commission on June 4, 1982, become effective for service rendered on and after June 26, 1982.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of June 1982.

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

APPENDIX D

DOCKET NO. W-365, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Bailey's Utilities, Inc., P.O. Box 58245, Raleigh, North Carolina, for Authority to Increase Rates for Water Utility Service in All of Its Service Areas in North Carolina	) NOTICE TO CUSTOMERS IN) FRIENDSHIP VILLAGE) SUBDIVISION OF) RESTRICTIONS IN WATER) USE

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has approved, effective June 7, 1982, the request of Bailey's Utilities, Inc. that water use in Friendship Village Subdivision, Lee County, be restricted to essential use only. The terms of the restricted use of water applicable to customers of the Company are as follows:

1. Water use will be restricted to domestic use only.

2. Water shall not be used to water lawns or shrubs or to wash cars, boats or trucks or to irrigate gardens.

3. The hours of this restriction shall be from 5:30 a.m. until 9:00 a.m. and from 4:00 p.m. until 9:00 p.m. on Monday through Friday and from 5:30 a.m.until 9:00 p.m. on Saturday and Sunday.

4. This restriction is applicable to all customers of the Company in Friendship Village Subdivision, Lee County, North Carolina.

5. The restriction shall begin on Monday, June 7, 1982, and shall continue through Thursday, September 30, 1982, or until an acceptable service of water supply has been found by the Company, whichever event occurs first.

The restriction approved hereby is based on evidence presented at the Company's latest rate case that there was a likelihood of a water shortage in Friendship Village this summer.

ISSUED BY ORDER OF THE COMMISSION.
This the 4th day of June 1982.

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

DOCKET NO. W-279, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Cape Fear Utilities, Inc., Et Al., P.O. Box 425, Wrightsville Beach, North Carolina, for Authority to Increase Their Rates for Water and Sewer Utility Service in All Their Service Areas in North Carolina	RECOMMENDED ORDER GRANTING RATE INCREASE

HEARD IN: Assembly Room, County Administration Building, 320 Chestnut Street, Wilmington, North Carolina, on September 25, 1981

BEFORE: Hearing Examiner Robert H. Bennink, Jr.

APPEARANCES:

For the Applicant:

James Hardie Ferguson, Attorney at Law, 210 Princess Street, Wilmington, North Carolina 28401

For the Public Staff:

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

BENNINK, HEARING EXAMINER: On June 16, 1981, Cape Fear Utilities, Inc., Pine Valley Water Company, Quality Water Supplies, Inc., Figure 8 Water Company, and Consolidated Utilities, Inc., filed an application with the North Carolina Utilities Commission seeking authority to increase their rates for water and sewer utility service in all service areas in North Carolina.

On July 24, 1981, Applicant filed revised pages to its original application. On July 30, 1981, Applicant filed additional data regarding pro forma adjustments, rate of return and operating ratio. On August 3, 1981, Applicant filed additional data regarding pro forma adjustments, rate of return, and operating ratio. On August 3, 1981, Applicant amended the application to substitute a new proposed rate schedule.

On August 19, 1981, the Public Staff intervened in this matter by filing its Notice of Intervention with the Commission. On September 3, 1981, the Public Staff filed a motion seeking an extension of time to file testimony which was allowed by Commission Order issued on September 10, 1981.

On September 15, 1981, the Public Staff filed, pursuant to G.S. 62-68, the Public Staff's Notice of Affidavit and Affidavit of Richard G. Stevie.

Upon call of this matter for hearing at the appointed time and place, both the Applicant and the Public Staff were present and represented by counsel.

Some 10 customers appeared and testified as public witnesses. The following sets forth the identity of those customers by subdivision and the general nature of the testimony of each:

Sea Pines Subdivision - (provided water and sewer utility service by Cape Fear Utilities, Inc.): Charles Bove' testified regarding various aspects of application and of the Public Staff's positions and his analysis and questions with respect thereto; Jeff Gerbert testified as to his suggestions and concerns regarding the rate structure;

Pirates Cove Subdivision - (provided water and sewer utility service by Cape Fear Utilities, Inc.): Wilma Bryan and George Nelson testified in opposition to the proposed rate increase; W.H. Crawford and Grace Erickson each testified generally in opposition to the rate increase and regarding water quality problems;

Figure "8" Island - (provided water utility service by Figure 8 Water Company): H.L. Funk, Jr., testified in opposition to the proposed increase and regarding water quality problems;

Olde Town Subdivision - (provided water utility service by Cape Fear Utilities, Inc.): James D. Smith and Ms. Jackie H. Stephenson each testified regarding problems with water pressure and water quality; and

Hickory Knoll Subdivision - (provided water utility service by Quality Water Supplies, Inc.): Brenda Olski testified in opposition to the increase and regarding water quality problems.

The Applicant presented evidence through the following witnesses: John Moran, Chief of Environmental Health for New Hanover County; James M. Brown, Health Director for New Hanover County; Eric Matzke, Assistant City Engineer for the City of Wilmington: Jack Stocks, land surveyor; G.W. Dobo, a corporate officer of and stockholder in each of the five corporate applicants; Winston Henderson, certified public accountant; and Bob Dobo, a corporate officer of each of the five corporate applicants.

The Public Staff presented evidence through its witnesses Rudy Shaw, Utilities Engineer with the Public Staff, and Jocelyn M. Perkerson, Staff Accountant with the Public Staff. Additionally, the Public Staff presented, pursuant to G.S. 62-68, the Affidavit testimony of Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff.

At the close of the hearing, the Hearing Examiner requested Public Staff Engineer Shaw to conduct a further investigation into service and water quality problems identified at the hearing and to submit a report with respect to those matters. The Hearing Examiner further requested Mr. Shaw to determine and to submit a sewer charge based upon metered water usage which would produce the required revenues. On November 10, 1981, the Public Staff filed a Motion seeking Commission approval to late file a report of Mr. Shaw containing the mentioned information and to have such made a part of the record in this matter. That Motion is allowed in this Order.

Based upon a careful consideration of the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. Each of the five applicant companies, Cape Fear Utilities, Inc., Pine Valley Water Company, Quality Water Supplies, Inc., Figure 8 Water Company, and Consolidated Utilities, Inc. (these five companies being referred to hereinafter as Cape Fear Utilities, Inc., et al. or Applicant Companies), is a public utility as defined in G.S. 62-3. Cape Fear Utilities, Inc., has been granted Certificates of Necessity and Convenience to provide water service in 18 subdivisions in New Hanover County and one subdivision in Brunswick County and to provide sewer service in some of those subdivisions. Pine Valley Water Company has been granted a Certificate of Necessity and Convenience to provide water and sewer service to Pine Valley Estates Subdivision in New Hanover County. Quality Water Supplies, Inc., has been granted Certificates of Necessity and Convenience to provide water service in 14 subdivisions in New Hanover County. Figure 8 Water Company has been granted a Certificate of Necessity and Convenience to provide watar service to Figure 8 Island in New Hanover County. Consolidated Utilities, Inc., has been granted a Certificate of Convenience and Necessity to provide water service to South Gate Subvdivision in New Hanover County.

2. As of December 31, 1980, the five Applicant Companies furnished water utility service to approximately 3,530 customers while the two of them which furnished sewer utility service provided that service to approximately 680 customers.

3. The management of, and at least to some extent, the ownership of, each of the five Applicant Companies is controlled by the same principals.

4. The test period for purposes of this proceeding is the 12-month period ended December 31, 1980, adjusted for known changes based upon events and circumstances occurring prior to the close of the hearing.

5. The present water rates of the five Applicant Companies are as follows:

For: Cape Fear Utilities, Inc., Pine Valley Water Company, Quality Water Supplies, Inc., and Consolidated Utilities, Inc.

0 - 3,000 gallons/Mo.	- $	5.00 (minimum charge)
Over 3,000 gallons/Mo./1,000 gallons	- $	.90
Surcharge for customers connected to elevated storage tank	- $	1.00/Mo.
Connection fee	- $	700.00

For: Figure 8 Island Utility Company

0 - 3,000 gallons/Mo.	- $	3.00 (minimum charge)
Over 3,000 gallons/Mo./1,000 gallons	- $	1.00
Connection fee	- $	250.00

The present sewer rates of the two Applicant Companies providing sewer service are as follows:

Metered Rate (based on metered usage)

0 - 3,000 gallons/Mo.	- $	10.00 (minimum charge)
Over 3,000 gallons/Mo./1,000 gallons	- $	1.80
Maximum sewer charge/Mo.	- $	20.00

Flat Rate (Governor's Square Apartments only)

$15.00 per month

Connection fee - $1,100.00 (per connection)

6. The Applicant Companies' proposed rates for water service are as follows:

For: All Applicant Companies

0 - 2,000 gallons/Mo.	- $	5.00 (minimum charge)
Over 2,000 gallons/Mo./1,000 gallons	- $	1.20
Surcharge for customers connected to elevated storage tank	- $	1.20/Mo.
Connection fee	- $1,100.00 (per connection)	

The Applicant Companies' proposed rates for sewer service (a metered rate was not proposed) are as follows:

Flat rate (Other than Governor's Square Apartments)	- $	20.00/Mo/connection
Connection fee	- $1,100.00 (per connection)	
Governor's Square Apartments	- $	15.00/Mo/connection

7. The Public Staff's proposed rates and charges are as follows:

Water

For: Cape Fear Utilities, Inc., Consolidated Utilities, Inc., Figure 8 Island Utility Company, Pine Valley Water Company, Inc., and Quality Water Supplies, Inc.

Metered Rates

0 - 3,000 gallons/Mo.	$	5.25 (minimum charge)
All over 3,000 gallons/Mo.	$	1.163 Per 1,000 gallons

Flat Rate

$5.00 per month until meter is installed

Elevated Tank Surcharge

$1.00 per month added to minimum charge of those customers connected to elevated storage

Sewer

For: Cape Fear Utilities, Inc., and Pine Valley Water Company, Inc.

Flat Rate (other than Governor's Square Apartments)

$19.80 per month per connection

Flat Rate (Governor's Square Apartments)

$14.80 per month per connection

Connection Fees

Water - $ 700 (except taps on existing lines in Figure 8 Island)
- $ 250 (taps to existing lines in Figure 8 Island)

Sewer - $1,100

8. The overall quality of the water utility and sewer utility service provided by the five Applicant Companies is good. However, certain deficiencies exist with respect to the quality of water provided by Cape Fear Utilities, Inc., to Olde Towne Subdivision in Brunswick County.

9. The existing water plants of the Applicant Companies are in excess of that which is reasonably required and the amount of $116,199 should be subtracted from the Applicant Companies' original cost net investment in order to eliminate such excess plant investment in transmission and distribution mains.

10. The Applicants' combined reasonable original cost rate base is $841,171, consisting of utility plant in service of $3,245,435, working capital of $14,269, and unamortized cost less deferred taxes of $6,767 reduced by prepaid taps on $32,650, contributions in aid of construction of $1,745,407, acquisition adjustments of $366,364, and accumulated depreciation of $280,879.

11. The Applicants' combined present end-of-period revenues are $531,415.

12. The Applicants' combined reasonable level of operating revenue deductions after accounting and pro forma adjustments is $520,123.

13. The reasonable capital structure for use herein is as follows:

Debt	50.0%
Equity	50.0%
	100.0%

14. The reasonable overall rate of return that the Applicants should have the opportunity to earn on their combined original cost rate base is 15.05%. Such fair rate of return is based upon an embedded cost of debt of 8.04% and a return on common equity of 22.05%, weighted by the capitalization ratio hereinabove found fair.

15. Based on the foregoing, it is just and reasonable to allow the Applicants to increase their rates on combined operations to produce $170,859

in additional annual gross revenues. This increased revenue requirement is based on the original cost of the Applicant Companies' property and their reasonable test year operating revenues and expenses previously determined. The rates approved herein, as set forth in Appendix A to this Order, are just and reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1, 2, 5, AND 6

The evidence for these findings of fact appears in the verified application filed by the five Applicant Companies and in the records of the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding of fact is contained in the testimony of Bob Dobo, the testimony of G.W. Dobo, and that of Public Staff witness Perkerson. Bob Dobo and G.W. Dobo are each corporate officers of the five Applicant Companies. Dobo Well Drilling, a concern owned by Bill Dobo, manages the five Applicant Companies. Bill Dobo is also a shareholder in each of the Applicant Companies.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this finding is contained in the verified application, the Commission Order Scheduling Hearing, the exhibits of Company witness Henderson, and the testimony and exhibits of Public Staff witness Perkerson.

The Public Staff reviewed the Companies' application and the exhibits of the Companies' witness, and presented its own testimony and exhibits concerning actual changes in revenues, expenses, and the cost of the Companies' utility property which were based upon the test year operations.

The Hearing Examiner concludes that for purposes of this case, the appropriate test year to be adopted and applied is the 12-month period ended December 31, 1980, as normalized to end-of-period levels.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this finding of fact appears in the testimony and exhibits of Public Staff witness Shaw.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence for this finding of fact is found in the testimony of Public Staff witness Shaw, Company witnesses Bill Dobo, Bob Dobo, Moran, Brown, and Matzke, as well as the testimony of the public witnesses.

Of the 36 North Carolina subdivisions being provided water utility service by the Applicant Companies, complaints on quality of service were received from only three subdivisions. Concerning the complaints of low water pressure, Mr. Shaw reported that at the time he made his checks, the water pressure was 30 psi in all areas that he checked except Olde Towne Subdivision.

Problems of water quality were brought up at the hearing with respect to four subdivisons: Figure "8" Island, Pirates Cove, Hickory Knoll, and Olde

Towne Subdivisions. The problem in Figure "8" Island Subdivision was of hard water. This problem was also shown in the chemical analysis reports filed by Mr. Shaw in his report. The Hearing Examiner is reluctant to require treatment for water hardness since the most effective method of controlling hardness is by the sodium ion exchange method which may be detrimental to persons suffering from heart conditions or hardening of the arteries, because sodium chloride is used in the process. Furthermore, results of chemical analyses submitted by Public Staff witness Shaw as late-filed exhibits with respect to the Pirates Cove and Hickory Knoll Subdivisions indicated the water supply for those subdivisions to be within acceptable limits.

The water quality problem which residents of Olde Towne Subdivision are experiencing is related to a high iron content in the water. This can and should be treated by the utility company. The treatment system presently in operation is not working properly, as Mr. Shaw's reports point out. Therefore, the Hearing Examiner concludes that the Applicant Companies should make every reasonable effort to correct the existing iron problem in Olde Towne Subdivision, and any other service problems on the system as a whole. In this regard, the Hearing Examiner concludes that, in view of the sevice problems with respect to low water pressure and a high iron content in the water presently being supplied to customers residing in the Olde Towne Subdivision, no rate increase should be granted with regard to said subdivision until such time as the Applicants have taken all reasonable steps necessary to correct said deficiencies. As one of its alternatives to solving the water problems in question, the Applicant Companies are certainly free to pursue negotiations with the Lower Cape Fear Water Authority for a supply of potable water to serve the Olde Towne Subdivision. The Applicant Companies will be required to file a report detailing their plans and setting forth therein a time schedule for correcting the problems afffecting the Olde Towne Subdivision.

There were no complaints regarding sewer service.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

Public Staff witness Shaw gave testimony that the water systems of the Applicant Companies were installed to serve approximately 4750 customers although there are not enough actual customers to support such a large capital expansion program. Under Commission Rule R7-16 regarding extension of mains, the utility companies could have required the developers of these 4750 lots to advance the funds necessary for construction of the water systems. This would have reduced the actual investment in the water systems by the Applicant Companies to an amount more consistent with the fair share of the total investment to be borne by the present customers. Therefore, the Hearing Examiner concludes that an excess plant adjustment similiar to that advanced by witness Shaw is warranted.

The Hearing Examiner's calculation of excess plant differs from that supported by the Public Staff in that it considers the effects of contributions in aid of construction. Therefore, the Hearing Examiner concludes that the proper excess plant adjustment to be used in setting fair and reasonable rates in this proceeding is $116,199.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding of fact is found in the exhibits of Company witness Henderson and the testimony and exhibits of Public Staff witness Perkerson. The Public Staff presented testimony and exhibits for both the water system and the sewer system. Since the Applicants have five times more water customers than sewer customers, the Public Staff contends it is necessary to set rates for each utility service so as to assure that cross-subsidization is not built into the rates approved in this proceeding. The Hearing Examiner in both instances agrees with the Public Staff; however, for the purpose of this Order the Hearing Examiner is combining the figures separately derived by the Public Staff to more clearly relate them to the combined operations of the Applicant Companies. The combined Public Staff figures for original cost net investment are shown in the chart which follows:

	Water	Sewer	Combined
Plant in service	$2,284,916	$ 770,561	$3,055,477
Accumulated depreciation	(204,156)	(59,740)	(263,896)
Contributions in aid of construction	(1,607,806)	(137,601)	(1,745,407)
Acquisition adjustment	(44,624)	(321,740)	(366,364)
Prepaid taps	(32,650)	-	(32,650)
Allowance for working capital	37,967	9,883	47,850
Unamortized cost less deferred taxes	6,767	-	6,767
End-of-period customer deposits	(20,187)	(3,199)	(23,386)
Average tax accruals	(14,524)	(900)	(15,424)
Total	$ 405,703	$ 257,264	$ 662,967

The following chart compares the amounts which the Company and Public Staff contend should be included in the Applicants' combined original cost net investment for use in this proceeding.

	Company	Public Staff	Difference
Plant in service	$3,361,634	$3,055,477	$(306,157)
Accumulated depreciation	(291,251)	(263,896)	27,355
Contributions in aid of construction	(1,745,407)	(1,745.407)	-
Acquisition adjustments	(366,364)	(366,364)	-
Prepaid taps	(32,650)	(32,650)	-
Allowance for working capital	65,576	9,040	(56,536)
Unamortized cost less deferred taxes	-	6,767	6,767
Total	$ 991,538	$ 662,967	$(328,571)

The Company and the Public Staff are in agreement on the amounts for contributions in aid of construction, acquisition adjustments, and prepaid taps. There being no evidence to the contrary, the Hearing Examiner concludes that those amounts as presented by both the Company and the Public Staff are reasonable and proper.

The first difference of $306,157 relates to overbuilt plant and is explained in Evidence and Conclusions for Finding of Fact No. 9. For this proceeding, the Hearing Examiner concludes that the proper adjustment for this item is $116,199, thereby reducing the Public Staff adjustment by $189,958.

The second difference is a reduction of $27,355 to accumulated depreciation made by the Public Staff. This reduction was necessitated by the removal of the overbuilt plant of $306,157. The overbuilt plant was totally associated with the water system. Since the Hearing Examiner has concluded that the proper overbuilt plant adjustment is $116,199, consistency dictates that the appropriate adjustment to decrease water accumulated depreciation is $10,372.

Both the Company and the Public Staff agreed on the accumulated depreciation of $59,740 for the sewer system.

The Hearing Examiner, based on the facts presented above, concludes that the proper level of combined accumulated depreciation for this proceeding is $280,879.

The third difference is a reduction in the working capital allowance of $56,536.

Company witness Henderson and Public Staff witness Perkerson each presented a different amount for the working capital allowance. Company witness Henderson's exhibits show that he included an amount equal to one-eighth of expenses less depreciation and interest. The allowance for working capital thus derived was $65,576.

Public Staff witness Perkerson presented a working capital allowance computed on a formula method, consisting of one-eighth of operating expenses plus interest on customer deposits less purchased power and depreciation to arrive at a cash working capital amount of $47,850. This amount was further reduced by end-of-period customer deposits of $23,386 and average tax accruals of $15,424 to derive an allowance for working capital of $9,040.

A comparison of the two working capital allowances follows:

	Company	Public Staff	Difference
Cash	$65,576	$ 47,850	$(17,726)
End-of-period customer deposits	-	(23,386)	(23,386)
Average tax accruals	-	(15,424)	(15,424)
Working capital allowance	$65,576	$ 9,040	$(56,536)

The major differences arise due to Public Staff witness Perkerson's exclusion of purchased power from expenses to arrive at cash working captial and the further exclusion of end-of-period customer deposits and average tax accruals in determining an allowance for working capital.

The Hearing Examiner concludes that proper rate-making treatment to be used in determining a fair and reasonable level of working capital in this proceeding is the method used by the Public Staff, except that purchased power should not be deducted from expenses in arriving at the proper level of cash working capital. Therefore, the Hearing Examiner concludes that the proper level of working capital for the Applicants' combined operation, to be used in determining fair and reasonable rates in this proceeding, is $14,269.

The fourth difference is an addition by the Public Staff of $6,767 for unamortized cost less deferred taxes.

Public Staff witness Perkerson presented testimony and exhibits to show that unamortized rate case and water analysis fees less deferred taxes should be included in the original cost rate base. Therefore, the Hearing Examiner concludes that the proper level of unamortized cost less deferred taxes is $6,767 and concurs that this amount should be included in the original cost rate base.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Both Company witness Henderson and Public Staff witness Perkerson pressented exhibits and testimony showing present end-of-period revenues of $531,415.

There being no evidence to the contrary, the Hearing Examiner concludes that present end-of-period revenues on combined operation is $531,415.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence for the finding of this fact is found in the exhibits of Company witness Henderson and the exhibits and testimony of Public Staff witness Perkerson.

After a careful and deliberate review of the entire record in this matter, the Hearing Examiner concludes that the operating revenue deductions for the Applicants' combined operations supported by the Public Staff are reasonable, except for three items. First, the Hearing Examiner concludes that the proper adjustment to depreciation expense related to the overbuilt plant adjustment is $5,810, consistent with the methodology used by the Hearing Examiner under Evidence and Conclusions for Finding of Fact No. 9. Second, the Hearing Examiner concludes that the proper level of interest on customer deposits to be used in calculating Applicants' cost of service is $1,622, consisting of $1,379 asociated with the water operations, and $243 associated with the sewer operations. Third, the Hearing Examiner concludes that under present rates, the proper levels of State and federal income taxes are ($1,737) and ($4,693) respectively. Hence, total operating revenue deductions, including income taxes, under present rates for the Applicants' combined operations are $520,123.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence for this finding of fact is found in the testimony and exhibits of Public Staff witness Perkerson and the Affidavit of Public Staff Economist Stevie. The Company provided no exhibits and testimony regarding capital structure.

The Public Staff evidence indicated that a capital structure of 50% debt and 50% equity is consistent with the Commission's decisions regarding other companies of this size and nature.

The Hearing Examiner, after reviewing the evidence, concludes that the capital structure presented by the Public Staff is reasonable and further

concludes that for these proceedings the proper capital structure is 50% debt and 50% equity.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14 AND 15

The evidence for these findings of fact is found in the exhibits and testimony of Public Staff witness Perkerson, the affidavit of Public Staff Economist Stevie and the exhibits of Company witness Henderson.

The overall rates of return presented by the Public Staff and Company were as follows:

Company	15.25%
Public Staff	16.9%

After a careful review of the record, the Hearing Examiner concludes that the Public Staff's cost of debt of 8.04% is reasonable. Further, the Hearing Examiner concludes that, consistent with the proposed rates filed in the application, an overall rate of return of 15.05% on the Applicants' combined operations is not unreasonable to either the Applicants or their customers. In order to achieve this overall rate of return, the Hearing Examiner concludes that, based on the decisions enumerated above, and reflected in the following schedules, the Applicants should be allowed to increase their annual gross revenues by $170,859. The Applicants will not, however, be permitted to increase water utility rates in the Olde Towne Subdivision until such time as certain service improvements have been completed in conformity with the requirents of this Order as previously set forth hereinabove. Therefore, until such time as the required service improvements are made in the Olde Towne Subdivision the Applicant Companies will not be permitted to realize the entire revenue increase granted herein.

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279 Sub 9
SCHEDULE II
STATEMENT OF RATE BASE
Twelve Months Ended December 31, 1980
COMBINED OPERATIONS

Item	Present Rates	Approved Rates
Original Cost of Combined Plant		
Plant in Service	$ 3,361,634	$ 3,361,634
Less: Overbuilt plant	(116,199)	(116,199)
Accumulated depreciation	(280,879)	(280,879)
Acquisition adjustment	(366,364)	(366,364)
Prepaid taps	(32,650)	(32,650)
Contributions in aid of construction	(1,745,407)	(1,745,407)
Unamortized cost	6,767	6,767
Allowance for Working Capital		
Cash	53,079	53,079
Less: Customer deposits	(23,386)	(23,386)
Average tax accruals	(15,424)	(15,424)
Total allowance for working capital	14,269	14,269
Original cost rate base	$841,171	$ 841,171
Overall rate of return	1.34%	15.05%

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279, Sub 9
SCHEDULE II-A
STATEMENT OF RATE BASE
Twelve Months Ended December 31, 1980
WATER OPERATIONS

Item	Present Rates	Approved Rates
Original Cost of Water Plant		
Water plant in service	$ 2,591,073	$ 2,591,073
Less: Overbuilt plant	(116,199)	(116,199)
Accumulated depreciation	(221,139)	(221,139)
Acquisition adjustment	(44,624)	(44,624)
Prepaid taps	(32,650)	(32,650)
Contributions in aid of construction	(1,607,806)	(1,607,806)
Allowance for Working Capital		
Cash	42,153	42,153
Less: Customer deposits	(20,187)	(20,287)
Average tax accruals	(14,524)	(14,524)
Total allowance for working capital	7,442	7,442
Original cost rate base	$ 582,864	$ 582,864
Overall rate of return	2.83%	15.67%

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279 Sub 9
SCHEDULE II-B
STATEMENT OF RATE BASE
Twelve Months Ended December 31, 1980
SEWER OPERATIONS

	Present Rates	Approved Rates
Original Cost of Sewer Plant		
Sewer Plant in Service	$ 770,561	$ 770,561
Less: Accumulated depreciation	(59,740)	(59,740)
Acquisition adjustment	(321,740)	(321,740)
Contributions in aid construction	$(137,601)	(137,601)
Allowance for Working Capital		
Cash	10,926	10,926
Less: Customer deposits	(3,199)	(3,199)
Average tax accruals	(900)	(900)
Total allowance for working capital	6,827	16,827
Original cost rate base	$258,307	$258,307
Overall rate of return	(2.01%)	13.65%

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. 279, Sub 9
SCHEDULE I
STATEMENT OF OPERATING INCOME FOR RETURN
Twelve Months Ended December 31, 1980
COMBINED OPERATIONS

Item	Rates	Increase Approved	After Increase Approved
Operating revenue	$531,415	$170,859	$702,274
Operating Revenue Deductions			
Operation and maintenance	449,620	-	449,620
Depreciation	30,590	-	30,590
Interest on customer deposits	1,622	-	1,622
General taxes	44,721	8,024	52,745
Income taxes:			
State	(1,737)	9,770	8,033
Federal	(4,693)	37,807	33,114
Total operating revenue deductions	520,123	55,601	575,724
Operating income for return	$ 11,292	$115,258	$126,550

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. 279 Sub 9
SCHEDULE I-A
STATEMENT OF OPERATING INCOME FOR RETURN
Twelve Months Ended December 31, 1980
WATER OPERATIONS

Item	Rates	Increase Approved	After Increase Approved
Operating revenues	$441,550	$111,384	$552,934
Operating Revenue Deductions			
Operation and maintenance	362,458	-	362,458
Depreciation	23,809	-	23,809
Interest on customer deposits	1,379	-	1,379
General taxes	39,412	4,455	43,867
Income taxes:			
State	(536)	6,415	5,879
Federal	(1,449)	25,685	24,236
Total operating revenue deductions	425,073	36,555	461,628
Operating income for return	$ 16,477	$ 74,829	$ 91,306

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. 279 Sub 9
SCHEDULE I-B
STATEMENT OF OPERATING INCOME FOR RETURN
Twelve Months Ended December 31, 1980
SEWER OPERATIONS

Item	Present Rates	Increase Approved	After Increase Approved
Operating revenue	$89,865	$ 59,475	$149,340
Operating Revenue Deductions			
Operation and maintenance	87,162	-	87,162
Depreciation	6,781	-	6,781
Interest on customer deposits	243	-	243
General taxes	5,309	3,569	8,878
Income taxes:			
State	(1,201)	3,355	2,154
Federal	(3,244)	12,122	8,878
Total operating revenue deductions	95,050	19,046	114,096
Operating income for return	$(5,185)	$40,429	$ 35,244

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279, Sub 9
SCHEDULE III-A
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended December 31, 1980
WATER OPERATIONS

	Original Cost Rate Base	Ratio %	Embedded Cost	Net Operating Income
	Present Rates - Original Rate Base			
Debt	$291,432	50.00	8.04	$23,431
Equity	291,432	50.00	(2.39)	(6,954)
Total	$582,864	100.00		$16,477
	Approved Rates - Original Cost Rate Base			
Debt	$291,432	50.00	8.04	$23,431
Equity	291,432	50.00	23.29	67,875
Total	$582,864	100.00		$91,306

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279, Sub 9
SCHEDULE III-B
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended December 31, 1980
SEWER OPERATIONS

	Original Cost Rate Base	Ratio %	Embedded Cost	Net Operating Income
	Present Rates - Original Rate Base			
Debt	$129,154	50.00	8.04	$ 10,384
Equity	129,154	50.00	(12.05)	(15,569)
Total	$582,864	100.00		$ (5,185)
	Approved Rates - Original Cost Rate Base			
Debt	$129,154	50.00	8.04	$10,384
Equity	129,154	50.00	19.25	24,860
Total	$258,308	100.00		$35,244

CAPE FEAR UTILITIES, INC., ET AL.
Docket No. W-279, Sub 9
SCHEDULE III
STATEMENT OF CAPITALIZATION AND RELATED COSTS
Twelve Months Ended December 31, 1980
COMBINED OPERATIONS

	Original Cost Rate Base	Ratio %	Embedded Cost	Net Operating Income
	Present Rates - Original Rate Base			
Debt	$420,586	50.00	8.04	$33,815
Equity	420,586	50.00	(5.36)	(22,523)
Total	$841,172	100.00		$11,292
	Approved Rates - Original Cost Rate Base			
Debt	$420,586	50.00	8.04	$33,815
Equity	420,586	50.00	22.05	92,735
Total	$841,172	100.00		$126,550

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of Rates which is attached hereto as Appendix A is hereby approved for the water utility service and such sewer utility service as is being provided by the five Applicant Companies to the customers residing in areas in which each has been authorized by the Commission to provide such service or services.

2. That said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

3. That said Schedule of Rates is hereby authorized to become effective for service rendered on and after the date this Recommended Order becomes effective and final.

4. That the Applicant Companies shall file a report in this docket not later than thirty (30) days from the effective date of this Recommended Order detailing therein their plans and setting forth therein a time schedule for correcting the problems with water pressure and quality affecting the Olde Towne Subdivision.

5. That each of the five Applicant Companies shall provide to its customers written notice of the new rates and charges approved herein which are applicable to such customers, which written notice shall be mailed or hand delivered to all such customers in conjunction wtih the next regularly scheduled billing process which shall occur after this Recommended Order becomes effective and final.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of January 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sharon Credle Miller, Deputy Clerk

APPENDIX A
Docket No. W-279, Sub 9
SCHEDULE OF RATES
For
Cape Fear Utilities, Inc. - Water and Sewer Service
Consolidated Utilities, Inc. - Water Service Only
Figure 8 Island Utility Company - Water Service Only
Pine Valley Water Company, Inc. - Water and Sewer Service
Quality Water Suplies, Inc. - Water Service Only

WATER UTILITY SERVICE
METERED RATES

(All Subdivisions except Olde Towne Subdivision)

Metered Rates

0 - 2,000 gallons per month	- $5.00 (minimum Charge)
All over 2,000 gallons per month	- $1.20 per 1,000 gallons

Olde Towne Subdivision

Metered Rates

0 - 3,000 gallons per month	- $5.00 (minimum charge)
All over 3,000 gallons	- $ .90 per 1,000 gallons

Flat Rate

$5.00 per month until meter is installed

Elevated Tank Surcharge

$1.00 per month added to minimum charge for those customers connected to elevated storage

SEWER UTILITY SERVICE

Flat Rate

$20.00 per month per connection - (other than Governor's Square Apartments)

$15.00 per month per connection - (Governor's Square Apartments)

Connection Charges

Water - $ 700.00 (except taps to existing lines in Figure "8" Island)
$ 250.00 for connections to existing water lines in Figure "8" Island
Sewer - $1,100.00

Reconnection Fee

Water - If service cut off by utility for good cause - $10.00
If service discontinued at customer's request - $ 2.00

Sewer - If service cut off by utility for good cause - $15.00

Special Charges

$2.00 one time charge for setting up new accounts
$5.00 charge for bad checks

Bills Due : On billing date

Bills Past Due : Fifteen (15) days after billing date

Finance Charge for Late Payment - 1% per month will be applied to the unpaid balance on all bills still past due twenty-five (25) days after billing date

Billing Frequency - monthly, for service in arrears

ISSUED IN ACCORDANCE WITH AUTHORITY GRANTED BY THE NORTH CAROLINA UTILITIES COMMISSION IN DOCKET NO. W-279, SUB 9, on this the 11th day of January 1982.

DOCKET NO. W-354, SUB 16

BEFORE THE NORTH CARCLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Water Service, Inc. of North Carolina, 2335 Sanders Road, Northbrook, Illinois, for Authority to Increase Rates for Water and Sewer Service for Areas Served by Applicant in North Carolina	)	RECOMMENDED ORDER GRANTING INCREASE IN RATES

HEARD IN: Conference Room, Basement, Health and Social Services Department, Woodfin Street, Asheville, North Carolina, on October 12, 1981, beginning at 7:00 p.m.

Auditorium, Charlotte Public Library, 310 North Tryon Street, Charlotte, North Carolina, on October 14, 1981, beginning at 9:00 a.m.

Hearing Room #2, Room 537, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on October 15, 1981, beginning at 9:00 a.m.

Auditorium, Municipal Building, 202 South 8th Street, Morehead City, North Carolina, on October 20, 1981, beginning at 9:00 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Henry S. Manning, Jr., and Edward S. Finley, Hunton & Williams, Attorneys at Law, Post Office Box 109, Raleigh, North Carolina 27602

For the Public Staff:

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 Residents of Kings Grant Subdivision:

Ms. Kathy E. Quinn, and Other Residents, 503 King Arthur Lane Gastonia, North Carolina 28052
For: Themselves

PARTIN, HEARING EXAMINER: On June 1, 1981, Carolina Water Service Inc. of North Carolina (hereinafter "Applicant" or "the Company") filed an application with the Commission for authority to increase rates for water and sewer service in all of its service areas in North Carolina. In its application, Applicant proposed an annual increase in gross revenues of $174,737.

By Order issued July 1, 1981, the Commission declared the matter a general rate case, suspended the proposed rates pursuant to G.S. 62-134, scheduled the matter for public hearings beginning on October 12, 1981, required Applicant to give notice of such hearing by newspaper publication and by appropriate bill inserts, established the test year to be used by all parties in the proceeding, and required interventions, motions or protests to be filed in accordance with rules of the Commission.

On July 24, 1981, the Company requested to amend its filing to increase the reconnection charge for water service in all subdivisions to $7.50.

On August 20, 1981, the Public Staff filed Notice of Intervention. Such notice is deemed approved pursuant to Rule R1-19(3) of the Commission's rules and regulations. On October 5, 1981, Robert F. Orr filed Notice of Intervention on behalf of the residents of Bent Creek and Mt. Carmel subdivisions in Buncombe County, North Carolina. This intervention was allowed by Order of the Commission dated October 9, 1981.

The Commission subsequently received between 35 and 40 petitions to intervene from customers of the Kings Grant service area near Gastonia. At the October 14, 1981, hearing in Charlotte, the Hearing Examiner allowed the interventions of Mrs. Kathy E. Quinn and other customers in Kings Grant.

This matter came on for hearing in the four locations designated in the Commission's July 1, 1981, Order. Testimonies were received from witnesses in each geographical service area as follows:

Asheville

The public witnesses included Neal Evans, Glen Gleghorn, W. H. Arthur, Juanita Babb, Jim Gilgon, Herbert Gibson, Jr., Robert Ball, James Burgess and Samual Penland. The Company presented testimony from Terry Gross of the Division of Health Services and David Owens of the Company.

Charlotte

The public witnesses included Kathy Quinn, Jimmy Hager, Joe T. McDaniel, Dennis Johnson, Mary Anne Welch, Terry Loftin, Michael Royston, Michael D. Ballard, Tim Duncan, Ernest McElroy, Ed Ingle, Dewey Moose, Charlene Bragg, Debbie Wood, Judy Brown, John Swain, Ethel Jordan, Priscilla Clawson and Dan Wolfe. The Company presented testimony of David Owens.

Raleigh

Testimony was received from Keith R. Cardey, Patrick J. O'Brien and David L. Owens on behalf of the Applicant. Testimony was received from Elizabeth Porter and Jerry H. Tweed on behalf of the Using and Consuming Public.

Morehead City

The public witnesses were Lawrence Jerome and William K. Bosse. The Company presented testimony of Patrick O'Brien.

The testimony of the public witnesses may be summarized as follows:

In Asheville nine customers testified from the Bent Creek/Mt. Carmel area. Several customers stated that there is a film on the surface of the water. Some customers testified that the water tends to stain the procelain of sinks, commodes, and bathtubs; that the water is not always completely clear; and that on occasion it smells and tastes like chlorine. Several customers complained that the water discolored laundry. There was testimony of sedimentation in hot water heaters, and a few customers indicated that it was necessary to apply filters to water lines. The customers also testified that the rates proposed by the Company were too high for the quality of service provided to them. At least one customer testified that the service has improved and that he had no complaints with respect to quality.

In Charlotte seventeen customers testified from the Kings Grant and Cabarrus Woods subdivisions. Most of these customers complained that there were excessive concentrations of iron in the water which was manifested by muddy or rusty color and which caused damage to hot water heaters and discoloration of bath fixtures and washed clothing. Some customers testified to the presence of air bubbles in the water. Other customers testified about low water pressure. A few customers complained about billing problems. Kathy Quinn presented her analysis of the effect that the proposed increases would have on the bills of those customers living in Kings Grant. Joe T. McDaniel, the President of Kings Grant Investment, testified on the adverse effect that the proposed water rates would have on the swimming pool bill of the local swimming club.

Two customers testified from the Misty Mountain development. One customer stated that sometimes the water is a milky color. She further complained about the lack of sufficient communications from the Company. The other customer testified about having to replace hot water heaters and faucets and about air bubbles in the water. Two customers testified from the Pine Knoll Shores area. These customers opposed the establishment of an integrated rate and complained that the Commission had failed to address their complaints in past orders. These customers also opposed the fire hydrant fee charged to customers in Pine Knoll Shores.

The Applicant offered the following witnesses who testified in support of the application:

Mr. Terry Gross, an environmental engineer with the North Carolina Division of Health Services, testified that he is responsible for insuring that water systems such as Applicant's meet all standards of the North Carolina Drinking Water Act and the Environmental Protection Agency (EPA) Primary Drinking Water regulations. Mr. Gross, in the conduct of his duties, monitors the systems at Bent Creek and Mt. Carmel. He stated that between February 28, 1980, and the date of the hearing he had conducted six (6) chemical analysis or field tests on the Bent Creek/Mt. Carmel systems. Such tests are conducted to monitor the levels of 23 elements in the water. Mr. Gross stated that over the past two years his tests have revealed that all elements except iron are within the limits established by North Carolina and the EPA. He has never found any evidence of iron bacteria. Mr. Gross stated that iron is often found in water systems in the Asheville area and that the percentage of iron in the water at Bent Creek/Mt. Carmel is low compared to that of surrounding systems. The concentrations for iron are approximately 2.73 parts per million on the Bent Creek/Mt. Carmel system in comparison to 13 to 14 parts per million in surrounding systems.

Mr. Gross outlined the improvements which Applicant has made in the Bent Creek/Mt. Carmel area. Booster pumps at a 130,000 gallon water storage tank were installed in 1980. The storage tank had to be sandblasted and repainted since it caused a higher amount of iron to circulate on the system. Filters have been installed on wells. Mr. Gross indicated that the responsiveness by the Company to requests that he made is "super". He stated that the percentage of chlorine found in the water at Bent Creek/Mt. Carmel is within State limits. Mr. Gross stated that he has received only one complaint from the Bent Creek/Mt. Carmel customers in the past six months.

Mr. David L. Owens, Executive Vice President for Applicant and its parent company, Utilities Inc., testified in response to customer statements. He testified that the Applicant has spent approximately $140,000 on the Bent Creek and Mt. Carmel systems in 1980 and 1981. Applicant has added wiring, controls and blowers to treatment plants. Mr. Owens testified that since acquisition of the Kings Grant and Cabarrus Woods subdivisions the Company has attempted to sequester iron with phosphate. It has undertaken a flushing program, has initiated plans to construct a third well, and has interconnected the systems at Cabarrus Woods. It has added an aerator to the second pond at Kings Grant and is adding chlorine at Cabarrus Woods and at Kings Grant. Most of the wells in the Cabarrus Woods subdivision have been rewired and the pressure switch and settings at most wells have been adjusted.

Mr. Patrick J. O'Brien, Treasurer of Applicant and Utilities Inc., sponsored the Company's application and its financial exhbiits. Mr. O'Brien testified that it was appropriate to adopt a uniform rate structure to avoid the expense necessitated by separate rate cases for each subdivision and to avoid radical fluctuation in rates which arises when capital additions and large expenses must be absorbed by a relatively small number of customers. The Company proposed a flat sewer charge. Mr. O'Brien testified that the Company had a cumulative loss of $102,000 from many years of operation in North Carolina. These deficit retained earnings reflect the additional investment the Company shareholders have made to keep the operations going. Mr. O'Brien testified that the revenue increase sought would produce revenues

of only $853,000. This is a lower return than the Company believes necessary and it has been requested only to produce the minimum cash flow required to restore the Company to financial viability. Mr. O'Brien testified that it is necessary for the Company to amend its service contract to more appropriately allocate the costs incurred by the service company to the operating utilities.

Mr. Keith Cardey, a management consultant primarily in the public utility field from Chicago, Illinois, testified that services provided to the Company from Water Service Corporation are necessary and essential to its wellbeing. Water Service Corporation charges no management fee and its services are provided at actual costs. Mr. Cardey testified that the requested modification to the service contract was made at his suggestion to more accurately allocate costs to the utilities benefitted. He testified that the Company is a small utility and, if operated independently, would need executive, financial, engineering, accounting, tax, regulatory and similar services. This would require additional personnel on the Company's payroll or necessitate the Company contracting for such services. Mr. Cardey outlined the procedure whereby common expenses are allocated to the operating companies and he stated that these procedures are reasonable.

Mr. Cardey recommended an appropriate capital structure of 50% debt and 50% equity even though the actual capitalization is much more heavily weighted with equity. He testified that a fair rate of return on equity would be not less than 18% and that the overall cost of capital for the Company is 16.45%.

The Public Staff presented testimony of the following witnesses:

Elizabeth C. Porter, Staff Accountant in the Public Staff's Accounting Division, testified to the Public Staff's investigation into the Company's level of revenue, expenses and investment. Ms. Porter conducted an audit of the Company's books of account and also traveled to Northbrook, Illinois, to investigate the propriety of allocated expenses. Ms. Porter testified that she analyzed the expenses being allocated from the service company and concluded that the expenses were both reasonable and equitably allocated. She testified that the cost of providing the corporate services would be much greater if each operating company had to provide these services on an individual basis. The theory of economy of scale applies in the allocation of these expenses.

Mr. Jerry H. Tweed, Director of the Water and Sewer Division of the Public Staff, testified that he evaluated the 100% billing analysis performed by the Company and performed a field investigation with regard to the level of service in general in the areas served by the Company. Mr. Tweed confirmed the results of the Company's billing analysis. He evaluated the operations of several systems of the Company across the state and concluded that the level of service appears to be generally satisfactory. With respect to complaints voiced by customers in the Asheville and Kings Grant areas Mr. Tweed testified that some of the problems have accumulated over the years and resulted from iron or rust that had accumulated in the mains. Mr. Tweed testified that the iron being encountered by customers in Kings Grant results from the iron breaking loose from the mains or coming from the water heaters. He testified that he examined the water at Kings Grant and found it clear with the exception of some air bubbles. He testified that the presence of the third well in the Bent Creek/Mt.Carmel area will reduce the amount of iron going

into the system since the iron filters on the well will greatly reduce the iron content. The same result should follow by the presence of a third well at Kings Grant. Mr. Tweed testified that he was satisfied by the efforts made by the Company at most of the service areas in regard to improving the level of service.

Based upon the testimony and evidence adduced at the hearings and the entire record in this proceedings, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation duly franchised by this Commission to operate as a pubic utility and to provide water and sewer utility service to customers residing in its North Carolina service areas.

2. The test period used in this proceeding consists of the 12-month period ended December 31, 1980.

3. Carolina Water Service, Inc., presently provides water and/or sewer utility service to approximately 7000 customers in 35 service areas across the State of North Carolina.

4. The Applicant currently furnishes water and sewer service under its certificate of public convenience and necessity utilizing rate structures which vary from one service area to another.

5. Applicant proposes to charge the following uniform rates for water service in all of its service areas:

METERED WATER RATES

(A) Minimum charge per month (includes first 3,000 gallons or 401 cubic feet per month).

3/4" service line or meter - $ 7.00

1" service line or meter - 17.50

1-1/2" service line or meter - 35.00

2" service line or meter - 56.00

3" service line or meter - 112.00

4" service line or meter - 175.00

(B) $1.50 per 1,000 gallons or 134 cubic feet for all usage over first 3,000 gallons or 401 cubic feet per month.

6. Applicant proposes to charge the following rate for sewer service:

SEWER RATES: (Residential)

Flat rate per month per dwelling unit	$ 15.00

SEWER RATES: (Commercial)

Flat rate per single family equivalent	$ 15.00

7. The Applicant's original cost of its plant in service for providing water and sewer service to its customers in North Carolina is $5,517,571, and its reasonable allowance for cash requirements is $47,084. The Company's total investment and working capital allowance is $5,564,655.

8. The reasonable amount of deductions of $3,526,633 from the Applicant's total investment and working capital consists of the following: Contributions in aid of construction in the amount of $2,440,197; accumulated depreciation in the amount of $412,296; utility plant acquisition adjustment in the amount of $659,869; customer advances for construction in the amount of $6,672; customer deposits in the amount of $5,378; and average tax accruals in the amount of $2,221.

9. The Applicant's reasonable original cost net investment is $2,038,022.

10. TheApplicant's gross revenues for the test year under present rates, after accounting and pro forma adjustments, are $680,473. After giving effect to the Company's proposed rates, such gross revenues are $855,210. The Company's proposed rates would produce $853,770 ($680,473 + $173,297) in gross revenues if the proposed increase in fire hydrant rental is excluded.

11. The reasonable level of test year intrastate operating revenue deductions after accounting, pro forma, and end-of-period adjustments is $562,278. This amount includes $41,794 for investment currently consumed through reasonable actual depreciation on an annual basis.

12. Based on the foregoing, Carolina Water Service, Inc., should be allowed an increase in annual gross revenues of $173,297. This increase is required in order for the Company to have a reasonable opportunity to earn an 11.30% rate of return on its rate base which the Commission finds just and reasonable.

13. The uniform rate structure proposed by Carolina Water Service is fair and reasonable, but the Company has not justified its proposed increase in fire hydrant rental fees in Pine Knoll Shores.

14. Carolina Water Service's requested collection charge for late payment of $2.00 is unjust and unreasonable.

15. The requested method of allocating common expenses to Applicant from Water Service Corporation is reasonable and the service charge paid to Water Service Corporation is reasonable.

16. The amendment to the service contract between the Applicant and Water Service Corporation sought by Applicant properly reflects the proper allocation of costs.

17. The service provided by the Company to its customers in North Carolina is adequate. Some customer complaints remain, however, in the Bent Creek/Mt. Carmel subdivisions in Buncombe County, in the Kings Grant subdivision in Gaston County, in the Cabarrus Woods Subdivision in Cabarrus County and in the Misty Mountain subdivision near Boone.

These complaints may be summarized as follows:

Bent Creek/Mt. Carmel/Lees Ridge

Customer complaints primarily included too much chlorine in the water, film on water, iron in water, and improper notification when the Company is flushing mains.

Kings Grant

Complaints included stains on clothes due to iron or possibly manganese, air bubbles in water, low pressure and poor communication between company and customers, and several individual billing problems.

Cabarrus Woods

Complaints included damaged water heaters and ice makers due to calcium hardness, stains on clothes and fixtures possibly due to iron, and the unsightly appearance of well sites and sewer plant.

Misty Mountain

Customer complaints included milky, dirty water and poor communications between the Company and customers.

Many of these problems were inherited by the Company from previous owners of the water systems. Some problems, noticeably the presence of iron in the water, result from the geological make-up of a particular area. The quality of the water provided by the Company complies with the regulations of the State of North Carolina and the Environmental Protection Agency. The Company is attempting to correct the problems complained of.

18. The proper rates to be charged by Carolina Water Service Inc. of North Carolina to its customers are those rates contained in Appendix A attached hereto.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 6

These findings are based on the official records of the Commission and on the application (as amended) of Carolina Water Service, Inc., in this docket.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 7 - 9

The evidence for Findings of Fact Nos 7 through 9 is contained in the testimony and exhibits of Applicant Witness O'Brien and Public Staff Witness Porter. Both witnesses are in agreement on the appropriate levels of utility plant in service, deductions from utility plant in service, and the working

capital allowance. The Commission therefor deems the amounts set forth by the Company and the Public Staff to be reasonable and, therefore, approves them.@

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 10 and 11

The Company and the Public Staff agree that the gross revenues after accounting and pro forma adjustments, under present rates, are $680,473 and that the revenue deductions after like adjustments are $562,278.

After the proposed increase the gross revenues under the Company's proposed rates are $855,210. The Public Staff's proposed rates will produce gross revenues of $853,770. Similarly the Company's revenue deductions would be $624,436 as opposed to the Public Staff's revenue deductions of $623,697.

The difference between the Company and Public Staff amounts recognizes the adjustment by the Public Staff in its proposed Order to eliminate the increase in fire hydrant rental fees. The Examiner has elsewhere found and concluded that the proposed increase in fire hydrant rental fees in Pine Knoll Shores should be denied. (See Finding of Fact No. 13).

The Commission, therefore, rules that the gross revenues for the test year, after accounting and pro forma adjustments, are $680,473 under the present rates and are $853,770 under the rates proposed by the Public Staff.

The Commission further concludes that the proper level of test year operating revenue deductions after accounting and pro forma adjustments, including taxes and interest on customer deposits, is $562,278 which includes the amount of $41,794 for actual investment currently consumed through reasonable and actual depreciation. Under the Public Staff's proposed rates, and after like adjustments, the proper level of revenue deductions would be $623,697.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The evidence underlying Finding of Fact No. 12 is contained in the testimony of Applicant Witness Cardey and in the testimony and exhibits of Public Staff Witness Porter.

Mr. Cardey recommended that a pro forma capital structure of 50% debt and 50% equity be used for purposes of this case, although the actual capitalization for the Company is 36.5% debt and the balance equity capital. Mr. Cardey testified that the embedded cost of debt for use in this case is 14.9%. Mr. Cardey also testified that it is proper to use 16% as a cost of long term debt excluding the debt to the associated company.

Mr. Cardey determined that the fair rate of return on equity would be not less than 18%. He testified that the Company operates small systems and that revenues are earmarked primarily for operating costs and taxes, leaving few dollars for funding construction or retiring debt. Therefore, stockholders are going to be required to either invest cash in the Company or lend credit to the Company so it can continue making improvements and repairs to give good service. Alternative investments such as U.S. Government Bonds yield about 13.5% with little risk to the investor. Utility first mortgage bond interest rates are higher with Baa bonds currently yielding 17.75%. Mr. Cardey testified that small water companies issue debt with about the same level of

interest cost as Baa security issues even though the Company would not have the credit standing of a Baa company today. He testified that common stock is still a higher risk than such bonds. He, therefore, concluded that the proper cost of equity for the Company is 18%.

Using the capitalization ratio of 50% debt and 50% equity and an embedded cost of debt of 14.9% and a cost of equity of 18%, Mr. Cardey determined that the weighted cost of capital is 16.45%.

Public Staff Witness Porter testified that after the Company's proposed increase the rate of return on common equity was 6.9% and the return on original cost rate base was 11.33%. She stated that it is the Public Staff's recommendation that the Company be granted the full increase requested.

In its proposed Recommended Order filed December 11, 1981, the Public Staff recommended that the $2.00 increase in fire hydrant rental fees should be denied. The Commission agrees with this recommendation. Consequently, the increase of $173,297 approved herein will be $1,440 less than the $174,737 increase requested by the Company. The increase approved herein will give the Company an opportunity to earn an 11.30% rate of return on its rate base, which the Commission finds just and reasonable.

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 the conclusions heretofore and herein made by the Commission.

SCHEDULE I
CAROLINA WATER SERVICE, INC.
North Carolina Operations
STATEMENT OF OPERATING INCOME
For the Test Year Ended December 31, 1980

Item	Present Rates	Increase Approved	After Approved Rates
Operating Revenues:			
Service revenues	$674,462	$173,297	$847,759
Miscellaneous revenues	6,011		6,011
Total operating revenues	680,473	173,297	853,770
Operating Revenue Deductions:			
Operating and maintenance	341,370	-	341,370
General expense	146,077	-	146,077
Depreciation	41,794	-	41,794
Interest on customer deposits	430	-	430
Operating taxes - other than income taxes	32,607	7,767	40,374
State income tax	-	6,538	6,538
Federal income tax	-	47,114	47,114
Total operating revenue deductions	562,278	61,419	623,697
Operating income for return	$118,195	$111,878	$230,073

SCHEDULE II
CAROLINA WATER SERVICE, INC.
North Carolina Intrastate Operations
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended December 31, 1980

Item	Amount
Investment in Telephone Plant:	
Utility plant in service	$5,517,571
Less: Contributions in aid of construction	2,440,197
Acquisition adjustments	659,869
Accumulated depreciation	412,296
Customer advances for construction	6,672
Net utility plant in service	1,998,537
Working capital allowance	47,084
Customer deposits	(5,378)
Average tax accruals	(2,221)
Original cost rate base	$2,038,022
Rate of return:	
Present rates	5.80%
Approved rates	11.30%

SCHEDULE III
CAROLINA WATER SERVICE, INC.
North Carolina Intrastate Operations
STATEMENT OF CAPITALIZATION AND RELATED COSTS
For the Test Year Ended December 31, 1980

Item	Ratio %	Original Cost Rate Base	Embedded Cost %	Net Operating Income
		Present Rates - Original Cost Rate Base		
Debt	50.00%	$1,019,011	15.75%	$160,494
Equity	50.00%	1,019,011	(4.15%)	(42,299)
Total - Present Rates	100.00%	2,038,022		$118,195
		Approved Rates - Original Cost Rate Base		
Debt	50.00%	$1,019,011	15.75%	$160,494
Equity	50.00%	1,019,011	6.83%	69,579
Total - Approved Rates	100.00%	$2,038,022		$230,073

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

Uniform Rate Structure

The evidence for this Finding of Fact is contained in the testimony of Company Witness O'Brien and the testimony of public witnesses in Asheville, Charlotte, and Morehead City.

The Company in this case is seeking an integrated rate schedule whereby the level of water and sewer rates will be uniform throughout the service areas served by the Company. The Company has acquired the 33 systems which it operates in this state at different times over several years. Each system's rate structure depends in part upon the rate structure in existence at the time the Company purchased the system. A uniform rate structure is in effect in 27 of the 33 systems - 20 Waterco systems, 3 Asheville systems, the Carolina Forest and Woodrun systems, and the Misty Mt. and Crystal Mt. systems. Since the Company seeks a uniform rate structure, the percentage increase will vary by subdivisions. Mr. O'Brien testified that a uniform rate structure will avoid the need to file 33 separate rate cases each time a rate adjustment is necessary and thereby will decrease the expenses which must be recovered through rates. Two witnesses in Morehead City testified that they were opposed to the move to a uniform rate structure.

After examining the evidence presented on this issue the Commission is of the opinion and so concludes that the uniform rate structure advocated by the Company is appropriate. The Commission notes that it is widespread regulatory practice to apply uniform rates to customers similarly situated even though they may be located in geographically different areas. No reason has been shown to distinguish between customers in the western part of the State or the

eastern part of the State simply because of their geographic location. The Commission recognizes that the rates proposed will have a greater impact on customers in some subdivisions than in others. However, in the long run the uniform rate structure should be beneficial to all of the Company's customers. The uniform rate structure will have the effect of spreading costs associated with capital improvements and outstanding items of expense across a broader range of customers. This will result in the reduction of radical increases in rates among particular subdivisions. As the Commission recognized in Finding of Fact 15, the economies of scale that exist in a consolidated organization help to reduce expenses. The Commission finds that the introduction of a uniform rate structure likewise facilitates economies of scale and should be approved in this case.

The Company also proposed a flat rate sewer charge. Company Witness O'Brien testified that the Company proposed a flat rate sewer charge as opposed to a sewer charge that is tied to water usage because many customers make use of water for purposes other than those which affect sewage consumption. For example, customers who use water to wash cars or water lawns do not necessarily increase their sewage consumption. The Company testified that the flat rate charge is an attempt to more closely meet the wishes and desires of the customer in the service area. The Commission recognizes that some customers prefer that the sewer charge be tied to water consumption whereas other customers desire that the sewage be placed on a flat charge basis. The Commission recognizes the merits of a flat rate sewer charge and has heard insufficient complaints from the Company's customers opposing the flat rate sewage charge to disagree with the Company's proposal. Therefore, the flat rate sewage charge proposed by the Company is approved.

Fire Hydrant Fee Increase

The second issue which must be addressed is the question of whether or not the proposed increase in the fire hydrant rental fee is appropriate.

The Company based its request for a $7.00 per month fee on the contention that the fee should be the same as the minimum charge for a metered residential customer. This is not a reasonable comparison and the Hearing Examiner concludes that Carolina Water Service Inc. failed to prove the fairness of the increase in fire hydrant rental fees. This fee should, therefore, remain at $5.00 per month per hydrant.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding is based upon the application filed in this docket, the testimony of Mr. O'Brien received at the Public Hearing in Morehead City, and the entire record of this proceeding.

The requested $2.00 charge for collection of late payment is unprecedented in any other water and/or sewer system. Mr. O'Brien testified that this late payment fee had been very effective in cutting down late payments. Although this fee was approved for the Bent Creek/Mt. Carmel service area in the last rate case, the Hearing Examiner concludes that the reconnection charges approved herein should act as sufficient deterrent to late payment of bills. The request for a $2.00 collection charge for late payment should, therefore, be denied.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for Finding of Fact No. 15 is contained in the testimony and exhibits of Applicant witnesses O'Brien and Cardey and the testimony and exhibits of Public Staff Witness Porter. Mr. Cardey testified that the Company is an operating subsidiary of Utilities, Inc., which is a holding company with 35 operating subsidiaries in North Carolina and in other states. A separate subsidiary, Water Service Corporation, performs management, accounting, customer billing and other services for the operating subsidiaries. Water Service Corporation provides management services in the fields of financing, planning, accounting, administration, and regulation. It negotiates bank loans or other borrowings to pay each year's financial requirements and negotiates the sale of long-term debt or equity to repay the short-term loans. Water Service Corporation personnel assist in setting federal corporate policies and resolving major legal problems and other corporate matters. They also arrange audits, prepare federal and state income tax returns, initiate forcasts, review budgets, and administer insurance programs. Personnel bill all customers, reconcile bank statements, write payroll checks, and pay supplier invoices. Water Service Corporation only recovers its actual costs from the operating utilities and charges no management fee for its services. Mr. Cardey testified that the expenses allocated from Water Service Corporation to the Company are necessary and proper in the normal course of the Company's business. Mr. Cardey testified:

> "The North Carolina operations is a small utility and, if operated independently, would need executive, financial, engineering, accounting, tax, regulatory and similar services, and would either have the personnel on their payroll or contract for such service. Unfortunately small utilities cannot attract the best people because of salary limitations and, generally, lack of job security. It has been my experience that central management, such as provided by Water Service Corp., can be done cheaper, with better quality, than if the CWSNC did it alone. Water Service Corp. personnel are utility orientated people, who spend all of their time on utility problems, and develop an expertise in the field. The constant supervision and the technical input to CWSNC will produce greater quality service at lower cost.
>
> "I'm President of a company about one-third the size of CWSNC, and the administrative cost, on a customer basis is about 60% higher. Other companies I do consulting work for have costs, again on a customer basis, comparable to that of CWSNC." (Tr., Vol. 3, pp. 9-10).

Mr. Cardey testified that the expenses for Water Service Corporation for 1980 totaled $933,666. He described how the allocation factors were developed by which these costs were spread among the operating utilities such as the Company. The amount of expenses allocated to the Company totals $96,000. Mr. Cardey testified that five allocation factors have been developed, four of which were used to allocate expenses to the Company. Under the customer equivalent allocation factor, 14.1% of certain expenses were allocated to the Company; under a factor developed based upon a study of office personnel, 5.6% of certain expenses were allocated to the Company; and under a factor based on the Company payroll as a percentage of the total payroll, 9.2% of certain expenses were allocated to the Company. Mr. Cardey outlined how the various factors were developed.

With respect to allocated expenses Ms. Porter testified as follows:

> "I examined the expenses which originate in the Corporate headquarters and the method by which these expenses were allocated to the operating companies . . .
>
> "The method of allocation was developed by Company Witness Cardey and is discussed at length in his prefiled testimony. I analyzed the expenses being allocated by category, including computer operations, outside services, office supplies, utilities, etc. I concluded the expenses were both reasonable and equitably allocated. The cost of providing the corporate services would be much greater if each operating company had to provide these services on an individual basis. The theory of economies of scale applies to the allocation of these expenses. This is supported by analyzing the cost per customer for the allocated charges during the test year, prior to the Company's purchase of Waterco properties and the cost after the purchase of Waterco properties. The total cost per customer on an annual basis during the test year was $18.96 or $1.58 a month. Adjusted to reflect the purchase of Waterco properties the cost per customer drops to $18.73 per year or $1.56 per month. Given the functions that the Corporate office provides and analyzing each item of expense, I consider the consolidation of the corporate function to be cost beneficial to the customers of Carolina Water Service Inc. of North Carolina." (Tr., Vol. 3, pp. 67-68).

Mr. O'Brien testified that the approach used for charging expenses to subsidiaries has been accepted in recent rate cases in Illinois, South Carolina, and Florida. He testified that the approach is the most equitable method available to the Company. The Company's method of operation results in significant economies of scale. It provides a pool of engineering, accounting, financial, legal, and managerial talent that these companies would not obtain otherwise without incurring significantly higher costs. The approach enables the companies to reduce costs by utilizing the centralized computer systems and billing personnel. Mr. O'Brien testified that the services provided by the service company could not be provided to the customers of the Company at a lower cost and that the costs incurred are reasonable and necessary to the operation of the Company. Likewise the consolidated operations have enabled the provision of financial support required to nurture the Company's systems in their formative years. The large group of companies has made it possible to finance substantial improvements in service and to upgrade systems in spite of continuing losses incurred by the Company. This could not be accomplished by the Company alone.

Based upon the overwhelming and uncontradicted testimony both by the Public Staff and the Company in support of the amount of expenses allocated and the procedures for making those allocations, the Commission determines that these expenses are reasonable and properly includable in determining rates. The Hearing Examiner notes with particular emphasis the fact that the economies of scale provided by the system of operation enable the Company to provide a higher quality of service to its customers at a lower cost than if the Company operated independently. Likewise it is obvious that due to a lack of operating funds the Company would have difficulty in providing adequate service without the affiliation and the financial strength provided thereby.

The Commission is aware that in the Company's last general rate case the residents of Bent Creek and Mt. Carmel appealed the Commission Order granting a partial increase in rates to the North Carolina Court of Appeals. The Commission is aware that in the case of North Carolina ex. rel Utilities Commission v Residents of Bent Creek and Mt. Carmel Subdivisions, 52 N.C. App. 222 (1981) the Court of Appeals set forth three tests which must be met by utilities seeking aproval of expenses allocated from an affiliated company. The Court of Appeals stated: "We believe that in the case of affiliated corporations the Utilities Commission is obligated to determine the reasonableness of the charges on the basis of either (1) the cost of the same services on the open market; (2) the cost similar utilities pay to their service companies . . ., or (3) the reasonableness of the expenses incurred by the affiliated corporation in generating its services."

The Commission is of the opinion that the reasonableness of the charges have been established in this case under any of the three tests set forth by the Court of Appeals. Witnesses O'Brien, Cardey, and Porter testified that the economies of scales make the consolidatd operation less costly to the consumer than if the Company operated independently. Mr. Cardey testified that he is presently the President of a small water company and that the manner of allocating expenses results in the Company's having lower cost of service to its customers than is available to his independently operated company. Likewise, Public Staff Witness Porter audited the books of Water Service Corporation and deemed, after her audit, that those expenses were reasonably incurred. The Court of Appeals stated in its opinion:

> "This third method of establishing the reasonableness of a service company's charges is made possible by the provisions of G.S. 62-51 which specifically authorized the Commission to inspect the books and records of corporations affiliated with the regulated utility. The record does not indicate any inquiry by the Commission into what would constitute a reasonable price for the services the Company received, nor does the record reveal any inquiry into whether the expenses incurred by WSC and CWS were in fact reasonable." 52 N.C. App. at 232.

In this case the Public Staff made a specific examination of the books of Water Service Corporation and determined that the expenses incurred are reasonable. The Commission concludes that it has strictly fulfilled its obligation to examine the reasonableness of affiliated expenses in this case and rules that they are reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

The evidence for Finding of Fact No. 16 is contained in the testimony and exhibits of Applicant witnesses Cardey and O'Brien and examination of the Commission's files. The Company seeks approval for changes to two paragraphs in its service agreement with Water Service Corporation. The two paragraphs as presently existing read as follows:

> "Each customer of a water company which is a distribution company only, that is having no source of supply facilities, and each customer whose charge is for the availability of water service shall be counted as one-half. Each customer of a company that provides water and sewer service shall be counted as one and one-half.

"With regard to the costs of maintaining and operating the Company's corporate headquarters facilities in Illinois, such cost will be allocated on an adjusted customer equivalent basis (ACE) to reflect the fact that the corporate headquarters is also the base of operations for Illinois and Indiana. Under the ACE methods, Illinois and Indiana customer equivalents will be treated as one-quarter."

The Company wishes to amend these paragraphs to read as follows:

"Each customer of a water company which is a distribution company only, that is having no source of supply facilities, and each customer whose charge is for the availability of water service shall be counted as one-half. Each customer of a company that provides water and sewer service shall be counted as one and one-half. Further adjustments shall be made as necessary to assure the just and reasonable distribution of expenses.

"With regard to the costs of maintaining and operating the Company's corporate headquarters facilities in Illinois, such cost will be allocated to reflect the fact that the corporate headquarters is also the base of operations for Illinois and Indiana. Costs will first be allocated to Illinois and Indiana based on the number of hours office personnel devote to companies in these states. Once determined, the costs chargeable to companies within Illinois and Indiana will be based on customers. The remaining costs will be charged to companies outside Illinois and Indiana based on customers."

Mr. Cardey testified in support of the proposed amendment. He testified that development of customer equivalents differs from what the Company did in the past. In the past the Company used lower customer weightings for operations outside of Illinois and Indiana. Mr. Cardey testified that after a thorough study and review of operations in May 1980 he was of the opinion that all direct costs of the Illinois-Indiana operation should first be identified and the balance of the costs allocated on a customer equivalent basis. Water Service Corporation provides operating personnel to operate plants and read meters for Indiana and Illinois systems. It also provides clerical help who answer phones, maintain customer accounts, reconcile bank accounts and other functions for Indiana and Illinois customers. These tasks are performed by the other operating companies independently. Mr. Cardey testified that in developing the new allocation procedures he reviewed the work schedules of the eleven employees who work for both the Illinois and Indiana divisions plus other operations to identify the time spent by these employees for the Indiana and Illinois divisions. Mr. Cardey also followed procedures such as analyzing the square footage generally occupied by the various employees to verify the reasonableness of some of the allocation methods.

The Commission, after analyzing all the testimony on this subject, determines that the proposed amendment advocated by the Company is appropriate and should be adopted. The method of assigning costs to be borne by the Indiana and Illinois customers before remaining costs are allocated among the operating utilities in other states is reasonable and an improvement over the existing method.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 17

The Examiner concludes that the service provided by the Company to its customers in North Carolina is adequate. There were, however, some customer complaints at the hearings in Asheville and Charlotte. The testimony of these witnesses and the nature of their complaints have been set forth elsewhere. The complaints basically relate to a milky film on the water; too much chlorine at times; excessive iron in the water, which causes damage to appliances and clothing; air bubbles in water; poor communications between Company and Staff; and certain billing problems.

The Examiner, however, deems it appropriate to place these complaints in context. Only customers from Bent Creek/Mt. Carmel, Kings Grant, Cabarrus Woods and Misty Mt. subdivisions testified in this proceeding even though hearings were conducted across the state on four separate days. Of the 7,000 customers served by the Applicant in approximately 33 systems, only 30 customers testified, some of whom only opposed the rate level requested. The Examiner is satisfied that many of the service problems mentioned are problems which the Company inherited from past owners of systems and that the Company is spending substantial amounts of time and money to correct these problems. The Examiner recognizes that the presence of iron in the water in parts of North Carolina presents a service problem that is difficult to correct, but he is satisfied that the Company is making reasonable efforts to minimize the discomfort and inconvenience that its customers experience.

The Commission, in ruling that the quality of the Company's service is adequate, takes special note of the testimony of Mr. Gross, an environmental engineer with the North Carolina Division of Health Services. Although his testimony has been summarized elsewhere, the following points of Mr. Gross' testimony will be reiterated: his testing of the Bent Creek/Mt. Carmel systems over the past two years has revealed that all 23 testable elements in the water except iron are within the limits established by the State of North Carolina and the EPA. He has never found any evidence of iron bacteria. With respect to iron at Bent Creek/Mt. Carmel, the following question and Mr. Gross's reply thereto is set out below:

> "Q. Have you noticed any change in the quality of service within the last year from the system requested?
>
> "A. My tests conducted on December 2, 1980, showed after the filter on well number one, .37 iron. On well number two, .18 iron and well number three, 2.73 iron. Our limit for iron is three-tenths. As of this afternoon, a sample was conducted in the Mt. Carmel Acres on August 28 and the iron limit was .37. As of today, at 20 Lynnwood Circle, the iron was .3. At 41 Mt. Carmel Drive, the iron was .4. At 58 Tipperary Drive, the iron was .2. This based on my field kit and not a laboratory analysis.
>
> "Q. What, if any conclusions do you draw as a result of the tests?
>
> "A. That the filters that have been installed are working properly."

Mr. Gross also stated that iron is often found in water systems in the Asheville area and that the percentage of iron in the water at Bent Creek/Mt.

Carmel is low compared to that of surrounding systems. Mr. Gross also stated that the percentage of chlorine found in this water is within State limits.

Attention is also called to the testimony of Mr. Owens, Executive Vice President for the Applicant. He stated that the Applicant had spent approximately $140,000 on the Bent Creek/Mt. Carmel systems in 1980 and 1981. He also described the extensive work done by the Company at Kings Grant and Cabarrus Woods.

The Commission is also impressed with favorable statements made by several of the public witnesses who testified in this case. Mr. Jim Gilgon of the Bent Creek area testified that "the service has improved in the last year or so since the controversy and the hearings have been held here in Asheville. The service, I'd say, is adequate right now. The quality, I've never really complained about the quality." Mr. Herbert Gibson, Jr. of Bent Creek, when asked whether he had any problems with the quality of the water, stated "I don't." Mr. Jerome of the Pine Knoll Shores subdivision testified that the quality of the water service in his subdivision was good.

Although a few customers from Kings Grant complained of excessive billing or failure of the Company to address adequately their complaints, the Company's response to these complaints, as set forth in a letter by Mr. Owens dated November 6, 1981, indicates that the Company has been neither negligent nor dilatory in responding to customer inquiries and has granted customers bill credits where appropriate. Mr. Owens' testimony at the public hearing persuades the Hearing Examiner that the Company is responsive to its customers' needs. Furthermore, Mr. Tweed of the Public Staff mentioned no particular weak areas in service and made no criticism of the Company's service.

Notwithstanding the finding and conclusion herein that the quality of the Applicant's service is adequate, the problems complained of by the customers in the Asheville and Charlotte hearings should not be minimized. The Examiner adopts the following proposals of the Public Staff in its proposed order with respect to these problems:

Bent Creek/Mt. Carmel

The problems of too much chlorine in the water and a film on the water are relative but deserve close monitoring by Carolina Water Service. The Company should regularly check the chlorine and sequestering agent feed rates and assure that excess amounts are not being fed. Weekly readings should also be recorded showing chlorine residues at various points in each service area.

The problem of iron in the water in the Mount Carmel-Lees Ridge area is being addressed by Carolina Water Service. Iron removal facilities have been installed on all wells in this service area, although the highest yield well with the lowest concentration of iron in the filtered water was not in service at the time of the public hearing.

Many of the iron problems probably exist due to iron buildup in the mains which has accumulated over a period of years. There are two ways to approach this problem. One would be to reduce the amount of iron coming from the wells and feed a sequestering agent to gradually remove the buildup from the mains, which is the approach which is presently being taken. The second solution

would be to replace the mains with new mains, which it is concluded would be non-cost-effective. Further, the construction process would probably be lengthy and more inconvenient to the customers than the present approach.

The last question to be addressed in the Asheville area is the inadequate notification of the customers when the water company is flushing the mains. Testimony revealed that the present method involves placing signs on the street. The Commission concludes that this does not assure that customers will be aware of time of the flushing and may result in laundry being stained. Since flushing the mains breaks loose large concentrations of iron, housewives would want to schedule their laundering at a time when mains are not being flushed.

It is, therefore, concluded that Carolina Water Service should establish a regular schedule for flushing mains and provide a copy of that schedule to each affected customer or in the alternative provide written notice to each customer of each intended flushing time.

Kings Grant

In the Kings Grant service area the Company indicated its intent to install a new well and then increase flushing frequency to correct the service problems testified to by public witnesses. It is concluded that this is a good prospective solution, but it does not assure solving of the problem. A progress report should be made to the Commission, to include when the new well is placed into service, the yield of each well, and the unsequestered and sequestered iron and manganese levels in each well. If the levels of iron or manganese exceed the levels acceptable to the Division of Health Services, appropriate iron and manganese removal facilities should be installed after plans are approved by the Division of Health Services.

With regard to the 2" meter at the Swim and Racquet Club, the Company should provide the customer with a list of alternatives to resolve the problem. Perhaps the problem could be resolved by installing a smaller meter and discontinuing service at the customers request for eight months of the year when the Swim Club is not in use.

Cabarrus Woods

The problems experienced in Cabarrus Woods primarily center around the calcium hardness which is naturally occurring in the water. There are few solutions to this problem. One would be to add central softening equipment to the system, which increases the sodium content of the water and would not be acceptable to anyone on a salt free diet. Other health effects are possible depending upon the other chemical characteristics of the water. Another solution would be informing each customer of the cost of various individual softening units for their house. Another solution would be to locate an alternate water supply which is softer by nature and dilute the existing supply or abandon it. It is concluded that Carolina Water Service should evaluate each of the above solutions and present to the Commission a proposed specific solution of its own.

It is noted that WaterCo, Inc., was ordered to make a study of this problem in its last rate case in Docket No. W-80, Sub 27, but the Company was sold to Carolina Water Serice prior to making such report.

Testimony revealed that the well sites and sewer plant at Cabarrus Woods were unsightly. Although this is not necessarily the fault of the utility company, it is important to maintain an acceptable appearance in order for these sites to blend into the community. The Company should keep sites clean and free of debris and discourage vandalism by posting appopriate signs.

With regard to the issue of poor communications with customers, the Company has admitted that improvement is needed. The Hearing Examiner concludes that more attention should be given to improved communications and, therefore, better customer relations, not only in Misty Mountain but also in other service areas where improvements are being made of which customers are unaware.

The public notice attached to this Order should make customers aware of Carolina Water Service's willingness to hear customer problems and work to resolve them.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The rate schedules attached to this Order as Appendix A are designed to allow the Applicant the opportunity to recover the increases approved in this Order. The schedules also reflect the approval of a uniform rate structure for all of the Applicant's service areas in North Carolina. Upon consideration of the findings and conclusions set forth elsewhere in this Order, the Commission concludes that the rates contained in Appendix A are just and reasonable and should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the schedule of rates attached hereto as Appendix A is hereby approved for water and sewer service rendered by Carolina Water Service Inc. of North Carolina subject to the conditions set forth therein.

2. That said schedule of rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

3. That the amendment to the service contract as proposed by the Company in this case is hereby approved.

4. That Carolina Water Service Inc. shall, within 60 days of the issue date of this Order, file a report detailing the status of the wells in the Mount Carmel/Bent Creek-Lees Ridge service area. This report shall detail the yields of each well and the iron content of the filtered water coming from each well and shall state whether or not the third well and new filter are in service. In addition, the Applicant shall take measures to assure that the chemical feed rates are properly regulated and the proper residuals are maintained. The Applicant should also insure that proper notice of flushing of mains is given as outlined in Evidence and Conclusions for Finding of Fact No. 17.

5. That the Applicant shall file with the Commission, within 60 days of the date of this Order, a progress report with respect to the Kings Grant service area. The report shall include the date the new well was placed into service, the yield of each well and the sequestered iron and manganese levels from each well. If these reported levels do not meet the guidelines set by the Division

of Health Services, the Company shall proceed to obtain approval of the Division to install the appropriate treatment facilities to remove the excess iron or manganese.

6. That with regard to the Cabarrus Woods service area, the Applicant shall file a report with the Commission within 90 days of the date of this Order, detailing a proposed solution to the hardness of water problem, as outlined in Evidence and Conclusions for Finding of Fact No. 17 of this Order.

7. That a copy of the Notice to Customers attached hereto as Appendix B and a copy of Appendix A shall be mailed or hand delivered to all customers of the Applicant's water and sewer systems in conjunction with the next regularly scheduled billing process which shall occur after this Recommended Order becomes effective and final.

ISSUED BY ORDER OF THE COMMISSION.
This the 12th day of January 1982.

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

APPENDIX A
CAROLINA WATER SERVICE, INC., OF NORTH CAROLINA
Schedule of Rates and Charges

Service Areas

All in North Carolina as of
the date of this schedule

Water Rate Schedule

Metered Water Rates

(A) Minimum charge per month (includes first 3,000 gallons or 401 cubic feet per month).

3/4" service line or meter	- $ 7.00
1" service line or meter	- $ 17.50
1-1 1/2" service line or meter	- $ 35.00
2" service line or meter	- $ 56.00
3" service line or meter	- $112.00
4" service line or meter	- $175.00

(B) $1.50 per 1,000 gallons or 134 cubic feet for all usage over first 3,000 gallons or 401 cubic feet per month.

Availability Rates (1) - Monthly Charge per Customer - $2.00

Tap in Fee (2) - $50.00 for 5/8" meter. Meters larger than 5/8" -- Actual cost of meter and installation.

Plant Modification and Expansion Fee

$350 for 5/8" meter -

Multi-family or commercial customers - to be negotiated on basis of equivalence to a number of single family customers, but not less than $350.

Fire Hydrant Rental (3) - $5.00 per hydrant per month

Reconnection Charge

If water service cut of by utility for good cause

First Reconnection	- $ 5.00
Second Reconnection	- $ 7.50
Third and all Successive Reconnections	- $10.00

If water service discontinued at customer's request - $2.00

Bills Due - On billing date

Bills Past Due - Twenty-one (21) days after billing date

Finance Charge for Late Payment - 1% per month

Charge for Processing NSF Checks - $5.00

Billing Frequency - Bills shall be rendered bimonthly, in all service areas except Carolina Forest, Woodrun, Misty Mountain, Crystal Mountain, Ski Mountain, and Pine Knoll Shores where bills shall be rendered quarterly, for service in arrears

(1) Applicable only to customers in Carolina Forest and Woodrun, who are subject to said Availability Charges pursuant to contract.

(2) Applicable in all areas except where otherwise prohibited by contract as approved by the North Carolina Utilities Commission.

(3) Applicable only to Pine Knoll Shores area where fire protection facilities are available.

Sewer Rate Schedule

Sewer Rates (Residential)

Flat rate per month per dwelling unit - $15.00

Sewer Rates (Commercial)

Flat rate per single family equivalent - $15.00

Tap in Fee (4) - (Residential)

$50.00 per single family dwelling unit

Tap in Fee - (Commercial)

Actual cost of connection

Plant Modification and Expansion Fee

$350 for single family customers -

Multi-family or commercial customers - to be negotiated on basis of equivalence to a number of single family customers, but not less than $350.

Reconnection Charge

If sewer service cut off by utility for good cause - $15.00

Bills Due - On billing date

Bills Past Due - Twenty-one (21) days after billing date

Finance Charge for Late Payment - 1% per month

Charge for Processing NSF Checks - $5.00

Billing Frequency - Bills shall be rendered bimonthly for service in arrears

(4) Applicable in all areas except where otherwise prohibited by contract as approved by the North Carolina Utilities Commission.

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission in Docket No. W-354, Sub 16, on January 12, 1982.

APPENDIX B
DOCKET NO. W-354, SUB 16
CAROLINA WATER SERVICE INC. OF NORTH CAROLINA

NOTICE TO CUSTOMERS

By Commission Order in Docket No. W-354, Sub 16, the North Carolina Utilities Commission has approved an increase in water and sewer utility rates for Carolina Water Service Inc. of North Carolina. The new approved schedule of rates is attached to this Notice for your information.

Public hearings were held in four cities in North Carolina for the purpose of hearing customer testimony. The testimony received at these hearings revealed service problems in several of the service areas of the Company. Carolina Water Service Inc. presented testimony as to the corrective action it is taking to correct these problems. The Order granting this rate increase required also that the Applicant make certain service improvements and keep the Commission informed as to progress being made by filing written reports with the Commission.

Evidence presented at these hearings further revealed that Carolina Water Service Inc. was in the process of making many service improvements of which the customers were unaware.

Carolina Water Service Inc. has expressed its willingness to meet with homeowner groups to discuss service problems within individual service areas, at the request of the homeowners group. If your homeowner group has a concern about the operations of Carolina Water Service Inc. and would like to schedule a meeting with a represnetative of the Company this may be accomplished by calling, toll free (1-800-222-5291).

This the 12th day of January 1982.

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

DOCKET NO. W-94, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Duke Power Company, Post Office Box 33189, Charlotte, North Carolina, for Authority to Increase Rates for Water Utility Service in Rutherfordton, Spindale, and Ruth located in Rutherford County, North Carolina	)	RECOMMENDED ORDER GRANTING INCREASE IN RATES AND CHARGES

HEARD IN: Superior Courtroom, Rutherford County Courthouse, Main Street, Rutherfordton, North Carolina, on Wednesday, June 16, 1982, at 9:00 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

W. Edward Poe, Jr., Assistant General Counsel, and William L. Porter, Associate General Counsel, Duke Power Company, P. O. Box 33189, Charlotte, North Carolina 28242

For the Using and Consuming Public:

Thomas K. Austin, Staff Attorney, Public Staff, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

BENNINK, HEARING EXAMINER: On February 1, 1982, Duke Power Company (Applicant, Company, or Duke) filed an application with the North Carolina Utilities Commission for authority to adjust and increase its rates and charges for water utility service in Rutherfordton, Spindale, and Ruth, North Carolina. The proposed rates were designed to produce approximately $321,390 of additional revenues from the Company's Rutherford County water operations, when applied to a test period consisting of the twelve months ended September 30, 1981.

The Commission, being of the opinion that the increase in rates and charges proposed by Duke was a matter affecting the public interest, by Order issued on March 3, 1982, declared the application to be a general rate case pursuant to G. S. 62-137; suspended the proposed rate increase for a period of 270

days; set the matter for hearing in the Rutherford County Courthouse on June 16, 1982; required Duke to give notice of such hearing by means of newspaper publication and by mailing or hand delivering the proposed new rates to its customers; and established the test period to be used in this proceeding.

Notice of the application and hearing was published on March 17, 1982, and March 24, 1982, in the Forest City Daily Courier and the Rutherford County News.

This matter came on for hearing as scheduled. The Company offered the testimony and exhibits of the following witnesses: Larry L. Wright, Duke's District Manager in Rutherfordton, described the past and present operations of the Rutherfordton-Spindale Water System; Michael L. Krick, Supervisor, Regulatory Accounting Projects, testified to the Company's rate base and the results of its operations under present and proposed rates; and Susan Joan Smiley, Analyst in the Cost Allocation Section of the Company's Rate Department, testified with respect to the proposed rates and rate design.

The Public Staff offered the testimony of Andy Lee, Utilities Engineer with the Public Staff Water Division, who testified with respect to the Company's plant, service, and revenues. Pursuant to G.S. 62-68, the Public Staff also introduced into evidence the affidavit and exhibits of Julie S. Jacome, Public Staff Accountant, pertaining to the Public Staff's investigation and analysis of the Company's original cost net investment, revenues and expenses, and rates of return under present and proposed rates.

There were no Company customers or other interested members of the public who indicated an interest in testifying before the Commission.

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

FINDINGS OF FACT

1. Duke Power Company, a North Carolina corporation, is a duly licensed public utility which is subject to the jurisdiction of this Commission.

2. Duke Power Company is engaged in the business of providing water service to the public in Rutherfordton, Spindale, and Ruth, North Carolina, under authority granted by this Commission. The quality of service provided by Duke to its customers is good.

3. The rates presently in effect for water service in Rutherfordton, Spindale, and Ruth were approved by the Commission in Docket No. W-94, Sub 7, effective for service rendered on and after November 21, 1980.

4. The Company's original cost net investment in property devoted to its water service is $5,422,623. The Company has made additions to its rate base of approximately $2.5 million since the last general rate increase granted by

the Commission, said amount having been invested in the following major projects which have been in commercial operation since August 15, 1981:

(a) 5 million gallon water reservoir;

(b) Booster pump station-building and fixtures;

(c) Land, including surveying costs;

(d) Grading;

(e) Two (2) transmission mains (24").

5. The Company's investment in materials and supplies of $26,765 and a cash working capital allowance of $62,336, less customer deposits of $1,375, customer advances for construction of $676, and average tax accruals of $32,104, results in total working capital in the amount of $54,946.

6. The Company's net investment in water utility plant, its allowance for working capital, and the addition of the Public Staff's adjustment of $6,524 to cover the unamortized cost of painting the Rutherfordton standpipe, results in an original cost rate base of $5,484,093.

7. The Company's total operating revenues for the test period under present rates are $805,888 and would be $1,127,278 under proposed rates.

8. The Company's reasonable level of test year operating expenses under proposed rates, including depreciation and taxes, is $824,854.

9. The Company's test year operating results show a negative return on common equity before the proposed increase, and a zero return on common equity after the proposed increase.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

The evidence in this proceeding is uncontradicted as to the Applicant's need for rate relief. In the matter of accounting, only minor adjustments are at issue. Applicant's proposed rate base is $5,565,974, while that of the Public Staff is $5,484,093, for a difference of $81,881. Further, Applicant shows its test year net operating income as $75,945 while the Public Staff shows $50,931, for a difference of $25,014.

It is obvious from the evidence presented by both the Company and the Public Staff that the proposed rates are not unjust and unreasonable. Accordingly, the proposed rates should be approved and, for purposes of this proceeding, the Public Staff's adjustments are adopted without prejudice to any position that Duke or the Public Staff may take in future proceedings. Based upon adoption of the Public Staff's adjustments, the Hearing Examiner finds the Applicant's test period rate base and operating expenses to be as stated in the foregoing findings of fact.

IT IS, THEREFORE, ORDERED as follows:

1. That the schedule of rates and charges filed by the Company with its application, and identified therein as Exhibit G, be, and is hereby, approved and that said schedule of rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

2. That effective for service rendered on and after the effective date of this Recommended Order, the Company is hereby allowed to place into effect the increased rates identified as Exhibit G in its application, which rates are designed to produce additional annual revenues in the amount of $321,390.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of June 1982.

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

DOCKET NO. W-625, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by M & S Corporation, 426 Church Street, North, Concord, North Carolina, for Authority to Increase Rates for Water Utility Service in Old South Subdivision, Cabarrus County, North Carolina	)	RECOMMENDED ORDER GRANTING PARTIAL INCREASE IN RATES

HEARD IN: Courtroom No. 1, Cabarrus County Courthouse, Concord, North Carolina, on Thursday, April 22, 1982, at 9:00 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Tom M. Grady, Williams, Willeford, Boger, Grady & Davis, P.A., Attorneys at Law, P. O. Box 2, Kannapolis, North Carolina 28081

For the Using and Consuming Public:

Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

PARTIN, HEARING EXAMINER: On November 30, 1981, M & S Corporation filed an application with the Commission for authority to increase its rates for water utility service in Old South Subdivision in Cabarrus County, North Carolina.

On December 22, 1981, the Commission issued an Order declaring the application a general rate case, suspending the proposed rates for up to 270 days, scheduling the application for public hearing on April 22, 1982, in Concord, North Carolina, and requiring the Applicant to give notice to its customers of the proposed increases.

On March 25, 1982, the Public Staff filed Notice of Intervention in this proceeding.

The application came on for hearing in Concord as scheduled. The Applicant and the Public Staff were present and represented by counsel. The following customers of the Company testified as public witnesses: Rebekah Strickland, Mariam Haney, Jeanie Purcell, Jean Hedge, Alex M. Kordis, Mike Arrowood, J. Howard Rhodes, R. J. Follas, and Roxanne Borjes.

The Applicant presented the testimony of Johnny Graham, an engineer for the Simmons-Miles Corporation, which is the parent corporation of the Applicant. The Public Staff presented the testimony and exhibits of Richard J. Durham, a utility engineer with the Water Division of the Public Staff; Elise Cox, Staff Accountant with the Public Staff; and the prefiled affidavit of Dr. Richard Stevie, Director of the Economics and Research Division of the Public Staff.

The parties filed proposed findings of fact and conclusions for consideration by the Hearing Examiner.

Upon consideration of the testimony and exhibits presented at the hearing, the proposed orders of the parties, and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. M & S Corporation holds a franchise granted by the North Carolina Utilities Commission to furnish water service in Old South Subdivision. The rates approved by the Commission prior to the present application are $1.60 per 1,000 gallons for the first 12,000 gallons per quarter, $1.40 per 1,000 gallons for the next 3,000 gallons per quarter, and $1.20 per 1,000 gallons for all over 15,000 gallons per quarter.

2. The test year established for this proceeding is the twelve-month period ending September 30, 1982.

3. The water provided by the Applicant has a degree of hardness due mainly to the presence of calcium and magnesium compounds; all customers of M & S Corporation should benefit by being made aware of this situation. The benefits achieved by the treatment of the hardness are outweighed, however, by the prohibitive cost of the treatment and by the potential health hazard of the treatment to heart patients.

4. The original cost of the water plant in service at the end of the test year is $37,002. From this amount should be deducted the accumulated depreciation associated with the original cost of this plant of $4,948, resulting in net plant in service of $32,054.

5. The reasonable allowance for working capital is $238.

6. The existing plant exceeds that reasonably required to provide adequate service to the present customers and hence excess plant of $5,440 should be deducted from net plant in service, resulting in a net original cost rate base of $26,852. ($32,054 + $238 - $5,440).

7. M & S's test year operating revenues under present rates are $9,086 and under the Company's proposed rates are $12,512. ($9,086 + $3,426).

8. The test period level of operating expenses under present rates after accounting and pro forma adjustments, including an adjustment to depreciation expense for excess plant, is $5,600.

9. The capital structure which is proper for use in this proceeding is the following:

Debt -	50%
Equity -	50%
TOTAL	100%

10. The Company's proper embedded cost of debt is 14.00%. The Applicant's rate of return on net original cost rate base under present rates is 12.98%. The rate of return which Applicant should earn on the net original cost rate base is 17.00%.

11. The Company should be allowed to increase its rates to produce an additional $1,613 of revenues in order to be afforded a fair and reasonable opportunity to earn the 17.00% return on rate base which the Hearing Examiner finds just and reasonable herein.

12. The rates set forth in Appendix A attached hereto will generate the appropriate level of end-of-period revenue and will afford the Applicant an opportunity to achieve the approved overall rate of return of 17%.

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

These findings are based on the official records of the Commission and on the verified application of the Applicant.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 3

The Company and Public Staff concur that the water provided by the Applicant has a degree of hardness due to the presence of calcium and magnesium. Public Staff Witness Durham testified that hardness causes scale to form on the heating elements of water heaters, which reduces the normal life of the heating elements. In addition, numerous public witnesses testified that they are experiencing staining on their fixtures and appliances.

Public Witnesses Purcell, Arrowood, Rhodes, and Follas testified that they have had to replace heating elements in water heaters due to the hardness of the water. Witness Follas stated that periodic draining of his water heater has helped to prevent element burnout; " . . . I drain that tank every three to four months and it's an afternoon's job. I will remove in the vicinity of a gallon of calcium from the bottom of the tank. I do that to prevent the burnout of the lower element and also it tends to keep my electric bill slightly down." (Tr. Page 43). Company Witness Graham testified that cleaning water heaters every three to four months, as a way of saving the elements, may be excessive, although it should be done at least annually. Witness Graham also stated that he had no objections to notifying the customers that this procedure would be one way of saving their water heating elements.

The Company and the Public Staff agreed that the most feasible method of controlling hardness is by the sodium ion exchange method, which may, however, be detrimental to persons suffering from heart conditions since sodium chloride is used in the process. Both the Company and the Staff presented testimony regarding the estimated cost for the treatment of hardness. Company Witness Miles stated that the cost to install and maintain treatment equipment would be in the neighborhood of 35 to 40 cents per 1,000 gallons. Public Staff Witness Durham estimated the cost per 1,000 gallons to range from $1.00 to $1.22. Whereas Witness Miles based his estimate on discussions with peers who were familiar with this operation, Witness Durham cited a recent study prepared by Heater Utilities and filed with the Commission. Witness Durham stressed that the cost would be dependent on the flow characteristics of the particular well, the consumption levels of the subdivision, and the hardness of the water. Company Witness Miles presented additional testimony regarding the installation of treatment equipment. He stated, "We've talked in depth with one particular customer in Old South in providing softeners for Old South, and we went into exploring the possibilities of the system itself, putting water softeners on. The health hazard is the problem we came up with. Of course, we felt like the health problem far outweighed the benefits of a water softener." (Tr. Pages 100, 101).

The Hearing Examiner concludes that the customers are greatly concerned about the quality of water provided by the Company, particularly the degree of hardness. The Examiner further concludes that the benefits achieved by the treatment of hardness are outweighed by the prohibitive cost of the treatment and by the potential health hazard from the sodium chloride ion exchange method. Consequently, the Examiner will not require the Company to initiate treatment for the hardness problem.

The Examiner further concludes that the information brought out in this proceeding regarding periodic draining of water heaters would be of benefit to all customers of M & S Corporation. The Notice to Customers attached to this Order will set forth such information.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 4

The evidence for this finding of fact is contained in Public Staff Witness Cox's testimony-and-exhibits. Public Staff Witness-Cox-presented the amount of $37,002 as the original cost of the water plant in service. This amount differed from the amount of $37,932 presented in the Company's application because of Staff adjustments to remove an expenditure of $2,090 for pipe which has not been installed and to capitalize an expenditure of $1,160 for chlorination equipment. The Company did not contest either of these adjustments. Therefore, the Hearing Examiner concludes that the appropriate level of plant in service to be used in this proceeding is $37,002.

At the hearing, Company Witnesses Graham and Miles raised the issue that in 1976 Simmons-Miles paid approximately $3,600 for water lines which was not reflected in the application. The Hearing Examiner concludes that there is insufficient evidence in the record to include the expenditure in plant in service. This information was not made available to the Public Staff until the hearing, and there was insufficient time for the Public Staff to verify the expenditure.

The Company presented accumulated depreciation amounting to $6,246 in its application. The Public Staff presented the amount of $4,948 for accumulated depreciation based on the depreciable plant exclusive of any excess plant adjustment. The Hearing Examiner concludes that $4,948 is the proper amount of accumulated depreciation on the original cost of the system of $37,002 based on the date when the plant was placed in service and the depreciation rates.

Based on the foregoing, the Hearing Examiner finds and concludes that the appropriate level of net plant in service is $32,054.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 5

Both parties included a level of working capital of $238 in their respective proposed orders, and, therefore, the Hearing Examiner concludes that the level is appropriate.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 6

The record is clear that under Commission Rule R7-16 regarding extension of mains the utility company could have required the developer to advance the funds necessary for construction of the water system, and the utility company need only have reimbursed the developer for such advanced funds as each customer was added to the water system. This would have reduced the Company's actual investment in the water system to an amount more consistent with the fair share of the total investment being borne by the Company's present customers. The Hearing Examiner concludes that an excess plant adjustment is warranted.

The Company and the Public Staff were in disagreement as to the number of lots that can be served by the existing water mains. The Public Staff, using information provided by the Company, calculated the percentage of overbuilt plant by subtracting 80 existing customers plus 8 customers for future expansion from the total of 156 lots that can be served by the existing mains, and dividing that total by 156 to obtain .4359, or 43.59%. The Company testified that the 156 figure was inaccurate and that the actual number of lots in question is 135. The Company's figure of 135 lots would produce an overbuilt percentage of 33.83%, based on the Staff's calculations.

The Public Staff contended in its Proposed Order that, from examination of Applicant's Exhibit A, there are a total of 187 lots in the subdivision, four of which are well lots, and 48 lots which cannot be provided water utility service without an extension of service mains, or a total of 135 lots that can be served by the existing mains.

The Company contended in its Proposed Order that, from an examination of Exhibit A, there are a total of 187 lots in the subdivision, four of which are well lots, 48 lots which cannot be provided water utility service without an extension of service mains, ". . .32 lots paid for by the developer, and 15 lots that could not be used, or a total of 88 lots." (emphasis added). The Company urged that no excess plant adjustment was warranted. The Examiner concludes that there is insufficient evidence to show that the 32 lots were paid for by the developer or that the cost of serving the 32 lots is not also included in the net plant in service chargeable to the customers. With respect to the " . . . 15 lots that could not be used," the Examiner concludes

that the developer, not the customers, should bear the risk whether the 15 lots could have been developed or not.

Therefore, the Hearing Examiner concludes that the number of lots that can be provided service from the existing mains is 187 lots less 4 well lots, less 48 unserved lots, or a total of 135 lots. Using 135 lots as the number of lots that can be served by the existing mains, and using the number of 88 present and future customers (80 present + 8 future), the Hearing Examiner concludes that the proper percentage of excess plant is 34.81%.

The proper excess plant adjustment is computed by multiplying 34.81% by the water mains amount of $18,467, and by removing the associated accumulated depreciation, thereby resulting in an excess plant adjustment of $5,440. Therefore, the Hearing Examiner concludes that the appropriate net original cost rate base is $26,852.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 7

The evidence for this finding of fact can be found in the testimony of Public Staff Witness Durham. The Company did not contest the level of end-of-period revenues. The Commission concludes that the revenues for water service under present rates are $9,086.

EVIDENCE AND CONCLUSION FOR FINDING OF FACT NO. 8

The Public Staff in their proposed Order presented $5,600 as the amount of operating expenses, after accounting and pro forma adjustments to bring them to an end-of-period level. The level of operating expenses presented by Public Staff Witness Cox was uncontested by the Company. Consistent with the Evidence and Conclusions for Finding of Fact No. 6, the Heaing Examiner concludes that the proper level of operating revenue deductions is $5,600.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NOS. 9 AND 10

The evidence for these findings is contained in the Affidavit of Dr. Richard Stevie. Therefore, the Commission concludes that the proper capitalization ratios for use in this proceeding are 50% debt and 50% equity and that the embedded cost of debt is 14.00%. The Applicant's rate of return on its original cost rate base under present rates is 12.98%. Consistent with the evidence, it is concluded that the fair rate of return which the Company should be allowed to earn on its rate base is 17.00%, which yields an overall return of 20.00% on common equity.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The Commission has previously discussed the findings and conclusions regarding the fair rate of return which M & S Corporation should be afforded an opportunity to earn. Gross revenues of $10,699 would allow the Company the opportunity to earn an overall rate of return of 17.00%.

The following schedules explain the findings and conclusions of the Hearing Examiner set forth above:

M & S CORPORATION
STATEMENT OF RATE BASE AND RATE OF RETURN
For the Test Year Ended September 30, 1981

Line No.	Item	Amount
1.	Water utility plant in service	$30,574
2.	Less: Accumulated depreciation	3,960
3.	Net utility plant in service	26,614
4.	Working capital	238
5.	Original cost rate base	$26,852
6.	Rate of Return	
7.	Present Rates	12.98%
8.	Approved Rates	17.00%

M & S CORPORATION
STATEMENT OF NET OPERATING INCOME FOR RETURN
For the Test Year Ended September 30, 1981

Line No.	Item	Present Rate (a)	Increase Approved (b)	After Approved Increase (c)
1.	Operating Revenues	$ 9,086	$ 1,613	$ 10,699
2.	Operating Expenses:			
3.	Operation and maintenance	3,504	182	3,686
4.	Depreciation	1,175		1,175
5.	Taxes other than income	493	65	558
6.	State income taxes	122	82	204
7.	Federal income taxes	306	205	511
8.	Total	5,600	534	6,134
9.	Net operating income for return	$ 3,486	$ 1,079	$ 4,565

M & S CORPORATION
STATEMENT OF CAPITALIZATON AND RELATED COSTS
For the Test Year Ended September 30, 1981

Line No.	Item	Original Cost Rate Base	Ratio %	Embedded Cost %	Operating Income
		Present Rates - Original Cost Rate Base			
1.	Debt	$ 13,426	50.00	14.00	$ 1,880
2.	Equity	13,426	50.00	11.96	1,606
3.	Total	$ 26,852	100.00		$ 3,486
		Approved Rates - Original Cost Rate Base			
1.	Debt	$ 13,426	50.00	14.00	$ 1,880
2.	Equity	13,426	50.00	20.00	2,685
3.	Total	$ 26,852	100.00		$ 4,565

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

The Company's proposed rates in this proceeding are $2.00 per 1,000 gallons. The Public Staff testified that, based on the end-of-period customers, the Company's proposed rate would generate approximately $12,512 in revenues. The Public Staff recommended rates of $2.50 per quarter and $1.59 per 1,000 gallons, which would generate $10,309 in revenues.

The Commission has previously discussed the findings and conclusions regarding the amount of gross revenues that would be required to allow the Company the opportunity to earn the level of return which the Commission finds just and reasonable. Based on these foregoing findings and conclusions, the Commission concludes that the rates set forth in Appendix A attached hereto will generate the appropriate level of end-of-period revenue of $10,699 and afford the Applicant an opportunity to achieve the approved overall rate of return of 17%.

IT IS, THEREFORE, ORDERED:

1. That the Schedule of Rates attached hereto as Appendix A is hereby approved, that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138, and that said Schedule of Rates is hereby authorized to become effective for service rendered on and after the effective date of this Order.

2. That a copy of the Notice to Customers attached hereto as Appendix B shall be mailed or hand delivered to all the Applicant's water utility customers in Old South Subdivision in conjunction with the next regularly scheduled billing process which shall occur after this Recommended Order becomes effective and final.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of July 1982.

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

APPENDIX A

SCHEDULE OF RATES
DOCKET NO. W-625, SUB 2
M & S CORPORATION
Old South Subdivision
Cabarrus County

METERED RATES :

$2.50 customer charge per quarter
$1.59 per 1,000 gallons

RECONNECTION CHARGE :

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 :

15 days after billing date

BILLING FREQUENCY :

Shall be quarterly, for service in arrears

FINANCE CHARGES FOR LATE PAYMENT :

1% per month will be applied to the unpaid balance of all bills still past due twenty-five (25) days after billing date

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-625, Sub 2, on this the 11th day of August 1982.

APPENDIX B

DOCKET NO. W-625, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by M & S Corporation, 426 Church Street, North, Concord, North Carolina, for Authority to Increase Rates for Water Utility Service in Old South Subdivision, Cabarrus County, North Carolina	)	NOTICE TO CUSTOMERS

NOTICE IS HEREBY GIVEN that M & S Corporation has been granted authority by the North Carolina Utilities Commission to charge the following new rates in Old South Subdivision in Cabarrus County, North Carolina:

WATER RATE SCHEDULE

METERED RATES :

$2.50 customer charge per quarter
$1.59 per 1,000 gallons

A number of customers testified at the hearing that the hardness of the water provided by the Company caused scale to form on the heating elements of water heaters, thereby reducing the normal life of the elements. The evidence at the hearing further disclosed that although the hardness of water is a nuisance and a matter of concern, it is not a health hazard. The Company and the Public Staff agreed that the most feasible method of controlling hardness is by the sodium ion exchange method, which may, however, be detrimental to the health of persons suffering from heart conditions. The cost of this treatment is also very expensive. The Commission concluded in its Order that the benefits to be achieved by the treatment of the hardness in the water were outweighed by the prohibitive cost of treatment and by the potential health hazard to persons suffering from heart conditions. The Commission, therefore, decided that the hardness of water should not be treated by the Company at this time.

Customers are advised, however, that the periodic draining of water heaters will prolong the life of the heating elements and will reduce the problems associated with the hardness of the water. Customers may also consider the option of purchasing individual water softeners. Anyone having questions on this matter should call the Company for additional information.

ISSUED BY ORDER OF THE COMMISSION.
This the 22nd day of July 1982.

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

WATER AND SEWER

DOCKET NO. W-617, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Mecklenburg Utilities, Inc., 1740 East Independence Avenue, Charlotte, North Carolina, for Authority to Increase Rates for Water and Sewer Utility Service in all of Its Service Areas in Mecklenburg County, North Carolina	) RECOMMENDED ORDER GRANTING PARTIAL INCREASE IN RATES

HEARD IN: Commissioner's Board Room, Fourth Floor, County Office Building, 720 East Fourth Street, Charlotte, North Carolina, on Wednesday, April 21, 1982, at 11:00 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

William E. Anderson, Teague, Campbell, Conely & Dennis, Attorneys at Law, P. O. Box 2447, Raleigh, North Carolina 27602

For the Intervenor:

Thomas K. Austin, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina
For: The Using and Consuming Public

PARTIN, HEARING EXAMINER: On December 1, 1981, Mecklenburg Utilities, Inc., filed an application with the Commission for authority to increase its rates for water and sewer utility service in all of its service areas in Mecklenburg County, North Carolina.

On December 22, 1981, the Commission issued an Order declaring the proceeding a general rate case, suspending the proposed rates for up to 270 days, scheduling a hearing, and requiring public notice.

On March 29, 1982, the Public Staff gave Notice of Intervention in this proceeding.

The application came on for hearing as scheduled in Charlotte on Wednesday, April 21, 1982. The Applicant and the Public Staff were present and represented by counsel. The Applicant presented the testimony of Jim McGraw, the operator of the water system and the waste treatment plant; Julia Shipes, bookkeeper and office manager for the Applicant; and S. L. Bratton, secretary of the Applicant.

The Public Staff presented the testimony of Jim Adams, an engineer with the Division of Health Services, Western Regional Office; Rudy Shaw, an engineer with the Water Division of the Public Staff; and William E. Carter, Jr., Assistant Director of Accounting. The Public Staff also presented the prefiled affidavit of Dr. Richard G. Stevie, Director of the Economic Research Division of the Public Staff.

The following public witnesses also presented testimony: Charles Christopher, a customer in Wildwood Green Subdivision; Ed Spooner, Lamplighter Subdivision; Patrick Keene, Lamplighter South Subdivision; John Filliben, Lamplighter South; and John L. Sauder, Bahia Bay.

Upon consideration of the testimony and exhibits presented at the hearing and the entire record in this proceeding, the Examiner makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation duly franchised by this Commission to operate as a public utility and provide water and sewer utility service to customers residing in its North Carolina service areas.

2. The test period used in this proceeding consists of the 12 months ended December 31, 1981.

3. The Applicant presently furnishes water and sewer utility service in North Carolina utilizing the following rates per month:

Metered Water - $ 5.50 minimum first 3,000 gallons plus
$ 1.00 /additional 1,000 gallons

Flat Rate Sewer - $11.00

4. The Applicant proposes to charge the following rates per month:

Metered Water - $ 7.75 minimum first 2,000 gallons plus
- $ 1.80 /additional 1,000 gallons

Flat Rate Sewer - $15.00

5. The approximate operating revenues derived from the water operation of the Applicant under present rates on an end-of-period basis are $74,850, and under the rates proposed in its Application would be $131,093.

6. The approximate operating revenues derived from the sewerage operation of the Applicant under present rates on an end-of-period basis are $34,980, and under the rates proposed in its Application would be $47,700.

7. The level of total operating revenue deductions under present rates for the water operation is $81,781.

8. The level of total operating revenue deductions under present rates for the sewerage operations is $37,730.

9. The effect of the Applicant's water operations at the present rates is a net operating loss of $6,931, and the effect of Applicant's sewerage operations is a net operating loss of $2,750.

10. The operating ratio method is the proper basis for fixing the water rates for the Applicant in this proceeding, and the rate of return method is proper for fixing the sewerage rates.

11. The fair and reasonable return margin for the Applicant's water operations is 17% overall.

12. The Applicant's annual gross revenue from water operations should be increased by $24,890 in order to allow the Applicant to achieve the level of return margin approved herein.

13. The fair and reasonable overall rate of return for the Applicant's sewerage operations is 17%.

14. The Applicant's annual gross revenue from sewer operations should be increased by $12,720, which is the amount generated by the rates proposed in the Application.

15. The rates contained in Appendix A attached hereto, which are the rates recommended by the Public Staff, will generate the the revenue requirements approved herein.

16. The Applicant is providing an adequate level of water and sewerage service but needs to clean up its well lot and to monitor the pressure situation in Lamplighter Village South and to work with the Public Water Supply Engineers with the Department of Water and Air Resources regarding state requirements as to well-head plumbing and system design.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 4

The evidence supporting these findings is found primarily in the application and the record as a whole. These findings are essentially procedural and jurisdictional in nature and were uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5 - 9

The evidence suporting these findings is found primarily in the testimony and exhibits of Public Staff witness Carter and Applicant witness Shipes. Both the Applicant and the Public Staff agree that the proper end-of-period net operating income under present rates for the Applicant's sewage operation is $(2,750); therefore, the Hearing Examiner concludes that this amount is appropriate.

The Applicant and the Public Staff disagreed as to the appropriate level of end-of-period net operating income for return under present rates for the Applicant's water operations. The position of the parties is set forth in the table below:

Item	Company	Public Staff	Difference
1. Operating revenues	$74,850	$74,850	$ -
2. Operating revenue deductions	83,836	81,781	(2,055)
3. Net operating income for return	$(8,986)	$ (6,931)	$ 2,055

Since there is no difference between the parties concerning the proper level of end-of-period operating revenues under present rates for the water operations, the Hearing Examiner concludes that the Applicant's appropriate level of end-of-period operating revenues under present rates is $74,850. The $2,055 difference between the parties' respective end-of-period level of

operating revenue deductions for the water operations is itemized in the table below:

Item	Amount
1. Applicant's update to increase management fee	$1,807
2. Applicant's inclusion of tax effects of increased revenue requirements	248
Total	$2,055

In Applicant witness Shipes' testimony and exhibits prefiled after the Public Staff prefiled witness Carter's testimony and exhibits, the Applicant included an increase in management fee of $1,807 which witness Carter did not accept as proper. Witness Carter stated that he included the management fee found reasonable by the Commission in the Applicant's last general rate case. Further, witness Carter stated that Applicant did not present any workpapers supporting this increase during his audit of the Applicant's financial records. The Hearing Examiner notes that none of the Applicant's profit and loss statements made a part of this record indicates that the Applicant books a management fee to expenses. Further, the Hearing Examiner notes that the record is not persuasive that the Applicant has made a fair and reasonable attempt to fulfill the filing requirements of the Commission Rules and Regulations as they relate to this update. Therefore, the Hearing Examiner concludes that it is inappropriate to include the Applicant's increased level of management fee in the test year's end-of-period level of operating revenue deductions for the water operations.

As to the $248 difference in the parties' respective levels of operating revenue deductions, the Hearing Examiner concludes and agrees with witness Carter that it is improper to consider tax effects of increased revenue requirements resulting from an increase in operating revenue deductions, when the resulting level of taxable income is below zero. Therefore, the Hearing Examiner concludes that the Applicant's proper level of operating revenue deductions under present rates for water operations to be used in setting fair and reasonable rates in this proceeding is $81,781 and that the proper level of operating income for return for said operations is $(6,931).

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10, 11, AND 13

The evidence for these findings is found primarily in the Affidavit of Richard Stevie, which was uncontested by the Applicant, and therefore is concluded to be appropriate in determining fair and reasonable rates in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12, 14, AND 15

The evidence for these findings is found primarily in the testimony of Public Staff witness Carter, Company witness Shipes, and Public Staff Affiant Stevie. This evidence has already been discussed above except for one point. The Company's proposed sewer rates generate $252 less net operating income than that required to allow the Applicant a 17% overall rate of return found reasonable herein above; therefore, the Applicant has proposed to generate this $252 from its water operations. The Hearing Examiner concludes that, consistent with Commission decisions and policy, the Applicant should not be allowed to increase its water rates by a revenue requirement related to the

sewage operations. Similarly, the Hearing Examiner concludes that the sewage rates may be increased to a level no higher than that included in the public notice given to the Applicant's customers. Further, the Hearing Examiner concludes that the rates contained in Appendix A will generate the approved level of gross revenue requirements. The following schedules summarize the findings and conclusions of the Hearing Examiner explained above.

MECKLENBURG UTILITIES
Docket No. W-617, Sub 2
Statement of Rate Base and Rate of Return
Sewage Operations

	Item	Present Rate Amount	Approved Rate Amount
1.	Utility plant in service	$66,053	$66,053
2.	Accumulated depreciation	11,157	11,157
3.	Tap fees	8,083	8,083
4.	Original cost plant in service	46,813	46,813
5.	Working capital allowance:		
6.	Cash	3,940	3,940
7.	Less: Customer deposits	2,334	2,334
8.	Total working capital allowance	1,606	1,606
9.	Original cost rate base	$48,419	$48,419
10.	Overall rate of return		

MECKLENBURG UTILITIES
Docket No W-617, Sub 2
Calculation of Gross Revenue Requirements
Water Operations

	Item	Amount
1.	Operating revenue deductions excluding gross receipts and income taxes	$78,787
2.	Margin requirement ($78,787 x .17)	13,394
3.	Federal income taxes	2,551
4.	State income taxes	1,018
5.	Gross receipts taxes	3,994
6.	Total revenue requirement [Ln 1 + Ln 2 + Ln 3 + Ln 4 + Ln 5]	$99,740

MECKLENBURG UTILITIES
Docket No. W-617, Sub 2
Statement of Net Operating Income for Return
Water Operations

	Item	Present Rates	Approved Increase	Approved Rates
1.	Operating revenues	$74,850	$24,890	$99,740
2.	Operating revenue deductions:			
3.	Operation and maintenance	70,771	-	70,771
4.	Depreciation	4,681	-	4,681
5.	General taxes	3,335	-	3,335
6.	Gross receipts tax	2,994	996	3,990
7.	Federal income taxes	-	2,551	2,551
8.	State income taxes	-	1,018	1,018
9.	Total operating revenue deductions	81,781	4,565	86,346
10.	Net operating income for return	($6,931)	$20,325	$13,394

MECKLENBURG UTILITIES
Docket No. W-617, Sub 2
Statement of Rate of Return
Sewage Operations

Present Rates

Item	Ratio	Original Cost Rate Base	Embedded Cost	Net Operating Income for Return
Debt	50.00%	$24,210	13.92%	$3,370
Equity	50.00%	24,209	(25.28%)	(6,120)
Total	100.00%	$48,419		$(2,750)

Approved Rates

Item	Ratio	Original Cost Rate Base	Embedded Cost	Net Operating Income for Return
Debt	50.00%	$24,210	13.92%	$3,370
Equity	50.00%	24,209	19.04%	4,609
Total	100.00%	$48,419		$7,979

MECKLENBURG UTILITIES
Docket No. W-617, Sub 2
Net Operating Income for Return
Sewage Operations

	Item	Present Rates	Approved Increase	Approved Rates
1.	Operating Revenues	$34,980	$12,720	$47,700
2.	Operating Revenue Deduction:			
3.	Operation and Maintenance	31,521	-	31,521
4.	Depreciation	2,367	-	2,367
5.	General Taxes	1,743	-	1,743
6.	Gross receipts taxes	2,099	763	2,862
7.	Federal income taxes	-	878	878
8.	State income taxes	-	350	350
9.	Total operating revenue deductions	37,730	1,191	39,721
10.	Net operating income for return	$(2,750)	$10,729	$ 7,979

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 16

A number of public witnesses testified in this proceeding. Charles Christopher, a customer in Wildwood Green Subdivision, testified that the Applicant's maintenance was very good, although he opposed any rate increase. Ed Spooner, of the Lamplighter South Subdivision, testified that there was very little maintenance around the well lot.

Applicant's witness McGraw recognized that there was a debris problem on the well lot in Lamplighter South Subdivision, and he agreed to clean up and remove the debris. He also testified that Mr. Shaw of the Public Staff informed him of the pressure problem in Lamplighter South; he further stated that he wished people would call him concerning the pressure problems.

Rudy Shaw of the Public Staff testified on his investigation into the pressure problems at Lamplighter South. He made a pressure check at one of the highest elevations in the subdivision and found that it was only 25 psi, which was below the required minimum pressure of 30 psi and at an off-peak time. Mr. Shaw recommended that the Applicant increase the pressure in Lamplighter South so as to maintain at least 30 psi at all times. He also recommended that Applicant should monitor the pressure at the highest elevation in the subdivision.

This Order will require the Applicant to clean up the well lot and to monitor the pressure situation in Lamplighter Village South. The Applicant will also be required to work with the Department of Water and Air Resources regarding State requirements as to well-head plumbing and system design.

IT IS, THEREFORE, ORDERED as follows:

1. That the Schedule of rates attached hereto as Appendix A is hereby approved for water and sewer service provided by Mecklenburg Utilities to its service areas.

2. That said Schedule of Rates is deemed to be filed with the Commission pursuant to G.S. 62-138.

3. That said Schedule of Rates is hereby authorized to become effective for service rendered on and after the date this Recommemnded Order becomes effective and final.

4. That a copy of the Notice to Customers attached hereto as Appendix B shall be delivered to all customers of the Applicant in conjunction with the next regularly scheduled billing process which shall occur after this Recommended Order becomes final.

5. That the Applicant shall clean up its well lot in Lamplighter South Subdivision.

6. That the Applicant shall increase the pressure in Lamplighter South Subdivision so as to maintain this pressure at all times. The Applicant shall also monitor the pressure in the subdivision at the highest elevation to ensure that this minimum pressure is maintained.

7. That the Applicant shall consult and work with the Public Water Supply Engineers of the Department of Water and Air Resources regarding state requirements as to well-head plumbing and system design

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of June 1982.

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

APPENDIX A
SCHEDULE OF RATES
for
Water and Sewer Utility Service
provided by
MECKLENBURG UTILITIES, INC
in
All Service Areas in North Carolina

Water Service (Metered rate):

First 3,000 gallons per month	- $ 7.30 (minimum charge)
All over 3,000 gallons per month	- $ 1.35/1,000 gallons

Sewer Service (Flat rate): $15.00 per month per connection

Connection Charges:

For taps made to lots developed prior to May 1, 1982

Water: $297.50
Sewer: $297.50

For taps made to lots developed after April 30, 1982

Water: $600.00 to be paid by developer
Sewer: $900.00 to be paid by developer

Reconnection Charges:

If water service cut off for good cause	$ 2.00
If water service disconnected at customer's request	$ 4.00
If sewer service cut off by utility for good cause	$15.00

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing Frequency: Monthly for service in arrears

Finance Charge for Late Payment:
1% per month will be applied to the unpaid balance of all bills past due 25 days after biling date.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-617, Sub 2, on this the 13th day of July 1982.

APPENDIX B
DOCKET NO. W-617, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Mecklenburg Utilities, Inc., 1740 East Independence Avenue, Charlotte, North Carolina, for Authority to Increase Rates for Water and Sewer Utility Service in all of Its Service Areas in Mecklenburg County, North Carolina	) NOTICE TO CUSTOMERS

Notice is hereby given that the North Carolina Utilities Commission has approved increases in water and sewer rates for all areas served by Mecklenburg Utilities. These new rates are as follows:

Water Service (Metered rate):

First 3,000 gallons per month	- $ 7.30 (minimum charge)
All over 3,000 gallons per month	- $ 1.35/1,000 gallons

Sewer Service (Flat rate): $15.00 per month per connection

The Commission also ordered that the utility monitor the water pressure at Lamplighter Village South Subdivision in order to maintain a minimum pressure of 30 psi.

ISSUED BY ORDER OF THE COMMISSION.
This the 23rd day of June 1982.

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

DOCKET NO. W-198, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Mercer Environmental Corporation, P.O. Box 1376, Jacksonville, North Carolina, for Authority to Increase Rates for Water and Sewer Utility Service in all of Its Service Areas in Onslow County, North Carolina	) RECOMMENDED ORDER GRANTING INCREASE IN RATES

HEARD IN: Summersill Building, Jacksonville, North Carolina, on November 4, and 5, 1981, Commission Hearing Room No. 2, Dobbs Building, Raleigh, North Carolina, on November 9, 1981, and Summersill Building, Jacksonville, North Carolina, on March 10, 1982

BEFORE: Allen L. Clapp, Hearing Examiner, and Jim Panton, Hearing Examiner

APPEARANCES:

For the Applicant:

William Eugene Anderson, Teague, Campbell, Conely & Dennis, Attorneys at Law, P.O. Box 2447, Raleigh, North Carolina 27602

For the Public Staff:

Gisele L. Rankin, Staff Attorney Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

PANTON, HEARING EXAMINER: This proceeding arises out of an application filed with the North Carolina Utilities Commission on June 17, 1981, by the Mercer Environmental Corporation (Applicant, Company, or Mercer) seeking authority to increase its rates for water and sewer utility service provided to its customers, residing in all of the Company's North Carolina service areas.

On July 9, 1981, the Commission issued an Order declaring the matter to be a general rate case and the proposed rates were suspended for up to 270 days. Public hearing on the application was scheduled for Thursday, November 5, 1981, at 9:00 a.m., and public notice of the above referenced hearing was required.

The Public Staff filed a Notice of Intervention on behalf of the using and consuming public and a motion for a night hearing on August 24, 1981. This motion was granted by Order dated September 9, 1981, and an additional hearing was scheduled for the evening of November 4, 1981.

The Applicant filed a motion on September 13 1981 to have the test period changed from the 12 months ended December 31, 1980, to the period of the 12 months ended June 30, 1981.

The official Commission file in this docket indicates that Mercer gave public notice as required by the Commission in its Order setting hearing.

This matter came on for hearing at the time, date, and place set by the Commission's Orders of July 9, 1981, and September 9, 1981. The Hearing Examiner granted Applicant's motion to change the test period to the 12 months ended June 30, 1981, at the beginning of the hearing. Both the Applicant and the Public Staff were represented by counsel. Approximately 100 Mercer customers appeared at the evening hearing. Approximately 10 of these customers testified either on behalf of themselves or their subdivisions regarding service problems and in opposition to the rate increase.

Lynn Rivers and L.T. Mercer presented testimony and evidence in support of the Applicant's application for a rate increase. Jesse Kent, Jr., Staff Accountant, Andy Lee, Utilities Engineer, and Dr. Richard Stevie, Director of the Economic Research Division, presented testimony and exhibits on behalf of the Public Staff.

Following the close of the hearing, the Applicant filed a Motion for Emergency Relief, which requested an immediate effective date for that portion of the rate increase found to be just and reasonable by the Public Staff. This motion was granted by Order dated November 16, 1981, and interim rates, subject to a written undertaking, were approved and made effective for service

rendered on and after November 25, 1981, until the issuance of a subsequent Recommended Order establishing final rates in this proceeding.

On December 23, 1981, the Applicant filed a Motion to Amend, Proposed Findings, Brief, Stipulation, and Late-Filed Exhibits in connection therewith. The Public Staff filed its Proposed Recommended Order, Brief, and Reply to Applicant's Motion to Amend on January 8, 1982. On January 22, 1982, the Applicant filed a Supplemental Motion to Amend, which was allowed by Commission Order dated February 10, 1982.

The matter of the amended application came on for hearing on March 10, 1982. Both the Applicant and the Public Staff were represented by counsel. Approximately 60 Mercer customers attended the hearing and 12 of them testified. Tommy Mercer, L.T. Mercer, and Franklin McClinton presented evidence and testimony on behalf of the Applicant. Jesse Kent, Jr. and Andy Lee presented testimony on behalf of the Public Staff.

Based upon the testimony and evidence adduced at the hearings and the entire record of this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation duly franchised by this Commission to operate as a public utility and provide water and sewer utility service to customers residing in its North Carolina service areas.

2. The test period used in this proceeding consists of the 12 months ending June 30, 1981.

3. The Applicant presently furnishes water and sewer utility service in North Carolina utilizing the following rates per month:

Metered Water	- $ 6.50 minimum first 3,000 gallons plus $ 1.35/additional 1,000 gal.
Flat Rate Water	- $ 9.65
Flat Rate Sewer	- $ 9.80
White Oak School	- $450.00

4. The Applicant originally proposed to charge the following rates per month:

Metered Water	- $ 7.50 minimum first 2,000 gallons plus $ 1.45/additional 1,000 gal.
Flat Rate Water	- $ 14.50
Flat Rate Sewer	- $ 17.50
White Oak School	- $765.00

5. The Applicant subsequently proposed, pursuant to its supplemental motion to amend, to charge the following rates per month:

Metered Water	- $ 7.40 minimum first 2,000 gallons plus $ 1.45/additional 1,000 gal.
Flat Rate Water	- $ 14.00
Flat Rate Sewer	- $ 20.59
White Oak School	- $765.00

6. The approximate operating revenues derived from the water operation of Mercer Environmental Corporation under present rates on an end-of-period basis are $198,920, and under the rates proposed in its amended application would be $255,110.

7. The approximate operating revenues derived from the sewer operation of Mercer under present rates on an end-of period basis are $60,799, and under the rates proposed in its amended application would be $125,678.

8. The level of operating expenses under present rates for the water operation is $207,849, which includes the amount of $14,682 in updated expenses, and for the sewer operation is $96,866, which includes the amount of $387 in updated expenses.

9. The effect of the Applicant's operations at the old rates on an end-of-period basis is a net operating loss of $29,927, not including interest, and $38,609, including $8,682 of interest.

10. The operating ratio method is the proper basis for fixing the rates for Mercer Environmental Corporation in this proceeding.

11. The fair and reasonable return margin for Mercer Environmental Corporation is 17.1%.

12. That the proposed rates as amended will result in the Applicant's achieving the fair and reasonable margin found to be fair herein.

13. The Applicant has stipulated that it will embark on a program of metering currently flat rate water customers in accordance with the plan contained in the Stipulation filed on December 23, 1981, to which the Public Staff, on behalf of the customers, has agreed.

14. Customers living in the White Oak Estates Subdivision have continued to complain about low water pressure. The Applicant should continue to monitor these residents and attempt to solve the problem.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 5

These findings are based on the official records of the Commission and the application of Mercer Environmental Corporation.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6, 7, AND 9

The evidence supporting these findings appears in the testimony of Public Staff witnesses Kent and Lee.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence supporting this finding appears in the tstimony of Public Staff witness Kent to which the updated expenses agreed to at the hearing by the Public Staff were added.

Counsel for the Applicant and for the Public Staff stipulated at the March 10, 1982, hearing that the Applicant would forego any claim to the inclusion of the interest as an operating expense. Additionally, the parties stipulated that the level of operating expense would be the total found by Public Staff witness Kent in his prefiled testimony plus the updated expenses contained on Rivers Exhibit 1, Schedules 8 and 9.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The Applicant did not request that its rates be fixed under G.S. 62-133(b). Therefore, the Hearing Examiner must determine whether rates shall be fixed on the rate base method or the operating ratio method. Upon consideration of the evidence presented in this proceeding, the Hearing Examiner concludes that the use of the operating ratio method will result in rates that are just and reasonable. The Hearing Examiner further concludes that the operating ratio on cost base method used by both the Applicant and the Public Staff is the proper method to use in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

Counsel for the Applicant and for the Public Staff stipulated that the fair and reasonable return margin for Applicant is 17.1%. This return margin was testified to by Public Staff witness Stevie at the first public hearing.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 12

After a review of the entire record of this proceeding, the Hearing Examiner concludes that the proposed rates, as amended, will give the Applicant a fair and reasonable opportunity to achieve the return margin found reasonable herein.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 13

The evidence supporting this finding is contained in the stipulation entered into the record by the Applicant at the public hearing.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 14

The evidence for this finding of fact is the testimony of the public witnesses at the November 1981 hearing and at the March 10, 1982, hearing.

IT IS, THEREFORE, ORDERED as follows:

1. The schedule of rates attached hereto as Appendix A is hereby approved for service rendered on or after the effective date of this Order and is deemed to be filed with the Commission pursuant to G.S. 62-138.

2. That Mercer shall continue to monitor the water pressure problems experienced in the White Oak Estates Subdivision and shall, within 60 days of the date of this Order, submit to the Commission a recommendation as to how to correct this problem.

3. Mercer shall enter into the metering program as provided in the Stipulation filed in this proceeding.

ISSUED BY ORDER OF THE COMMISSION
This the 14th day of April 1982

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sharon Credle Miller, Deputy Clerk

APPENDIX A

SCHEDULE OF RATES
MERCER ENVIRONMENTAL CORPORATION

Subdivisions

Belleau Woods	Oak Ridge
Eastwood	Piney Green Estates
Hickory Hills	Regalwood-Windsor Manor
Hillcrest	Walnut Creek
Kenwood	White Oak Estates
Montclair	

METERED WATER RATES:

First 2,000 gallons or less per month - $7.40 minimum
All over 2,000 gallons per month - $1.45 per 1,000 gallons

FLAT WATER RATE:

$14.00 per month

SEWER RATES:

$20.59 per month (residential service)
$765.00 per month (White Oak High School)

CONNECTION CHARGE: None

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

RETURNED CHECK CHARGE: $5.00

BILLS DUE: On billing date

BILLS PAST DUE: 15 days after billing date

BILLING FREQUENCY: Shall be monthly, for service in arrears

FINANCE CHARGES FOR LATE PAYMENT: 1% per month will be applied to the unpaid balance of all bills still past due 25 days after billing date.

CUSTOMER DEPOSITS:

Flat Rate Water Service - $15.00
Flat Rate Sewer Service - $16.00
Metered Water Service - $16.00

DOCKET NO. W-720, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Mid South Water Systems, Inc., Route 1, Box 102-A, Sherrills Ford, North Carolina, for Authority to Increase Rates for Water Utility Service Areas in North Carolina	) RECOMMENDED) ORDER GRANTING) RATE INCREASE)

HEARD IN: Commissioners Board Room, Human Resources Center, 320 East Parker Road, Morganton, North Carolina, on March 31, 1982, at 8:30 a.m.

BEFORE: David F. Creasy, Hearing Examiner

APPEARANCES:

For the Applicant:

Thomas Carroll Weber, President, Mid South Water Systems, Inc., Route 1, P.O. Box 102-A, Sherrills Ford, North Carolina

For the Public Staff:

Vickie L. Moir, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

CREASY, HEARING EXAMINER: On October 28, 1981, Mid South Water Systems, Inc. (Applicant or Company), filed an application with this Commission for authority to increase its rates for water utility service in its service areas in North Carolina.

By Order dated November 19, 1981, this Commission declared the matter a general rate case, suspended the proposed new rates for up to 270 days pursuant to G.S. 62-134, scheduled the matter for hearing, and required that public notice be given to the customers.

On March 4, 1981, the Applicant filed a Certificate of Service indicating that the required public notice had been served on the affected customers.

On March 11, 1981, the Public Staff filed Notice of Intervention on behalf of the using and consuming public. On the same date the Public Staff also filed the Notice of Affidavit and Affidavit of Candace A. Paton, Staff Accountant, and the testimony of Andy Lee, Utilities Engineer.

This matter came on for hearing at the appointed time and place. Carroll Weber, President of Mid South Water Systems, Inc., appeared on behalf of the Applicant. The Public Staff was represented by counsel. Witness Weber presented testimony and evidence in support of the Applicant's request for permanent rate relief. The Public Staff presented the testimony of Andy R. Lee, Utilities Engineer and the Affidavit of Candace Paton, Staff Accountant. James McNeil, President of Sherwood Forest Homeowners Association, presented testimony on behalf of the Sherwood Forest Subdivision residents.

Based upon the testimony and evidence adduced at the hearing and the entire record in this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation duly authorized by this Commission to operate as a public utility and to provide water utility service to customers residing in these North Carolina service areas.

2. The test period established for use in this proceeding consists of the 12-month period ended December 31, 1980, but data was obtained and utilized to reflect the operating conditions as they more currently existed for the year ended December 31, 1981.

3. The Applicant's proposed monthly rates are:

Metered Service	
First 2,000 gallons	$7.50 Minimum
Each additional 1,000 gallons	$1.25 per 1,000
Nonmetered Service	
$7.50 Flat Rate	

4. The approximate total operating revenues of Mid South Water Systems, Inc., under the present rates are $21,423 and under the Company proposed rates would be $32,793.

5. The annual level of total operating revenue deductions under present rates is $26,970 and under Company proposed rates would be $28,554.

6. The operating ratio method is the proper basis for fixing the rates for Mid South Water Systems, Inc., in this proceeding.

7. The Applicant's proposed rates, which will produce an increase in annual gross revenues of $11,370 and result in net operating income of $4,239, will give the Company the opportunity to earn a 16.23% return on operating revenue deductions requiring a return, which is neither unfair nor unreasonable.

8. Those operating revenue deductions requiring a return are total deductions less gross receipts and income taxes. In this proceeding they amount to $26,113.

9. The Applicant's requested $425 tap-on fee should be approved for making connections where extension of existing water mains is required. However, the existing approved tap-on fees or actual connection cost, whichever is greater, should be charged where extension of existing water mains is not required.

10. The Applicant should make improvements to the Sherwood Forest Subdivision and Long Shoals water systems as soon as possible, but not later than within one year from the effective date of this Order. The Sherwood Forest system improvement involves repairing a damaged storage tank. The Long Shoals improvement involves replacing an old elevated storage tank with a new ground-mounted pressure tank and constructing a loop in the existing distribution system.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 8

The evidence with respect to these findings of fact is found in the records on file with the Commission, the verified application filed by the Applicant, the testimony of Public Staff witness Andy Lee, and the affidavit and exhibit filed by Public Staff Accountant Candace Paton.

The data submitted with the application was for the 12-month period ended December 31, 1980. Public Staff Accountant Paton stated in her affidavit that during her investigation she obtained data sufficient to reflect more current operating conditions and that therefore her exhibit reflects 1981 levels. Witness Lee likewise noted that his consumption study was based on billings through December 31, 1981.

Affiant Paton stated that revenue requirements were calculated using the operating ratio method because the Company's rate base is smaller than those operating revenue deductions requiring a return. She stated that under the Applicant's proposed rates, the Company would earn a return of 16.23% on operation and maintenance expenses, depreciation, and taxes other than gross receipts and income.

The Hearing Examiner agrees and concludes that the operating revenue deductions requiring a return best represent the Company's risk in this proceeding, and that a return of 16.23% is neither unjust nor unreasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9 AND 10

The evidence and conclusion for this finding of fact comes from the testimony of Company witness Weber and Public Staff witness Lee and the application.

Witness Weber testified that the Company was requesting to increase the tap-on fee to $425. Witness Lee testified that a $425 tap-on fee is not unreasonable for situations where extension of existing mains is required for making new connections. However, for situations where no main extension is required he recommended that the Company charge the greater of the existing approved tap-on fee or the actual cost of making the connection. The Hearing Examiner concludes that the $425 tap-on fee should be approved to be applicable to connections requiring extension of the water main and that the approved existing tap-on fee or actual connection cost whichever is greater should be approved for connections made to existing mains.

Witness Lee testified that the damaged pressure storage tank at the Sherwood Forest Subdivision System needed to be repaired to bring the system in compliance with the approved design. Witness Lee testified, however, that the Company was presently providing adequate service utilizing the remaining pressure tank. Witness Weber testified that he had attempted to repair the damaged tank but was unsuccessful and that he was acquiring cost estimates for having the tank repaired.

Witness Lee testified that the old elevated storage tank at the Long Shoals system needed replacing due to its deteriorated condition. Witness Lee also testified that the Company needed to install a loop in the distribution system. Witness Weber testified that a new tank had been ordered for the system.

Witness Lee testified that a one-year time period was reasonable for completion of these improvements. The Hearing Examiner concurs that these improvements should be completed within one year from the effective date of this Order.

IT IS, THEREFORE, ORDERED:

1. That the Schedule of Rates attached hereto as Appendix A is hereby approved and is deemed to be filed with the Commission pursuant to G.S. 62-138. Said Schedule of Rates shall become effective for service rendered on and after the effective date of this Order.

2. That a copy of the Notice to Customers of New Rates attached hereto as Appendix B shall be mailed or hand delivered to each of the Applicant's customers in conjunction with the first regularly scheduled billing process which occurs after this Order becomes effective and final.

3. That the Applicant shall repair the damaged tank at the Sherwood Forest water system and replace the old and deteriorated storage tank at the Long Shoals water system within a period of one year after the effective date of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of June 1982.

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

Appendix A
MID SOUTH WATER SYSTEMS, INC.
DOCKET NO. W-720, SUB 5
SCHEDULE OF RATES
For All Its Service Areas In North Carolina

NONMETERED SERVICE:
$7.50 per month Flat Rate

METERED SERVICE:

Up to first 2,000 gallons per month, minimum	- $ 7.50
All over 2,000 gallons per month, per 1,000 gallons	- $ 1.25

CONNECTION CHARGE:

If extension of distribution mains is required	- $425.00

If extension of distribution mains is not required - actual cost of connection or existing tap-on fee whichever is larger. Existing approved tap-on fee is $350 for all systems except Bridges Farm Community which is $175

RECONNECTION CHARGE:

If water service cut off by utility for good cause	- $ 4.00
If water discontinued at customer's request	- $ 2.00

BILLS DUE: On billing date

BILLS PAST DUE: 20 days after billing date

BILLING FREQUENCY: Monthly for service in arrears

FINANCE CHARGES FOR LATE PAYMENT: None

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission on this the 23rd day of June 1982.

Appendix B
DOCKET NO. W-720, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Mid South Water Systems, Inc., P.O. Box 102-A,) NOTICE TO
Sherrills Ford, North Carolina, for Authority to Increase Rates) CUSTOMERS
for Water Utility Service in North Carolina) OF NEW RATES

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has granted Mid South Water Systems, Inc., an increase in its water utility rates in its service areas in North Carolina. An application was filed with the Commission on October 28, 1981, and a public hearing was held in the Human Resources Center in Morganton, North Carolina, on March 31, 1982, at 8:30 a.m. The new rates are as follows:

Metered Residential Service (Monthly)

Up to first 2,000 gallons	- $7.50 minimum charge
All over 2,000 gallons	- $1.25 per 1,000 gallons

Nonmetered Residential Service (Monthly)

$7.50 Flat Rate

WATER AND SEWER

DOCKET NO. W-749

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of L. W. Shreve, d/b/a Hazelwood Water Company, Rocky Mount, North Carolina for Authority to Transfer the Franchise for Water Utility Service in Hazelwood Subdivision, Edgecombe County, North Carolina, from Hazelwood Water Corporation, and for Authority to Increase Rates	)	RECOMMENDED ORDER APPROVING TRANSFER OF FRANCHISE AND APPROVING PARTIAL RATE INCREASE

HEARD IN: Conference Room, Braswell Memorial Library, 344 Falls Road, Rocky Mount, North Carolina

BEFORE: Robert P. Gruber, Examiner

APPEARANCES:

For The Applicant:

L. W. Shreve, d/b/a Hazelwood Water Company, P. O. Box 489, Rocky Mount, North Carolina 27801

For the Using and Consuming Public

G. Clark Crampton, Staff Attorney, North Carolina Utilities Commission, P. O. Box 991, Raleigh, North Carolina 27602

GRUBER, HEARING EXAMINER: On September 28, 1982, L. W. Shreve d/b/a Hazelwood Water Company filed an application with the Commission for authority to transfer the public water utility franchise for Hazelwood Subdivision in Edgecombe County from C. H. Powell d/b/a Hazelwood Water Company and for approval of rates.

On October 20, 1981, the Commission issued an Order declaring the application constituted a general rate case, suspending rates, scheduling a hearing and requiring that the Applicant give Notice of the proposed transfer and rate increase to all of the affected customers.

On October 22, 1982, the Commission issued an Errata Order scheduling the time and place of hearing which had been inadvertently omitted from the previous Order. Public hearing was scheduled for Tuesday, February 2, 1982, at 10:00 a.m. in the City Council Chambers, 2nd Floor, Municipal Building, 139 N. E. Main Street, Rocky Mount, North Carolina.

On November 9, 1981, a Certificate of Service was filed by the Applicant.

On January 5, 1982, the Public Staff moved the Commission to hold a night hearing in thise case due to the fact that many customers would be unable to attend a day hearing due to their jobs.

On January 7, 1982, the Commission issued an Order rescheduling the hearing for Wednesday, February 10, 1982, at 7:00 p.m. in the Conference Room, Braswell Memorial Library, 344 Falls Road, Rocky Mount, North Carolina.

The Public Staff filed a Notice of Intervention on January 11, 1982; it prefiled testimony of Andy Lee, Utilities Engineer on the Public Staff, on January 12, 1982; it also filed Notice of Affidavit and Affidavit of Jocelyn M. Perkerson, Staff Accountant on the Public Staff, on January 13, 1982.

The matter came on for hearing as scheduled in Rocky Mount on February 10, 1982. Mr. L. W. Shreve appeared on behalf of the Applicant, while the Public Staff was represented by counsel. Mr. Shreve presented testimony concerning the application and service and operation of the water system. The Public Staff presented evidence through its witness Andy Lee, Utilities Engineer, and the Affidavit testimony of Jocelyn Perkerson, Staff Accountant. Approximately 30 customers appeared at the hearing. The following customers testified regarding past service problems and water quality problems: Henry Sides, Jr., Dan Butler, Earl Meadows, Evans H. Carroll, Jr., Butch Matthews, Lindsey 7eyers, Robert Underwood, Calvin Salsgiver, Jr., Martha Price and Gordon Hammiel.

Questions arose during the hearing concerning water quality and the number of customers being served by the system. The Hearing Examiner requested the Public Staff to conduct further investigation and report its findings to the Commission. On March 23, 1982, the Public Staff filed Late Filed Affidavits of Andy Lee, Utilities Engineer and Jocelyn Perkerson, Staff Accountant.

Upon consideration of the testimony, evidence and exhibits presented at the hearing and the entire record in this proceeding, the Hearing Examiner makes the following:

FINDINGS OF FACT

1. The Commission granted Temporary Operating Authority in 1975 under Docket No. W-516 to C. H. Powell t/a Hazelwood Water Company to provide water utility service in Hazelwood Park Subdivision, Edgecombe County.

2. Water utility service in Hazelwood Subdivision has not been satisfactory under Mr. Powell's ownership and operation. Customers have experienced problems of frequent outages, low pressure, improper chlorination and water quality problems.

3. Mr. Shreve has made significant improvements since he began physically operating the system in August 1981.

4. The quality of the untreated water does meet State standards with respect to chemical parameters which have set maximum allowable limits, but treatment is being provided to control the undesirable staining caused by excessive manganese.

5. The water is being continuously chlorinated as required by State regulations.

6. Water quality problems do exist consisting of corrosion of plumbing fixtures and appliances and the accumulation of white sediments on plumbing fixtures, appliances and cooking utensils. These problems appear to be caused by excessive amounts of dissolved solids contained in the water. Tests conducted since the hearing reveal a total dissolved solids concentration of

884 parts per million (ppm). There is no maximum allowable limit set by the State for total dissolved solids, however, 500 ppm has been suggested by the Environmental Protection Agency. The total amount of total dissolved solids attributed to inorganic chemical elements which have maximum set limits is less than 20 ppm, therefore, the high concentration of total dissolved solids is resulting from concentration of inorganic chemical parometers which have no set maximum allowable limits, therefore, the corrosion and white sediment problems are considered a nusiance and not a health hazard.

8. The Applicant, the Division of Health Services and the Public Staff are evaluating methods for correcting the corrosion and white sediment problems.

9. Methods for correcting these problems may require considerable investment which may have a significant impact on future rates.

10. The test period used in this proceeding consists of the twelve (12) months ending December 31, 1981.

11. The existing rates, the Applicant's proposed rates and the Public Staff's recommended rates are as follows:

EXISTING RATES (MONTHLY)

$5.00	Per Month Flat Rate

APPLICANT'S PROPOSED RATES (MONTHLY)

$15.00	Per Month Flat Rate (Until all meters installed)
$ 8.00	Minimum Up to First 2,000 gallons
$ 1.40	Each additional 1,000 gallons

PUBLIC STAFF'S RECOMMENDED RATES (MONTHLY)

$13.25	Flat Rate (Until all meters installed)

Metered Rates (after all meters installed)

$ 7.65	Minimum up to 2,000 gallons
1.40	per 1,000 gallons over 2,000 gallons

12. The original net investment for Applicant's utility plant in service is $13,884 in this proceeding.

13. The annualized operating expenses for the test year period are $7,943.

14. The rate of return method of setting rates is appropriate for use in this proceeding.

15. A rate of return of 17.0% on the Applicant's rate base of $13,884 is deemed fair and reasonable for use in this proceeding.

16. The annual revenue required to allow the Applicant to earn a 17.0% rate of return on its rate base is $11,119.

17. Annualized revenues for the Applicant's proposed metered rates are $11,424 and proposed flat rates are $12,600. Such revenues under the Public Staff's recommended metered and flat rates are $11,130.

18. The Applicant should complete installation of service meters for all customers in Hazelwood Subdivision.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 3

The evidence supporting these findings of fact comes from information in Commission files and from testimony presented by the Applicant, Public Staff Witness Andy Lee and public witnesses. Witness Lee and public witnesses testified to the unsatisfactory water utility service provided by the former franchise owner, Mr. C. H. Powell. Witness Lee and the Applicant, Mr. Shreve, testified to the improvements made since Mr. Shreve began operating the system in August of 1981.

The Hearing Examiner concludes that it is in the interest of the Using and Consuming Public that transfer of this franchise from Mr. Powell to Mr. Shreve be approved.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 4 - 9

The evidence supporting these findings of fact is contained in the testimony and late filed affidavit of Public Staff Witness Lee.

Witness Lee testified that the quality of the untreated water does meet State Standards in regard to chemical parameters which have set maximum allowable limits with the exception of manganese for which treatment is now being provided by Mr. Shreve. Mr. Shreve has begun chemically feeding a polyphosphate solution to the water to sequester excess manganese thus preventing manganese staining of plumbing fixtures and appliances. This treatment process was approved by the Division of Health Services in 1975 for this system, however, such treatment was never properly implemented by Mr. Powell.

Witness Lee testified that the water is being continuously chlorinated as required by the Division of Health Services.

Witness Lee stated in his Late Filed Affidavit that tests conducted since the hearing reveal that the corrosion and white sediment problems noted by customers at the hearing are apparently being caused by the excessive amounts of total dissolved solids for which there are no set maximum allowable limits. Witness Lee stated that the Public Staff and Division of Health Services were determining what treatment methods are available and what estimated investment would be required to solve these problems.

The Hearing Examiner concludes that Applicant, with the assistance of the Division of Health Services and the Public Staff, should investigate and determine what treatment methods are available and what estimated cost would be incurred in correcting the corrosion and white sediment problem and that the Applicant should file a report of such findings within 90 days from the effective date of this Order.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10 - 11

The evidence with respect to these findings of fact is contained in the Application, testimony and Affidavit of Public Staff Witness Lee, and in the Affidavit of Public Staff Accountant Jocelyn Perkerson.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 and 13

The evidence for these findings of fact is contained in the Late Filed Affidavit of Public Staff Accountant Jocelyn Perkerson.

The application figure of $30,945 for original plant investment was adjusted to remove $17,445 to reflect the Applioant's purchase investment in the utility plant of $13,500. From this figure was deducted depreciation of $460 leaving a net plant of $13,040. To this amount was added a reasonable working cash allowance of $689 and unamortized water analysis fee less the applicable deferred taxes of $237 and deducted average tax acoruals of $82 to arrive at an original cost rate base of $13,884.

Annual operating expenses per application were $7,694. Public Staff Accountant Perkerson made adjustments increasing these expenses to $7,943.

There being no evidence to the contrary, the Hearing Examiner concludes that an original cost rate base of $13,884 and annual operating expenses of $7,943 are correct for consideration in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14, 15 and 16

Evidence for these findings of fact comes from the Late Filed Affidavit of Public Staff Accountant Jocelyn Perkerson.

Public Staff Accountant Perkerson stated that the rate of return method for determining the proper level of revenue requirements which the Applicant should be allowed in this proceeding since the rate base of the Applicant $13,884, is large in comparison to operating expenses of $7,943.

Accountant Perkerson employed a 17.0% rate of return on rate base as recommended by Public Staff Economist Richard Stevie. The annual revenue required to allow the Company a 17.0% rate of return on its rate base is $11,119. This amount consists of $7,943 in annual operating expenses plus $816 in accounting and pro forma adjustments for gross receipts and income taxes plus a net operating income of $2,360.

There being no evidence to the contrary, the Hearing Examiner concludes that the Company should be allowed a 17.0% rate of return on its rate base in this proceeding and that $11,119 in annual revenues is required to allow a 17.0% rate of return on the Company's rate base.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 17

Evidence supporting this finding of fact is contained in the testimony and Late Filed Affidavit of Public Staff Engineer Andy Lee. Witness Lee recommended at the hearing that the Applicant's proposed rates be approved based upon his analysis of the existing billing records. Questions arose during the hearing as to the accuracy of the number of customers shown in the

billing records. An actual customer count by Witness Lee since the hearing revealed that there are 72 houses served by the Hazelwood system instead of 62 as shown on the billing records. Witness Lee stated in his late filed affidavit that annual revenues under Company proposed flat rates structure and metered rate structure would be approximately $12,600 and $11,424 respectively based upon the revised number of customers. Witness Lee recommended in his affidavit a proposed rate structure which would generate approximately $11,130 in annual revenues.

The Hearing Examiner concludes that the Public Staff's recommended rate structure should allow the Applicant to earn $11,119 in annual revenues required to earn a 17.0% rate of return on its rate base which is deemed fair and reasonable in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 18

The evidence and conclusions for this finding of fact come from the testimony of Public Staff Witness Lee and Company Witness Shreve.

Witness Lee testified that service meters are installed for part of the customers and he recommended that all customers be metered and charged a metered rate which would be a more equitable means of charging for service. Mr. Shreve testified that he was installing meters for customers.

The Hearing Examiner concludes that meters should be installed for all customers within a reasonable length of time.

IT IS, THEREFORE, ORDERED:

1. That the Application of L. W. Shreve, d/b/a Hazelwood Water Company for authority to transfer the franchise for water utility service in Hazelwood Subdivision, Edgecombe County, North Carolina, from C. H. Powell is approved.

2. The Schedule of Rates attached hereto as Appendix A is approved and deemed filed with the Commission pursuant to G.S. 62-138.

3. The Temporary Operating Authority granted to C. H. Powell to provide water utility service is hereby cancelled.

4. The Public Staff is requested to file with this Commission within 90 days from the effective date of this Order a report regarding recommended cost effective measures for improving the system's water quality.

5. That the Notice to Customers attached hereto as Appendix B be mailed or hand delivered to all customers within 30 days of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 19th day of May 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

NOTE: See the official files in the Office of the Chief Clerk for Appendices A and B.

DOCKET NO. W-720, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Mid South Water Systems, Inc., Route 1, Box 102-A, Sherrills Ford, North Carolina, for Authority to Acquire the Water Utility Franchise in Pioneer Village Subdivision, Catawba County, North Carolina, and for Approval of Rates, from Beachwood Distribution Company, Inc.	) RECOMMENDED ORDER APPROVING FRANCHISE, TRANSFER AND RATE INCREASE

HEARD IN: Commissioners Board Room, Human Resources Center, 320 East Parker Road, Morganton, North Carolina, on March 31, 1982, at 8:30 a.m.

BEFORE: David F. Creasy, Hearing Examiner

APPEARANCES:

For the Applicant:

Thomas Carroll Weber, President, Mid South Water Systems, Inc., Route 1, Sherrills Ford, North Carolina 28673
For: Himself

For the Public Staff:

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

CREASY, HEARING EXAMINER: On December 7, 1981, Mid South Water Systems, Incorporated (hereinafter Applicant), filed an application for authority to transfer the public utility franchise from Beachwood Distributing Company, Incorporated, to Mid South Water Systems, Inc., and for approval of new rates in the Pioneer Village Subdivision located in Catawba County, North Carolina.

On January 6, 1982, the Commission issued an order scheduling the application for public hearing and requiring that public notice be hand delivered or mailed to each of the customers in the Pioneer Village Subdivision service area. Public notice was given as required by the Commission Order.

Notice of Intervention was filed by the Public Staff on March 9, 1982.

The application came on for hearing as scheduled on March 31, 1982. Carroll Weber, President of Mid South Water Systems, Inc., testified in support of the application. Andy Lee, Utilities Engineer with the Public Staff's Water Division, testified on behalf of the using and consuming public. No customers attended the hearing.

WATER AND SEWER

FINDINGS OF FACT

1. Beachwood Distribution Company, Inc., was granted a franchise in 1977 in Docket No. W-622, to provide water utility service in Pioneer Village subdivision in Catawba County, North Carolina.

2. The Applicant is a corporation duly organized under the laws of the State of North Carolina.

3. The Applicant operates several water systems franchised by this Commission.

4. The water system currently provides water utility service to approximately 14 customers in Pioneer Village Subdivision.

5. A flat rate of $5.00 per month is presently charged since meters have not been installed. The Applicant proposes to charge a flat rate of $7.50 per month until meters are installed.

6. The Applicant proposes to increase metered rates from $5.00 for the first 3,000 gallons of water used and $1.00 for every 1,000 gallons thereafter to $7.50 for the first 2,000 gallons and $1.25 for each additional 1,000 gallons.

7. The Applicant's proposed rates are the same as those approved by the Commission for the Applicant's other service areas.

8. The Applicant's purchase price for the Pioneer Village Subdivision water utility system is $0.

9. The Applicant's proposed $425 tap-on fee should be approved for connections requiring extension of the existing water mains. The existing approved tap-on fee of $120 or actual connection cost, whichever is greater, should be charged where extension of the existing water mains is not required.

10. Individual service meters should be installed for each customer on the Pioneer Village Subdivision water system.

EVIDENCE AND CONCLUSIONS

The evidence supporting Findings of Fact Nos. 1-8 is contained in the Application, the testimony presented by the Applicant and the information contained in the Commission's files.

The evidence supporting Findings of Fact Nos. 9 and 10 is contained in the uncontroverted testimony of Public Staff witness Lee.

Witness Lee testified that only the existing $120 tap-on fee or actual connection installation cost, whichever is greater, should be charged for making connections to the existing distribution system since the Applicant has no investment in the existing distribution system. Witness Lee testified that the Applicant's proposed $425 tap-on fee is not unreasonable for connections requiring extension of the distribution mains.

Witness Lee also testified that individual service meters should be installed for the existing Pioneer Village Subdivision customers. The Hearing Examiner notes that Commission Rule R7-22 requires metered service unless it is impractical or uneconomical to install meters. Witness Lee testified that it is not impractical or uneconomical to install meters in the Pioneer Village system since the system is constructed of PVC material and since the location of the service laterals are known.

The Hearing Examiner thus concludes:

1. The public convenience and necessity justify the transfer of the water utility franchise from Beachwood Distributing Company, Inc., to Mid South Water Systems, Inc., in Pioneer Village Subdivision, Catawba County.

2. The rates and rate structure proposed by the Applicant are just and reasonable.

3. The existing $120 tap-on fee or actual cost of connection installation should be applicable for making connections to the existing distribution system. The Applicant's proposed $425 tap-on fee is appropriate for connections requiring extension of distribution mains.

4. The Applicant should install service meters for its customers in the Pioneer Village Subdivision.

IT IS, THEREFORE, ORDERED as follows:

1. That the application of Mid South Water Systems, Inc., for authority to transfer the franchise for water utility service in Pioneer Village Subdivision, Catawba County, from Beachwood Distribution Company, Inc., is approved.

2. That the Schedule of Rates attached hereto as Appendix A is hereby approved and deemed filed with the Commission pursuant to G.S. 62-138. Said Schedule of Rates shall become effective for service rendered on and after the effective date of this Order.

3. That Appendix B, attached hereto, constitutes the Certificate of Public Convenience and Necessity.

4. That a copy of the Notice to Customers of New Rates attached hereto as Appendix C shall be mailed or hand delivered to each of the customers in Pioneer Village Subdivision in conjunction with the first regularly scheduled billing process which occurs after this Recommended Order becomes effective and final.

5. That the Applicant shall install individual service meters in the Pioneer Village Subdivision within a reasonable period of time.

6. That the water utility franchise granted to Beachwood Distributing Company in Docket No. W-622, is hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.
This the 3rd day of June 1982.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

APPENDIX A

MID SOUTH WATER SYSTEMS, INC.
DOCKET NO. W-720, SUB 6

SCHEDULE OF RATES
FOR
WATER UTILITY SERVICE

in

PIONEER VILLAGE SUBDIVISION
in
CATAWBA COUNTY, NORTH CAROLINA

Non-Metered Rates :

$7.50 per month

Metered Rates : (After all meters in place)

Up to first 2,000 gallons per month	- $7.50 minimum
All over 2,000 gallons per month	- $1.25 per 1,000 gallons

Connection Charge :

If extension of distribution mains is required - $425
If extension of distribution mains is not required - actual cost of connection or existing tap-on fee whichever is larger. Existing approved tap-on fee is $120.

Reconnection Charge :

If water service cut off by utility for good cause - $4.00
If water discontinued at customer's request - $2.00

Bills Due : On billing date

Bills Past Due : 20 days after billing date

Billing Frequency : Monthly for service in arrears

Finance Charges for Late Payment : None

Issued in Accordance with Authority Granted by the North Carolina Utilities Commission on this the 3rd day of June 1982.

APPENDIX B

DOCKET NO. W-720, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Know all men by these presents, that

MID SOUTH WATER SYSTEMS, INC.

Route 1, Box 102-A, Sherrills Ford, North Carolina

is hereby granted this

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

to provide water utility service
in
PIONEER VILLAGE SUBDIVISION
in
Catawba County, North Carolina

subject to such orders, rules, regulations, and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of June 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

APPENDIX C

DOCKET NO. W-720, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Mid South Water Systems, Inc., For Authority to Transfer the Water Utility Franchise in Pioneer Village Subdivision, Catawba County, North Carolina, and for Approval of Rates, from Beachwood Distribution Company, Inc.	) NOTICE TO CUSTOMERS OF FRANCHISE TRANSFER AND NEW RATES

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has approved transfer of the water utility franchise for providing water utility service in Pioneer Village Subdivision, Catawba County, to Mid South Water Systems, Inc., from Beachwood Distribution Company, Inc., and has granted an increase in water utility rates. An application was filed with the Commission on December 7, 1981, and a public hearing was held in the Human Resources Center in Morganton, North Carolina, on March 31, 1982, at 8:30 a.m. The new rates are as follows:

Non-Metered Service Rates:

$7.50 per month

Metered Service Rates: (After all meters in place)

Up to first 2,000 gallons per month	- $7.50 minimum charge
All over 2,000 gallons per month	- $1.25 per 1,000 gallons

DOCKET NO. W-714

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
David H. Osteen, Box 2059, Hendersonville, North Carolina, and Gerald Dotson, 1800 Spartanburg Highway, Hendersonville, North Carolina, Woodland Trace Subdivision Water System, Henderson County, North Carolina	) RECOMMENDED ORDER APPROVING TRANSFER OF WATER UTILITY SYSTEM SERVING WOODLAND TRACE SUBDIVISION TO CITY OF HENDERSONVILLE

HEARD IN: Courtroom, City Hall, 145 Fifth Avenue East, Hendersonville, North Carolina, on Wednesday, June 30, 1982, at 9:00 a.m., and on Wednesday, August 11, 1982, at 7:00 p.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Respondents:

Boyd B. Massagee, Jr., Pierce, Youngblood, Massagee and Creekman, Attorneys at Law, 240 Third Avenue West, Hendersonville, North Carolina 28739
Appearing for: David H. Osteen

Gerald Dotson, 1800 Spartanburg Highway, Hendersonville, North Carolina
Appearing for: Himself

For the Public Staff:

G. Clark Crampton, Staff Attorney, Public Staff - North Carolina Utilities Commission, P. O. Box 991 - Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

BENNINK, HEARING EXAMINER: This proceeding was instituted on May 4, 1982, when the North Carolina Utilities Commission entered a Show Cause Order in this docket whereby David H. Osteen and Gerald Dotson, the Respondents herein, were required to appear before the Commission on Wednesday, June 30, 1982, at 9:00 a.m. in Hendersonville, North Carolina to show cause why the Commission should not seek a monetary penalty as provided in G.S. 62-310 for each day the Respondents were alleged to have been in violation of pertinent Commission Orders.

On May 26, 1982, the Public Staff filed a Notice of Intervention in this proceeding pursuant to G.S. 62-15 on behalf of the using and consuming public.

Upon call of the matter for hearing on Wednesday, June 30, 1982, Respondent David H. Osteen was present and represented by counsel. Respondent Gerald Dotson was neither present nor represented by counsel at said proceeding. The Public Staff was present and represented by counsel. Six (6) customers of the water utility system serving the Woodland Trace Subdivision testified with respect to utility service problems which they are continuing to experience in the Woodland Trace Subdivision as well as other matters, including transfer of the water system in question to the City of Hendersonville. The Public Staff presented testimony by the following individuals: John B. Wiles, Director of the Water and Sewer Division for the City of Hendersonville; James W. Bloom, Environmental Engineering Technician with the Water Supply Branch of the North Carolina Division of Health Services; and Jerry H. Tweed, Director of the Public Staff Water and Sewer Division. David H. Osteen testified in his own behalf.

At the conclusion of the hearing, the Hearing Examiner entered a bench order whereby the record in this docket was to be held open pending further consideration, negotiations, and actions with respect to the issues in this case, particularly transfer of the water system in question to the City of Hendersonville.

On July 14, 1982, the Public Staff filed a Motion in this proceeding whereby the Commission was requested to schedule a further hearing in the

matter to consider the specific issues set forth in said Motion. On July 26, 1982, an Order was entered in this docket granting the above-referenced Motion of the Public Staff. Pursuant to said Order, a further public hearing was scheduled in Hendersonville, North Carolina, beginning at 7:00 p.m. on Wednesday, August 11, 1982. The Notice to the Public attached as Appendix A to said Order specifically stated that:

> "One of the chief issues to be considered at said further public hearing will be the feasibility of having the City of Hendersonville take over the water system now serving the Woodland Trace Subdivision and, if such is found to be feasible, upon what terms and conditions and at what cost, if any, to the water utility customers in Woodland Trace."

Upon call of the further hearing to order on August 11, 1982, David H. Osteen and the Public Staff were present and represented by counsel. Gerald Dotson was also present, but was not represented by counsel. Prior to the taking of any testimony, Respondents Osteen and Dotson and the City of Hendersonville requested permission to file a formal application for consideration by the Hearing Examiner whereby the water utility system serving the Woodland Trace Subdivision would be transferred by the Respondents to the City of Hendersonville. This motion was allowed by the Hearing Examiner and testimony was then taken with respect to said transfer application. Respondents, Osteen and Dotson, both testified in support of the transfer application. Ten (10) customers also offered testimony at the hearing.

Based upon a careful consideration of all of the foregoing and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. On August 11, 1982, David H. Osteen and Gerald Dotson, as transferors, and the City of Hendersonville, as transferee, filed a formal application with the North Carolina Utilities Commission seeking authority to transfer the water utility system serving the Woodland Trace Subdivision in Henderson County, North Carolina, from the transferors to the transferee. The application provides, in pertinent part, as follows:

> "The undersigned apply for Gerald Dotson and David H. Osteen to relinquish and assign any interest they may have, if any, in this system to the City of Hendersonville, North Carolina, and the City of Hendersonville, North Carolina, applies to take over the system and make it part of the Hendersonville, North Carolina, system, under the following provisions:
>
> "A. The City of Hendersonville is not required to take over the system until it is determined that all water lines in the system, other than those from the site of the proposed tap to the house in question, are made of materials acceptable to the City of Hendersonville.
>
> "B. The City of Hendersonville is also not required to take over the system until such time as the main lines are in good working order.
>
> "C. The City of Hendersonville will not take over the system until such time as water taps are paid to the City, at $150 each, for all

consumers of water, and the City of Hendersonville is not responsible for providing water to any house for which a tap fee is not paid, and the Commissioners have approved this.

"All other rules and regulations of the City of Hendersonville Water System must be met prior to the system being accepted by the City of Hendersonville.

"David H. Osteen relinquishes any right, title and interest he may have in the pumps and other tangible personal property utilized as part of the system including, but not limited to, pumps and storage tanks. The consumers are to pay the tap fee."

2. The residents of the Woodland Trace Subdivision who receive water utility service from the water system serving said subdivision have experienced a long history of service problems, including complaints associated with low water pressure, dirty water, loss of water, leaky water lines, and inadequate service.

3. The water system in question was operated for compensation by Respondent Osteen prior to operation of the system for compensation by Gerald Dotson, the present operator. Respondent Dotson began to operate the water system in question in 1979 or 1980, pursuant to a written agreement with David H. Osteen. The Respondents failed to apply to the North Carolina Utilities Commission for authority to transfer, assign, or sell the water system in question as required by G.S. 62-111.

4. Transfer of the water utility system serving the Woodland Trace Subdivision by the Respondents to the City of Hendersonville is subject to the jurisdiction of and approval by this Commission.

5. The City of Hendersonville, being a "municipality" as said term is defined in G.S. 62-3(19), is expressly excluded from the definition of the term "public utility" as set forth in G.S. 62-3(23)d.

6. The transfer application in question, being justified by the public convenience and necessity and in the best interests of the residents of the Woodland Trace Subdivision, should be approved.

Whereupon, the Hearing Examiner reached the following

CONCLUSIONS

Based upon a careful consideration of the entire record in this proceeding and the foregoing findings of fact, the Hearing Examiner is of the opinion, and therefore concludes, that the proposed transfer of the water utility system serving the Woodland Trace Subdivision from the Respondents Osteen and Dotson to the City of Hendersonville is clearly justified by the public convenience and necessity and should be approved as filed for the following reasons:

1. The residents of the Woodland Trace Subdivision have experienced a long history of inadequate water utility service which must be corrected. In the opinion of the Hearing Examiner, the City of Hendersonville, being a municipality which is experienced in the

operation of a good municipal water system, will be much better able to provide reasonable and adequate water utility service to the subdivision in question than either or even both of the Respondents.

2. The City of Hendersonville has clearly indicated that it is ready, willing and able to assume the important responsibilities which are associated with providing adequate and reliable water utility service to residents of the Woodland Trace Subdivision. The Hearing Examiner strongly believes that the obligations which the City of Hendersonville will owe to residents of the Woodland Trace Subdivision to whom water utility service will be provided will serve to fully ensure that the customers of the utility system in question will receive adequate and reliable service at reasonable rates.

3. It would serve no useful purpose, in the opinion of the Hearing Examiner, to require either or both of the Respondents to continue to operate the water system in question in view of their desire to transfer same and particularly in view of the serious water utility service problems which are apparently present in the Woodland Trace Subdivision. The past actions of the Respondents are clearly indicative of either an unwillingness or an inability to operate the water system in question on an adequate and reliable basis.

With regard to the strong opposition expressed at the hearing by certain of the residents of the Woodland Trace Subdivision to Respondents' proposal that they be required to pay a $150.00 meter charge to the City of Hendersonville as a condition to approval of the transfer application at issue herein, the Hearing Examiner concludes that, considering all of the facts and circumstances of this case, such condition should be approved for the simple reason that the Hearing Examiner is unwilling to take any action which might have the potential effect of jeopardizing transfer of the water system in question from the Respondents to the City of Hendersonville. Simply stated, the Hearing Examiner concludes that the residents of the Woodland Trace Subdivision will be better served by approval of the transfer application as filed and that payment of a $150.00 meter fee per customer will, in the long run, prove to be a small price to pay for adequate and reliable municipal water utility service.

Accordingly, the Hearing Examiner concludes that the transfer application filed in this docket on August 11, 1982, by Respondents Osteen and Dotson and the City of Hendersonville is justified by the public convenience and necessity and should be approved as filed. However, until such time as actual transfer, control, and operation of the water utility system in question has been assumed by the City of Hendersonville, the Respondents shall continue to operate said water system. At such time as the City of Hendersonville has in fact begun to operate the water utility system serving the Woodland Trace Subdivision, the Hearing Examiner will then entertain a motion by the Respondents to dismiss the instant show cause proceeding and to close this docket.

IT IS, THEREFORE, ORDERED as follows:

1. That the transfer application filed herein on August 11, 1982, by David H. Osteen and Gerald Dotson, as transferors, and the City of Hendersonville, as transferee, be, and the same is hereby, approved as filed.

2. That the Respondents shall continue to operate the water utility system serving the Woodland Trace Subdivision until such time as actual transfer, control, and operation of said water system has been assumed by the City of Hendersonville.

3. That the Respondents and/or the City of Hendersonville shall advise the Commission in writing by means of an appropriate affidavit at such time as actual transfer, control, and operation of the water utility system serving the Woodland Trace Subdivision has been assumed by the City of Hendersonville.

4. That the City of Hendersonville, being a municipality as defined in G.S. 62-3(19), shall not be subject to regulation by this Commission with respect to the provision of water utility service in the Woodland Trace Subdivision, Henderson County, North Carolina.

5. That the Notice to the Public attached hereto as Appendix A shall be mailed or hand delivered by the Respondents to all of the customers in the Woodland Trace Subdivision not later than ten (10) days after the effective date of this Recommended Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of August 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

APPENDIX A

DOCKET NO. W-714

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
David H. Osteen, Box 2059, Hendersonville, North Carolina, and Gerald Dotson, 1800 Spartanburg Highway, Hendersonville, North Carolina, Woodland Trace Subdivision Water System, Henderson County, North Carolina	NOTICE TO THE PUBLIC

NOTICE IS HEREBY GIVEN that the North Carolina Utilities Commission has approved the application filed in this docket on August 11, 1982, by David H. Osteen and Gerald Dotson, as transferors, and the City of Hendersonville, as transferee, to transfer the water utility system serving the Woodland Trace Subdivision from Osteen and Dotson to the City of Hendersonville. As one of the terms and conditions of said transfer, each resident of the Woodland Trace Subdivision will be required to pay a meter fee of $150.00 to the City of Hendersonville in order to receive municipal water service. Therefore, all residents of the Woodland Trace Subdivision should take such steps as are necessary to contact the City of Hendersonville and make arrangements to pay the $150.00 meter fee. All customers are further advised that at such time as actual transfer, control, and operation of the water utility system serving Woodland Trace has been assumed by the City of Hendersonville, the North Carolina Utilities Commission will cease to exercise any further regulatory jurisdiction in this matter, since municipalities are statutorily exempt from regulation by this Commission. Customer complaints and service problems should then be referred to the appropriate city official.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of August 1982.

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

DOCKET NO. W-201, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by W. E. Caviness, d/b/a Touch and Flow Water System, 118 Poplar Street, Jacksonville, North Carolina, for Authority to Transfer the Water Utility Service in Mayview, Cloverleaf, and Cresthaven Subdivisions in Cumberland County, North Carolina	RECOMMENDED ORDER DENYING TRANSFER OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: City Council Room, City Hall, Corner of Green and Bow Streets, Fayetteville, North Carolina, on Tuesday, May 25, 1982, at 10:00 a.m.

BEFORE: Robert H. Bennink, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

F. Thomas Holt, III, Beaver and Holt, P.A., Attorneys at Law, P.O. Box 53247, 1310 Fort Bragg Road, Fayetteville, North Carolina 28305
For: W. E. Caviness, d/b/a Touch and Flow Water System

For the Public Staff:

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

BENNINK, HEARING EXAMINER: On February 1, 1982, W. E. Caviness, d/b/a Touch and Flow Water System (Caviness or Touch and Flow), as buyer, and W. E. Everleigh and Edna B. Everleigh, d/b/a Cliffdale Water Company (Cliffdale), as sellers, filed an application with the North Carolina Utilities Commission seeking authority to transfer the franchise to furnish water utility service in the Mayview, Cloverleaf, and Cresthaven Subdivisions located in Cumberland County, North Carolina, from Cliffdale to Touch and Flow.

On February 16, 1982, the Commission issued an Order Setting Hearing and Requiring Public Notice whereby the application was scheduled for public hearing on Tuesday, May 25, 1982, and the Applicants were required to give public notice of said proceeding.

On March 2, 1982, Applicant Caviness filed a Certificate of Service with the Chief Clerk of the Commission indicating that public notice of the hearing in question had been given in conformity with decretal paragraph 3 of the Commission Order dated February 16, 1982.

On March 10, 1982, the Public Staff filed a Notice of Intervention in this proceeding on behalf of the using and consuming public.

Upon call of the matter for hearing at the appointed time and place, Applicant Caviness was present and represented by counsel. The Public Staff was also present and represented by counsel. The following customers of the water systems in question testified in opposition to the transfer at issue herein: Joseph R. Neese; James E. Baxley; Steven L. Beck; Calvin L. Harris; William D. Smith; Robert L. Alexander; John T. Boyd; James W. Fox; Patricia A. Carroll; Ruby Sponhouse; Joyce Poisson; Sharon Harris; Freddy R. Moye; Maurice B. Carter; Myrna Moye; Anna Atkins; and S. A. Anderson. John L. Ludwig, the Court-appointed trustee for Cliffdale Water Company, and William L. McQueen, Sanitary Engineer with the North Carolina Division of Health Services, also testified in this proceeding. W. E. Caviness testified in his own behalf. The Public Staff presented the testimony of Jocelyn M. Perkerson, Public Staff Accountant, and Jerry Tweed, Director of the Public Staff Water Division, in opposition to the transfer in question.

Based upon a careful consideration of the application, the testimony and exhibits offered at the hearing, and the entire record in this proceeding, the Hearing Examiner now makes the following

FINDINGS OF FACT

1. On February 1, 1982, W. E. Caviness, d/b/a Touch and Flow Water System, as buyer, and W. E. Everleigh and Edna B. Everleigh, d/b/a Cliffdale Water Company, as sellers, filed an application with the North Carolina Utilities Commission seeking authority to transfer the franchise to furnish water utility service in the Mayview, Cloverleaf, and Cresthaven Subdivisions located in Cumberland County, North Carolina, from Cliffdale to Touch and Flow.

2. Cliffdale Water Company was granted a certificate of public convenience and necessity to provide water utility service in the Mayview, Cloverleaf, and Cresthaven Subdivisions pursuant to a Commission Order entered in Docket No. W-203, Sub 1, on March 29, 1967.

3. On February 13, 1978, the North Carolina Utilities Commission entered an Order in Docket No. W-203, Sub 5, wherein the Commission specifically found and concluded that 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." By its Order, the Commission requested its counsel to file a complaint in the Superior Court of Cumberland County seeking the appointment of a trustee pursuant to the provisions of G.S. 62-118(b) to manage and operate the water utility systems owned by Cliffdale Water Company.

4. On April 3, 1978, Judge Robert L. Gavin, Presiding Judge in the Superior Court of Cumberland County, entered an order in File No. 78 CVS 767, whereby Gaddis T. Autry was appointed to serve as trustee and emergency operator of the Cliffdale Water Company. By Order subsequently entered on December 18, 1979, in File No. 78 CVS 767, by Judge Maurice Braswell, Presiding Judge in the Superior Court of Cumberland County, John J. Ludwig was appointed to replace Mr. Autry as trustee and emergency operator of the Cliffdale Water System, said action having been necessitated by the ill health of Mr. Autry.

5. John J. Ludwig continues to serve in the capacity of Court-appointed trustee for the Cliffdale Water Company. During the term of his trusteeship, Mr. Ludwig has made extensive improvements to the water systems serving the Mayview, Cloverleaf, and Cresthaven Subdivisions to the extent that the water utility service presently being provided to customers residing in said subdivisions is excellent. During calendar year 1981, the trustee was paid only $2,800 of his authorized salary of $4,800, due to the fact that operating revenues of the Cliffdale Water Company were insufficient to fully cover the trustee's salary. During the term of his trusteeship, Mr. Ludwig has never been able to draw his full salary of $400 per month.

6. Pursuant to an Order of the Commission entered in Docket No. W-203, Sub 6, on December 6, 1978, the trustee of the Cliffdale Water Company was authorized to collect a surcharge in the amount of $3.00 per month per customer in addition to the approved monthly flat or metered water rate, with the proceeds from said surcharge to be used solely for making improvements to the water systems serving the subdivisions in question. The Commission further provided in its Order of December 6, 1978, that "the funds received from the $3.00 per month surcharge would be accounted for as customer contributions, and such contributions must be refunded to the customers by the

owners of Cliffdale Water Company prior to their taking over operation of the system from the trustee, if such occours in the future." Records maintained by the trustee indicate that $13,500 was collected from customers during the period of time that the above-referenced surcharge was in effect and that said amount was used to install meters and a storage tank. No portion of the $13,500 surcharge total has been repaid to the customers who paid same. In addition, $2,910 of other plant has been added to the systems in question by the trustee.

7. W. E. Caviness has signed a contract with the owners of Cliffdale Water Company whereby Mr. Caviness would purchase the water systems in question for the price of $10,000. However, this contract is contingent upon approval of the transfer application at issue herein by the North Carolina Utilities Commission and discharge of the Court-appointed trustee so that Mr. Caviness could himself own and operate the water systems now serving the Mayview, Cloverleaf, and Cresthaven Subdivisions.

8. As of December 31, 1981, Cliffdale Water Company had a negative rate base or plant in service amount of ($28,301), even considering the plant additions in the amount of $16,410 referred to in Finding of Fact No. 6 above. This negative amount originally developed because the builders paid tap-on fees which the owners of Cliffdale Water Company treated as income rather than as a reduction of plant. Said owners then depreciated the plant as if no portion thereof had been recovered, thereby resulting in a negative amount of plant in service.

9. Pursuant to Commission Order entered in Docket No. W-201 on August 9, 1965, W. E. Caviness was granted a certificate of public convenience and necessity to provide water and sewer utility service in the Scotsdale Subdivision located in Cumberland County, North Carolina. Subsequent to a show cause hearing held on December 17, 1974, and January 6, 1975, the Commission entered an Order in Docket No. W-201, Sub 14, on February 5, 1975, wherein the Commission specifically found and concluded that Mr. Caviness had wrongfully and unlawfully abandoned operation of the wastewater treatment plant in the Scotsdale Subdivision without notice to and prior Commission approval as required by G.S. 62-118; that such abandonment constituted an abandonment of the entire franchise which the Commission had awarded to Mr. Caviness to operate a water and utility system in the Scotsdale Subdivision; that such abandonment had created an emergency with regard to water and sewer service in the Scotsdale Subdivision; and that Mr. Caviness was unfit, unwilling, and unable to hold and operate a franchise as a public utility operator in Scotsdale. The Commission thereupon concluded and declared that an emergency (as contemplated by G.S. 62-118) then existed in the Scotsdale Subdivision and also revoked the public utility franchise held by Mr. Caviness to provide water and sewer utility service in said subdivision. By its Order, the Commission directed its staff counsel to prepare and file a complaint in the Superior Court of Cumberland County seeking, inter alia, the appointment of a trustee to operate the water and sewer systems in question until such time as said services were provided by another public utility, or by the City of Fayetteville or Cumberland County.

10. On or about April 1, 1975, Judge James H. Pou Bailey, Presiding Judge in the Superior Court of Cumberland County, entered an order in File No. 75 CVS 674, whereby Charles E. Wilkes was appointed to serve as trustee and emergency operator of the water and sewer utility systems serving the

Scotsdale Subdivision. In August 1981, the trustee was ordered by the Superior Court of Cumberland County to pay Mr. Caviness $250 per month as reasonable rental compensation for the use of his lands, facilities, and rights of way in the Scotsdale Subdivision. By Order dated April 27, 1982, the Commission granted the trustee a general rate increase in the Scotsdale Subdivision so as to provide Mr. Wilkes with sufficient revenues to meet all of his financial obligations, including his $250 per month rental payment to Mr. Caviness.

11. The official files maintained by the North Carolina Utilities Commission reflect a long history of serious service problems and customer complaints associated with the utility systems owned and operated by Mr. Caviness (see, for instance, the Order entered in Docket Nos. W-201, Subs 20 and 21, on February 26, 1980). Furthermore, Mr. Caviness has had other utility franchises cancelled and revoked by this Commission in addition to the cancellation of his franchise to serve the Scotsdale Subdivision. In this regard, the Commission entered an Order Revoking Franchises in Docket No. W-201, Sub 9, on January 13, 1972, whereby Mr. Caviness' authority to serve the Oak Haven Subdivision in Wake County and the Crown Point Subdivision in Onslow County was revoked.

12. W. E. Caviness, d/b/a Touch and Flow Water System, presently provides water utility service in approximately four (4) subdivisions located in Wake County, North Carolina.

13. Approval of the transfer application at issue in this proceeding would not be beneficial in any way to the customers now being served by Cliffdale Water Company under the Court-appointed trusteeship of Mr. Ludwig.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

A careful consideration of the entire record in this proceeding, including prior Commission and Superior Court Orders of which judicial notice has been taken, leads the Hearing Examiner to conclude that the transfer application at issue in this proceeding is not justified by the public convenience and necessity and should not be approved for the following reasons:

1. The customers who reside in the three subdivisions served by the Cliffdale Water Company have had a long-standing history of serious water utility service problems which have now been solved under the trusteeship of Mr. Ludwig. Seventeen customers testified at the hearing in opposition to the franchise transfer in question. All of those customers described and praised the service presently being provided by Mr. Ludwig as "excellent" and "outstanding." Many of said customers, if not all, were aware of the fact that Mr. Caviness is the owner of the water and sewer systems serving the Scotsdale Subdivision, which is also subject to a Court-appointed trusteeship. Those customers were strongly of the opinion that Mr. Caviness should attempt to resume operation of his own Scotsdale system, rather than attempting to purchase and operate the systems now being so ably run by Mr. Ludwig as trustee for Cliffdale Water Company. The Hearing Examiner agrees with the above-summarized sentiments expressed at the hearing by the customers of Cliffdale Water Company and concludes that approval of the

transfer application at issue herein would not be beneficial in any way to said customers.

2. The $10,000 purchase price which Mr. Caviness has agreed to pay for the systems in question clearly appears to be excessive in view of the fact that Cliffdale Water Company now has a negative rate base, as described in Finding of Fact No. 8 set forth hereinabove. Furthermore, said purchase price fails to provide for refund of the surcharges in the amount of $13,500 which customers of Cliffdale Water Company have paid to the trustee in order to provide for capital improvements to the water systems in question. Refund of such surcharges is required by Order of this Commission entered in Docket No. W-203, Sub 6, on December 6, 1978. Although Mr. Caviness testified at the hearing that he would be willing to assume such obligation in addition to the $10,000 purchase price to be paid to the Everleighs, the Hearing Examiner could not, in good conscience, approve such an agreement as being in the best interests of either the customers served by Cliffdale Water Company or even Mr. Caviness himself.

3. According to Public Staff accounting testimony, Mr. Caviness has requested a rate increase in the amount of $10,905 in conjunction with the franchise transfer at issue herein. Notwithstanding Mr. Caviness' proposed rate increase, the investigation conducted by the Public Staff would support a rate increase of only $4,142, based upon test year expenses incurred by the trustee. Thus, it is clear that continuation of the present trusteeship arrangement will enable the customers of Cliffdale Water Company to enjoy cheaper rates than would otherwise be the case if Mr. Caviness were to be allowed to purchase the systems in question.

4. The long and well-documented history of serious service problems and customer complaints associated with the utility systems owned and operated by Mr. Caviness clearly mitigates against approval of the franchise transfer at issue herein, particularly when the customers of Cliffdale Water Company are now being provided with excellent utility service under the trusteeship of Mr. Ludwig. Mr. Caviness continues to provide water utility service to four subdivisions all of which are located in Wake County, North Carolina, and it would be unwise, in the opinion of this Hearing Examiner, to now authorize him to provide utility service in Cumberland County, North Carolina, particularly when it is remembered that he already owns one system in said county which has been placed in trusteeship pursuant to court order.

5. Although Mr. Caviness testified at the hearing that he would move his family and residence from Jacksonville, North Carolina, to Fayetteville, North Carolina, if the application at issue herein were granted, he further admitted, upon cross-examination by Public Staff counsel, that he had previously promised the Commission on other occasions that he would move his residence in the past but had never done so.

6. The Public Staff, based upon its independent investigation into this matter, strongly opposed this transfer at the hearing, both by way of testimony offered by its expert witnesses and also by arguments offered by its counsel.

Accordingly, for all of the reasons set forth hereinabove, the Hearing Examiner concludes that the franchise transfer at issue in this proceeding should be denied.

IT IS, THEREFORE, ORDERED that the franchise transfer application filed herein on February 1, 1982, by W. E. Caviness, d/b/a Touch and Flow Water System, as buyer, and W. E. Everleigh and Edna B. Everleigh, d/b/a Cliffdale Water Company, as sellers, be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of June 1982.

NORTH CAROLINA UTILITIES COMMISSION
Sandra J. Webster, Chief Clerk

(SEAL)

WATER AND SEWER

DOCKET NO. W-756

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Baker Water Services, Inc., P.O. Box 426, Wadesboro, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Country Club Estates Subdivision, Richmond County, North Carolina, and for Approval of Rates	) RECOMMENDED ORDER) GRANTING TEMPORARY) OPERATING AUTHORITY) AND APPROVING RATES

HEARD IN: Commission Hearing Room 537, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on June 22, 1982

BEFORE: Bliss Kite, Hearing Examiner

APPEARANCES:

For the Applicant:

William L. Mason, Attorney at Law, 125 South Greene Street, P.O. Box 938, Wadesboro, North Carolina 28170

For the Using and Consuming Public:

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

KITE, HEARING EXAMINER: On March 5, 1982, Baker Water Services, Inc. (Applicant), filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide water utility service in Country Club Estates Subdivision, Richmond County, North Carolina, and for approval of rates.

By Order issued on March 24, 1982, the Commission scheduled the application for public hearing and required that public notice of the hearing be given by the Applicant. On April 19, 1982, the Commission issued an Order rescheduling the hearing and amending the public notice. Public notice was furnished by the Applicant to each customer in Country Club Estates Subdivision.

The Public Staff of the North Carolina Utilities Commission filed its Notice of Intervention in this docket on June 15, 1982. That intervention is deemed recognized pursuant to Commission Rule R1-19(e).

The public hearing was held in Raleigh, North Carolina, at 10:00 p.m., on June 22, 1982, as specified in the Commission Order. E. Alan Baker appeared at the hearing as a witness for the the Applicant and presented testimony in support of the application. Jerry H. Tweed appeared as a witness for the Public Staff and presented testimony concerning his evaluation of the Applicant's plans for the water utility operations. No one appeared at the hearing to protest the application.

Based on the information contained in the application and in the Commission's files and in the records of this proceeding, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant, Baker Water Services, Inc., is a corporation duly organized under the laws of the State of North Carolina and is authorized under its Articles of Incorporation to engage in the operation of public utilities, as defined in G.S. 62-3.

2. The Applicant seeks a Certificate of Public Convenience and Necessity to furnish water utility service in Country Club Estates Subdivision, Richmond County, North Carolina, and has filed for approval a schedule of monthly metered rates for said service. The Applicant proposes to charge the following rates:

Monthly Usage	Monthly Metered Rates
First 5,000 gallons	$10.00 minimum
Next 3,000 gallons	$ 2.31 per 1,000 gallons
Next 3,000 gallons	$ 1.94 per 1,000 gallons
Over 11,000 gallons	$ 1.50 per 1,000 gallons

3. Country Club Estates Subdivision is a residential subdivision consisting of approximately three streets and approximately 56 lots. The subdivision is located at the intersection of Secondary Road No. 1475 and U.S. Highway 1 in Richmond County.

4. The Applicant has installed a water utility plant and distribution system capable of serving Country Club Estates and has been serving the subdivision since 1975. Two of the Applicant's three wells are in active use.

5. The water system presently serves 11 water utility customers in Country Club Estates, two more than as listed in the application. There is an established market for utility service in the subdivision, and such service is not now proposed for the subdivision by any other public utility, municipality, or membership association. The Richmond County water system, however, is extended to within 1500 feet of the service area.

6. The Applicant's water system has not been approved by the North Carolina Division of Health Services. The quality of the untreated water does not meet the U.S. Public Health Drinking Water Standards with respect to physical and chemical characteristics: the pH of the water from Well #1 is 5.3, below the minimum required of 6.5; installation of treatment equipment is necessary to control the objectionable characteristics related to low pH. Such treatment equipment has not been installed on Well #1. Further, the wells are situated on residential lots; the Applicant has acquired easements for a 100-foot radius around each of the wells but has failed to make a satisfactory showing of ownership or control of the three well sites.

7. The Applicant has contracted with a sister company, Anson Well Drilling, Inc., to operate and maintain the water system and to provide 24-hour emergency service. The Applicant has specified that the names, addresses, and telephone numbers of the companies or persons responsible for

providing maintenance and repair service to the water system will be listed on the monthly billing statements.

8. The Applicant has entered into agreements whereby contributions-in-aid of construction in the amount of $477 per lot will be paid by the developer of the lots, McCaskill Industries, Inc., and will not be paid directly by the water customers. In addition, the Applicant proposes a $260 tap-on fee to be paid by each new customer.

9. The Applicant in Exhibit D of the application sets forth the components of investment in utility plant. One of the items is accumulated tap-on fees of $1,125 which results from a $125 charge per customer to nine customers. This $125 fee consists of a $75 refundable meter deposit and a $50 nonrefundable connection fee. The Applicant has made meter deposit refunds to two customers for their removal from the system, thus the $1,125 should be reduced by $150 ($75 times 2) to recognize that $975 is the proper amount of accumulated tap-on fees. As of June 30, 1981, the Applicant's net investment in utility property, with nine customers connected, is approximately $29,073 consisting of an original cost of utility plant of $52,467, less: accumulated depreciation of $18,126, accumulated tap-on fees of $975 and contributions-in-aid of construction from the developer of $4,293. Assuming that 47 additional customers are connected, the entire cost of the water system will be recovered through tap-on fees and contributions-in-aid of construction.

10. The Applicant's proposed rates are based upon estimated revenues and expenses as shown on Exhibit B of the application and upon rates of a countywide system in Anson County. The Applicant also proposes that it not be limited to the reconnection charges prescribed by NCUC Rules R7-20(f) and (g), which are less than the average costs to the Applicant of reconnecting a customer. The Public Staff's proposed rates are comparable to rates found reasonable by this Commission for similar water system operations.

CONCLUSIONS

1. The Hearing Examiner is of the opinion, and so concludes, that the Applicant, Baker Water Services, Inc., should be granted Temporary Operating Authority to provide water utility service in Country Club Estates Subdivision, Richmond County, North Carolina.

2. There is a demand and need for water utility service in Country Club Estates Subdivision which can best be met by the Applicant at this time.

3. The initial rates approved by the Commission for water utility service in Country Club Estates Subdivision should be those contained in the Schedule of Rates attached hereto. These rates are not in excess of those rates found to be reasonable for similar public water utilities under average operating conditions and are concluded to be just and reasonable for the service described in this case. The Applicant should be allowed to collect a reasonable tap-on fee only from the original customer at each connection. The Applicant should be allowed to recover the reconnection charges contained in the attached Schedule, such charges are concluded to be just and reasonable.

4. The Applicant should provide monthly billing statements to his customers for service in arrears. Such monthly billing statements shall list the names, addresses, and telephone numbers of the companies and/or persons

responsible for providing 24-hour emergency repair service to the water system.

5. The Applicant should take all reasonable steps to bring the water system into compliance with the rules and regulations of the Division of Health Services. The Applicant's failure to obtain approval of plans from the Division of Health Services derives from its difficulty in securing control of the well sites, a matter involving primarily the Applicant and the developer and secondarily the Division of Health Services. It is incumbent upon the Applicant, rather than upon the Commission or the customers, either to resolve its dispute with the developer to the satisfaction of the Division of Health Services or to arrange for Richmond County to provide water service to the subdivision. Further, the Applicant should install the treatment equipment which is necessary to control the objectionable characteristics; i.e., blue stains, related to the low pH of the water from Well #1.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Baker Water Services, Inc., is hereby granted Temporary Operating Authority in order to provide water utility service in Country Club Estates Subdivision, as is more particularly described in the application.

2. That Appendix A attached hereto shall constitute the Temporary Operating Authority.

3. That the Schedule of Rates attached hereto as Appendix B is hereby approved and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

4. That the Applicant shall bill his customers in Country Club Estates Subdivision by a written statement each month; such statement shall provide the names, addresses, and telephone numbers of the companies and/or persons to contact for emergency repair service on a 24-hour basis.

5. That the Notice to Customers attached as Appendix C and the Schedule of Rates attached hereto as Appendix B shall be delivered by the Applicant to all of its customers in the next regular monthly billing following the date the Recommended Order issued in this docket becomes effective and final.

6. That the Applicant is hereby cautioned that, in the event the present arrangements for providing dependable and prompt maintenance and repair service are terminated, the Applicant shall immediately make alternate arrangements which shall be at least as reliable as the present arrangements and the Applicant shall immediately notify the Commission of such alternate arrangements.

7. That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed Annual Report to the Commission can be readily identified from the books and records and can be utilized by the Applicant in the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant with the mailing of this Order.

8. That the Applicant shall, within six months of the effective date of this Order, obtain approval of plans from the Division of Health Services and shall cause a notarized statement to be mailed to the Commission stating that the plans have been approved and the system has been built in accordance with the approved plans. In the alternative, the Applicant shall, within six months of the effective date of this Order, notify the Commission that it has made arrangements whereby Richmond County will provide water service to the area described in its application.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of July 1982.

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

APPENDIX A

DOCKET NO. W-756

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Know All Men By These Presents, That

Baker Water Services, Inc.
is hereby granted this
TEMPORARY OPERATING AUTHORITY
to provide water utility service
in
Country Club Estates Subdivision
Richmond County, North Carolina

subject to such orders, rules, regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of July 1982.

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

WATER AND SEWER

APPENDIX B

DOCKET NO. W-756

SCHEDULE OF RATES FOR
WATER UTILITY SERVICE

Provided By

BAKER WATER SERVICES, INC.

in

COUNTRY CLUB ESTATES SUBDIVISION IN RICHMOND COUNTY

Metered Rates: (Residential Service)

Up to first 3,000 gallons per month, minimun charge - $ 7.00
All over 3,000 gallons per month, per 1,000 gallons - $ 1.50

Connection Charge:

$260 per lot (paid by original customer)
$477 per lot (paid by developer)

Reconnection Charge:

If water service cut off by utility for good cause - $10.00
If water service discontinued at customer's request - $ 5.00

Bills Due: On billing date

Bills Past Due: 15 days after billing date

Billing Frequency: Shall be monthly for service in arrears

Finance Charges for Late Payment:

Shall be 1% per month on all bills still past due 25 days after billing date.

Customer Deposit:

Shall be in compliance with Commission Rule R12-4, which specifies that no utility shall require a cash deposit to establish or reestablish service in an amount in excess of 2/12 of the estimated charge for the service for the ensuing 12 months...Each utility shall pay interest on any deposit held more than 90 days at the rate of 8% per annum.

Refund of Deposit:

Shall be in compliance with Commission Rule R12-5

Issued in accordance with authority granted by the North Carolina Utilities Commission on this the 3rd day of August 1982.

APPENDIX C

DOCKET NO. W-756

NOTICE TO CUSTOMERS

On July 14, 1982, the North Carolina Utilities Commission issued a Recommended Order granting Baker Water Services, Inc., temporary operating authority to provide water utility service in Country Club Estates Subdivision, Richmond County, North Carolina. The rates approved by the Commission to be charged by the Applicant are shown on the attached schedule.

The Commission recognized in its Order that the Applicant does not have approval from the Division of Health Services of its water system plans. Such approval is pending upon the Applicant's ability to obtain ownership control of the well sites and to correct the objectional characteristics related to the low pH of the water from Well #1. The Commission has ordered the Applicant to obtain approval of plans from the Division of Health Services within six months from the effective date of the Commission's July 14, 1982, Order.

DOCKET NO. W-757

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Troutman Enterprises of Concord, Inc., d/b/a Freedom Acres Water System, P.O. Box 507, Concord, North Carolina, for a Certificate of Public Convenience and Necessity to Furnish Water Utility Service in Freedom Acres Subdivision, Cabarrus County, North Carolina, and for Approval of Rates	RECOMMENDED ORDER GRANTING TEMPORARY OPERATING AUTHORITY AND APPROVING RATES

HEARD IN: Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina, on June 17, 1982, at 11:00 a.m.

BEFORE: Linda M. Chappell, Hearing Examiner

APPEARANCES:

For the Applicant: No Attorney of Record

For the Using and Consuming Public:

Vickie L. Moir, Staff Attorney, Public Staff - North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina 27602

CHAPPELL, HEARING EXAMINER: On March 8, 1982, Troutman Enterprises of Concord, Inc., d/b/a Freedom Acres Water System (Company, Applicant, or Freedom Acres) filed an application for a Certificate of Public Convenience and Necessity to furnish water utility service in Freedom Acres Subdivision, Cabarrus County, North Carolina, and for approval of rates. On March 24, 1982, the Commission issued an Order setting the matter for public hearing in the Commission Hearing Room, Dobbs Building, 430 North Salisbury Street,

Raleigh, North Carolina, on June 17, 1982, at 11:00 a.m., and requiring that notice to the public concerning the matter be mailed or hand delivered by the Applicant to all of its customers.

On May 24, 1982, the Public Staff filed Notice of Intervention in this proceeding.

The matter came on for hearing on June 17, 1982, as scheduled in the Commission Order Setting Hearing and Requiring Public Notice. The Applicant offered the testimony of G. R. Troutman, Secretary and Treasurer of Freedom Acres Water System. The Public Staff offered the testimony of Richard J. Durham, engineer for the Public Staff's Water Division and Harold D. Saylor, Assistant Regional Engineer for the North Carolina Department of Human Resources, Division of Health Services Western Regional Office.

A Certificate of Service was presented at the hearing by the Applicant indicating that notice of the hearing had been delivered to the customers of Freedom Acres Water System.

Upon consideration of the application, Commission files and records, and the testimony presented at the hearing, the Hearing Examiner makes the following

FINDINGS OF FACT

1. The Applicant seeks a Certificate of Public Convenience and Necessity to provide water utility service in Freedom Acres Subdivision, Cabarrus County, North Carolina, and for approval of rates.

2. Freedom Acres currently provides water utility service for approximately 54 customers in Freedom Acres Subdivision.

3. The Applicant entered into agreements securing ownership and control of the water system and of the site of the wells. Two of the Applicant's three wells are in active use.

4. There is demand and need for water utility service in Freedom Acres Subdivision which is best met by the Applicant at this time. Water utility service is not now proposed for the subdivision by any other public utility, municipality, or membership association.

5. The Applicant has specified that written quarterly billing statements will be rendered to the customers of Freedom Acres.

6. Approval of the Freedom Acres water system plans has not been obtained from the North Carolina Division of Health Services.

7. The water system has been experiencing service problems including water pressure problems and periodic problems with the quality of the water.

8. The Applicant proposes to charge the following monthly metered rates:

Monthly Usage	Applicable Rate
Up to 4,000 gallons	$6.00 minimum
4,001-10,000 gallons	$1.75 per 1,000 gallons
Over 10,000 gallons	$2.00 per 1,000 gallons

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1 - 3

The evidence supporting these findings of fact is found in the Company's application, in prior Commission Orders issued in this docket and in the testimony presented by witnesses at the hearing. These findings are essentially factual and procedural in nature and were uncontested.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

Based upon the evidence presented in this proceeding, the Hearing Examiner concludes that there is demand and need for water utility service in Freedom Acres Subdivision which can best be met by the Applicant at this time. Further, water utility service is not now proposed for the subdivision by any other public utility, municipality, or membership association.

Company witness Troutman testified that he was conducting negotiations currently with a resident in Freedom Acres subdivision who owns his own well, concerning the possible provision of water service to certain of Freedom Acres present customers. Witness Troutman testified that the purpose of such negotiations by the Company was to reduce the current demand for water on the system thereby alleviating some of the water pressure problems presently occurring on the system. These water pressure problems will be discussed hereinafter in Evidence and Conclusions for Findings of Fact Nos. 6 and 7. The merits of such a proposal were not specifically addressed by the Public Staff. However, the Public Staff through the testimony of witness Durham stated that the discontinuance of service by Freedom Acres Water System to any of its current customers in the manner contemplated and previously discussed should be at the customers' option. The Hearing Examiner concludes that the Public Staff's position in this regard is reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 5

The evidence regarding the billing procedures followed by the Company was presented by Company witness Troutman. Witness Troutman testified that the Company desired to bill customers quarterly for service in arrears. Witness Troutman admitted that the Company did not currently send regularized written quarterly statements to its customers and stated that he had no objections to rendering quarterly written statements in the future.

The Hearing Examiner concludes that the Applicant should render written quarterly billing statements to its customers on a regular basis. The information which should be included on such billing statements consists of but is not limited to the following information: the billing period, the date on which bills are due and past due, the usage for the period, the current amount due, the amount past due, total amount due, and the names, addresses, and phone numbers of persons to be contacted for maintenance and repair service.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 6 AND 7

Evidence regarding the quality of service being rendered by the Applicant to its customers was presented by Company witness Troutman and Public Staff witnesses Durham and Saylor.

Company witness Troutman testified that he was aware that water pressure problems had been experienced by certain customers in the Freedom Acres Subdivision in late afternoons when customers were using lawn sprinklers. Witness Troutman further testified that approval of the water system plans had not yet been obtained from the North Carolina Division of Health Services nor at the time of the hearing were plans currently submitted for approval. Witness Troutman testified that he had acquired the services of a qualified engineer for purposes of obtaining plans of the water system to be submitted to the Division of Health Services for approval.

Regarding the quality of water provided by Freedom Acres Subdivision, Company witness Troutman testified that there had been occasions in the past when Freedom Acres Water System had failed to meet the bacteriological monitoring requirements as set out in Rules Governing Public Water Supplies with regard to monthly water sample testing. Additionally, witness Troutman testified that one of the water system's three wells was not currently in service due to the presence of certain minerals in the water.

Public Staff witness Durham, engineer for the Public Staff's Water Division, also testified regarding the quality of service being rendered by the Applicant. Witness Durham testified that he had performed an on-site investigation of the water system on May 11, 1982. Witness Durham discussed water pressure problems being experienced by the water system and the complaints of customers of Freedom Acres. Witness Durham testified that the water system plans and specifications had not been approved by the Division of Health Services. Additionally, witness Durham presented testimony regarding various customer complaints received by the Commission concerning this matter. The customer complaints dealt with problems of inadequate water pressure, presence of minerals in the water causing black stains, and the lack of responsiveness of the owner to the customers' problems. Based upon his investigation of Freedom Acres Water System, witness Durham recommended the following:

1. That the Applicant be granted temporary operating authority in order to provide water utility service in Freedom Acres Subdivision.

2. That the Applicant obtain Division of Health Services approval of the plans and specifications for the Freedom Acres Water System within 90 days and make the changes to the water system necessary to conform with the approved plans.

3. That no additional customer connections be made to the system until said approval is obtained.

Public Staff witness Saylor, Assistant Regional Engineer for the Division of Health Services, also presented testimony concerning the Freedom Acres Water System.

Witness Saylor testified regarding correspondence between the Division of Health Services and the Applicant, service problems of the water system, complaints of customers, and the lack of approval of the water system plans by the Division of Health Services. Witness Saylor testified that the Freedom Acres Water System was not in compliance with Division of Health Service Regulations and of foremost concern was the fact that the water system's plans and specifications had not yet been approved by the Division of Health Services.

Witness Saylor testified regarding the failure of the Company on certain occasions in the past to perform the required monthly bacteriological testing. Witness Saylor testified that the Company had not yet conducted the necessary inorganic chemical and radiological testing. With respect to the quality of the water, witness Saylor testified that he had received complaints of minerals in the water causing black stains. It was witness Saylor's recommendation that the Company conduct the necessary testing procedures.

The Hearing Examiner has carefully evaluated the testimony presented by the witnesses regarding the quality of service provided by the Applicant and concludes that specific measures should be taken by the Company to improve the quality of service being provided to its customers. The Hearing Examiner finds the recommendations proposed by Public Staff witness Durham in this regard just and reasonable. Further, the Applicant should undertake to perform all necessary water quality testing procedures.

A further matter which requires discussion relates to the provision of water service to Friendly Acres Subdivision, which is located in Cabarrus County, North Carolina. Evidence was presented which indicated that at some time in the past Troutman Enterprises of Concord, Inc., had owned and operated the water system which provides water utility service to customers in Friendly Acres Subdivision. Said water system has not requested nor been granted proper operating authority by the North Carolina Utilities Commission and has been assessed penalties by the Division of Health Services for violations of its rules and regulations. Company witness Troutman testified that Troutman Enterprises of Concord, Inc., no longer held any interest in the Friendly Acres Water System. According to witness Troutman, customers of the Friendly Acres Water System now own and operate the system. Based upon the evidence presented concerning this matter, the Hearing Examiner concludes that it is reasonable for the Company to provide to the Commission appropriate documentation of the transfer of ownership of Friendly Acres Water System by Troutman Enterprises of Concord, Inc.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

Evidence regarding the Company's proposed rates and rate structure was presented by Company witness Troutman. Witness Troutman testified that a flat monthly rate of $5 was currently being charged the customers of Freedom Acres. Witness Troutman further testified that meters had recently been installed at each of the customers' residence and that the Company had been reading meters but had not begun charging its customers a metered rate. The metered rates which the Applicant proposes to charge upon approval by the Commission are shown below on a monthly basis. Witness Troutman testified

that the Company wishes to bill its customers on a quarterly basis. The Company proposed rates are as follows:

Monthly Metered Rates

$6.00 minimum	First 4,000 gallons
$1.75 per 1,000 gallons	4,001 to 10,000 gallons
$2.00 per 1,000 gallons	over 10,000 gallons

No evidence regarding the reasonableness of the proposed rates was presented by the Public Staff.

Based upon the foregoing, the Hearing Examiner concludes that the rates and rate structure proposed by the Applicant are reasonable and that the rates should be approved.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Freedom Acres Water System, is hereby granted Temporary Operating Authority to furnish water utility service in Freedom Acres Subdivision, Cabarrus County, North Carolina.

2. That Appendix A attached hereto shall constitute the Temporary Operating Authority.

3. That the Schedule of Rates attached hereto as Appendix B is hereby approved and deemed to be filed with the Commission pursuant to G.S. 62-138.

4. That the Notice to Customers attached as Appendix C and the Schedule of Rates attached hereto as Appendix B shall be delivered by the Applicant to all of its customers in the next regular quarterly billing following the date the Recommended Order issued in this docket becomes effective and final.

5. That appropriate documentation of the transfer of Friendly Acres Water System from Troutman Enterprises of Concord, Inc., shall be filed with the Commission within 30 days from the effective date of this Order.

6. That the Applicant shall obtain Division of Health Services approval of the water system plans and specifications and make the improvements to the system necessary to conform to the plans approved by the Division of Health Services within 90 days from the effective date of this Order. Thereinafter the Applicant shall cause to be filed with the Commission a notarized statement stating that the water plans have been approved by the Division of Health Services and that the system is built in accordance with the approved plans. Upon receipt and approval of said notarized statement the Commission shall issue an Order Granting the Applicant a Certificate of Public Convenience and Necessity to furnish water utility service in Freedom Acres Subdivision. No additional connections shall be made to the water system until such approval of the water system is obtained from the Division of Health Services.

7. That the Applicant shall undertake to perform all of the necessary water bacteriological monitoring requirements as they appear in the Division of Health Services Rules Governing Public Water Supplies.

8. That the Applicant shall maintain its books and records in such a manner that all the applicable items of information required in the Applicant's prescribed Annual Report to the Commission can be readily identified from the books and records and can be utilized by the Applicant in the preparation of said Annual Report. A copy of the Annual Report form shall be furnished to the Applicant with the mailing of this Order.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of July 1982.

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

APPENDIX A

DOCKET NO. W-757

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION
Know All Men By These Presents, That

FREEDOM ACRES WATER SYSTEM

is hereby granted this
Temporary Operating Authority

to provide water utility service
in
Freedom Acres Subdivision
Cabarrus County, North Carolina

Subject to such orders, rules and regulations and conditions as are now or may hereafter be lawfully made by the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 2nd day of July 1982.

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

APPENDIX B

SCHEDULE OF RATES

for
Water Utility Service
Provided By

TROUTMAN ENTERPRISES OF CONCORD, INC.
D/B/A FREEDOM ACRES WATER SYSTEM

in

FREEDOM ACRES SUBDIVISION

Metered Rates: (Residential Service)

Up to first 4,000 gallons per month, minimum charge	- $6.00
Next 6,000 gallons per month, per 1,000 gallons	- $1.75
All over 10,000 gallons per month, per 1,000 gallons	- $2.00

Tap-On Fee:

$500.00 per connection (paid by developer)

Reconnection Charge:

If water service cut off by utility for good cause	- $4.00
If service discontinued at customer's request	- $2.00

Bills Due: On billing date

Bills Past Due: Fifteen (15) days after billing date

Billing Frequency: Quarterly for service in arrears

Finance Charges for Late Payment:

1% per month will be applied to the unpaid balance of all bills past due twenty-five (25) days after billing date.

Issued in Accordance with the Authority Granted by the North Carolina Utilities Commission in Docket No. W-757 on this the 24th day of July 1982.

APPENDIX C

NOTICE TO CUSTOMERS

On July 2, 1982, the North Carolina Utilities Commission issued an Order granting Troutman Enterprises of Concord, Inc., d/b/a Freedom Acres Water System, temporary operating authority to provide water utility service in Freedom Acres Subdivision, Cabarrus County, North Carolina. The rates approved by the Commission to be charged by the Applicant are shown on the attached schedule.

The Commission recognized in its Order that the customers of Freedom Acres Water System have been experiencing service problems including water pressure problems and problems with the quality of the water. The Commission has required Freedom Acres, Water System to take appropriate steps to alleviate the existing service problems within 90 days from the effective date of the Commission Order. Additionally, Freedom Acres Water System is required to perform all of the necessary bacteriological monitoring required by the North Carolina Division of Health Services Rules Governing Public Water Supplies.

DOCKET NO. W-697, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by B & C Builders, Inc., P. O. Box 217, Hickory, North Carolina, for Authority to Increase Rates for Water Utility Service in Olde Well Subdivision in Catawba County, North Carolina	))))	RECOMMENDED ORDER REQUIRING IMPROVEMENTS

HEARD IN: The District Court Room, District Court Building, 111 Main Avenue, N. E., Hickory, North Carolina, on Tuesday, February 9, 1982, at 9:00 a.m.

BEFORE: Wilson B. Partin, Jr., Hearing Examiner

APPEARANCES:

For the Applicant:

Homer Brittain
Appearing pro se for the Applicant

For the Public Staff:

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

PARTIN, HEARING EXAMINER: On September 16, 1981, B & C Builders, Inc., Hickory, North Carolina, filed an application with the Commission for authority to increase rates for water utility service in Olde Well Subdivision, Catawba County.

On September 29, 1981, the Commission issued an Order suspending the rates and setting the Application for hearing and investigation on a no-protest basis.

On October 30, 1981, the Commission received a letter from J. Richardson Rudisill, Jr., protesting the proposed rates and requesting a hearing.

On November 9, 1981, the Commission issued an Order scheduling a hearing for January 13, 1982, which was later rescheduled to Tuesday, February 9, 1982, because of bad weather.

The application came on for hearing on February 9, 1982. The Applicant was represented by an officer of the Company, Homer Brittain. The Public Staff was present and represented by counsel.

Mr. Brittain testified for the Applicant. The Public Staff offered the testimony of Andy Lee, a utilities engineer with the Public Staff Water Division; and the pre-filed Affidavit of Jocelyn M. Perkerson, Staff Accountant.

The following customers of the Applicant testified: Polly Grantham, Donald Kline Helton, Jo Ann Wells, Susan L. Whitley, Vivian W. Helton, Joe Yoder, B. John Peel, Mrs. E. C. Dellinger, and J. Richardson Rudisill, Jr.

Upon consideration of the application, the testimony and exhibits presented at the hearing, and the entire record in this docket, the Examiner makes the following

FINDINGS OF FACT

1. The Applicant, B & C Builders, Inc., provides water utility service to approximately 90 customers in Olde Well Subdivision, Catawba County, near Hickory.

2. The present and proposed rates for water service are as follows:

METERED RESIDENTIAL SERVICE	PROPOSED	PRESENT
Up to 3,000 gallons, minimum charge	$ 6.00	$ 4.50
All over 3,000 gallons, per 1000 gallons	$ 1.25	$ 1.00

3. Under the present rates the Applicant is experiencing an operating ratio in excess of 100% for the test year ended March 31, 1981. Under the proposed rates the Applicant's operating ratio would be 86.83%.

4. The customers of B & C Builders, Inc., are experienoing serious problems with the quality of the water provided by the Company. The most serious problem is the presence of iron oxide in the water. This problem stains fixtures, discolors clothing, and clogs appliances such as ice makers. Some customers refuse to drink the water or let their family drink it. Other customers expressed concern about bathing their children in the water. Other complaints included interruptions in water service, black particles and "mud-like" sediment in the water, and untidy conditions around the well houses, including weeds and uncut grass.

5. The Applicant requested the proposed rates because of increasing electricity bills. Mr. Brittain attempts to respond to all calls from his customers. He has agreed to begin a program of flushing the mains in order to rid the system of iron oxide. He has also agreed to work with the Division of Health Services with respect to the problems complained of.

6. Applicant's Well Number 3 has not been approved by the Division of Health Services.

7. Iron content of the Applicant's water system exceeds the acceptable levels of the Division of Health Services. This excessive iron content (iron oxide) gives the water its rusty, muddy color.

8. The Public Staff has recommended a program of main flushing and other steps to improve the water system. The Examiner will adopt these recommendations.

9. The Examiner will defer a ruling on the proposed rates until the Applicant has begun its program of main flushing.

CONCLUSIONS

1. The quality of the water provided by the Applicant to its customers in Olde Well Subdivision, Catawba County, is of an unacceptable quality and should be improved. All of the customers who testified at the February 9, 1982, hearing in Hickory voiced their complaints and concerns about the water quality. A summary of these complaints are set forth in Finding No. 4. The presence of iron oxide in the Applicant's water system exceeds State standards and causes the problems complained of. This Order will direct that the Applicant take immediate steps to correct these problems.

2. The Applicant shall undertake at once a program of flushing its mains in Olde Well Subdivision on a weekly basis until the mains are cleared of sediment and iron deposits. The Company will also notify its customers by the Notice attached to this Order of the time of flushing, so that the customers can arrange their affairs accordingly.

The Applicant will also be directed to work with the Division of Health Services to solve the excess iron problem and to obtain approval of well number three.

3. A ruling on the proposed rate increase will be deferred until the Applicant has reported to the Commission the steps it has undertaken to improve the water system.

IT IS, THEREFORE, ORDERED:

1. That the Applicant, B & C Builders, will begin flushing the mains in Olde Well Subdivision, Catawba County, on Tuesday, February 23, 1982, and shall continue flushing mains weekly on Tuesdays until the mains are cleared of sediment and iron deposits.

2. The Applicant will notify its customers that it will flush mains on Tuesdays by mailing or hand-delivering the Notice attached as Appendix A to its customers on or before Saturday, February 20, 1982. A Certificate of Service is attached as Appendix B and the Applicant shall file this with the Commission on or before February 28, 1982.

3. The Applicant will seek the help of the Division of Health Services to determine a solution for the excess iron problem in Well Number 2. The name, address, and phone number of the person to contact at the Division of Health Services is Wade Knox, Division of Health Services, Western Regional Office, Building 3, Black Mountain, North Carolina 28711. Phone (704) 669-3366.

4. The Applicant shall obtain approval of Well Number 3 from the Division of Health Services and approval of the system as revised with the addition of Well Number 3, both on or before May 28, 1982.

5. That the Applicant shall file a report with the Commission on or before April 8, 1982 stating that it has begun a program of main flushing as directed in Ordering Paragraph No. 1, above. The report shall also state what steps are being taken to improve the water system pursuant to the advice and instructions of the Division of Health Services.

6. That this docket shall remain open and pending so that the Examiner can receive the report of the Applicant required above and issue an Order with respect to the proposed rate increase requested by the Applicant. The Examiner will issue his Order on or before April 15, 1982.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of February 1982.

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

APPENDIX A

DOCKET NO. W-697, SUB

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by B & C Builders, Inc., P. O. Box 217, Hickory, North Carolina, for Authority to Increase Rates for Water Utility Service in Olde Well Subdivision in Catawba County, North Carolina	) NOTICE OF MAINS FLUSHING IN OLDE WELL SUBDIVISION

TO: CUSTOMERS OF B & C BUILDERS, INC., OLDE WELL SUBDIVISION, CATAWBA COUNTY

On February 9, 1982, the North Carolina Utilities Commission held a hearing in Hickory on the application of B & C Builders, Inc., for an increase in water rates.

A number of customers from Olde Well Subdivision testified at the hearing on the problems that they are having with the water service. These problems include an excessive amount of iron oxide in the water which gives the water a muddy, rusty color.

As a result of this hearing, the Commission has ordered B & C Builders, Inc., to begin the flushing of water mains every week in Olde Well Subdivision until such time as the mains are cleared of iron deposits and sediment.

PLEASE TAKE NOTICE THAT B & C BUILDERS, INC., WILL BEGIN FLUSHING THE MAINS IN OLDE WELL SUBDIVISION ON TUESDAY, FEBRUARY 23, 1982, AND WILL CONTINUE FLUSHING THE MAINS ON EACH AND EVERY TUESDAY THEREAFTER UNTIL THE MAINS ARE CLEARED OF IRON DEPOSITS AND SEDIMENTS. YOU WILL NOTICE A DETERIORATION OF WATER QUALITY ON TUESDAY AFTER THE MAINS HAVE BEEN FLUSHED AND ON WEDNESDAY. CUSTOMERS SHOULD PLAN THE WASHING OF CLOTHES AND OTHER DOMESTIC MATTERS ACCORDINGLY.

The weekly flushing of mains has been ordered to attempt to remove iron and sediment in the water.

ISSUED BY ORDER OF THE COMMISSION.
This the 17th day of February 1982.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Sharon Credle Miller, Deputy Clerk

CERTIFICATE OF SERVICE

I, _____ mailed with sufficient postage or hand delivered to all affected customers the attached Notice to the Public issued by Order of the North Carolina Utilities Commission on February 16, 1982, in Docket No. W-697, Sub 1, and said Notice to the Public was mailed or hand delivered by the date specified in the Order, February 20, 1982.

This the _____ day of _____, 1982.

By _____

_____
Name of Utility Company

The above-named Applicant, _____, personally appeared before me this day and, being first duly sworn, says that the required public notice was mailed or hand delivered to all affected customers, as required by the Commission's Order dated _____ in Docket No. _____.

Witness my hand and notarial seal, this the _____ day of _____, 1982.

_____
Notary Public

_____
Address

_____
City and State

(SEAL) My Commission expires _____
Date

1982 ANNUAL REPORT

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UTILITIES COMMISSION ORDERS AND DECISIONS FULL REPORT PRINTED

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RATES

TABLE OF ORDERS
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Detailed Outline

GENERAL ORDERS

GENERAL

M-100, Sub 90 - Order Denying Motion and Extending Effective Date of Recommended Order of April 21, 1982 (5-4-82)

GAS

G-100, Sub 40; G-3, Sub 90; G-3, Sub 95; G-3, Sub 76A; G-3, Sub 76B; and G-3, Sub 76C - Order Refunding Dollrs Accrued in Account No. 253 (2-23-82)

TELEPHONE

P-100, Sub 57 - Order Granting Leave to Withdraw Undertaking (4-20-82)

P-100, Sub 57 - Order Granting Motion of Citizens Telephone Company in Nature of Summary Judgment (7-2-82)

P-100, Sub 58 - Order Requiring Filing of Station Development Reports for Southern Bell Telephone and Telegraph Company (11-17-82)

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COMPLAINTS

Carolina Power & Light Company - Order Dismissing Complaints of Dr. Robert Kuntz Reid, et al., and Closing Docket
E-2, Sub 437 (9-1-82)

Carolina Power & Light Company - Order Dismissing Complaint of Mrs. Doris Harris, c/o D. M. Jarrett
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Duke Power Company - Order Closing Docket in Complaint of Mrs. Edward Norris
E-7, Sub 341 (9-29-82)

Nantahala Power and Light Company and Aluminum Company of America; Tapoco, Inc. - Complaints of Rufus Edmisten, Attorney General of North Carolina; Robert Fischbach, Executive Director of the Public Staff; Swain County; the Town of Bryson City; and Henry J. Truett - Order Allowing Withdrawal of Complaint
E-13, Sub 35, and E-13, Sub 36 (2-22-82)

Nantahala Power and Light Company - Order Modifying Order Allowing Withdrawal of Complaint
E-13, Sub 35, and E-13, Sub 36 (2-24-82)

Nantahala Power and Light Company - Order Dismissing Complaint of Neely S. Inlow
E-13, Sub 47 (11-4-82)

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Carolina Power & Light Company and Lumbee River Electric Membership Corporation (Joint Petition) - Order Approving Reassignment of Electric Service Areas
ES-61, Sub 1 (12-21-82)

RATES

To Adjust Electric Rates and Charges Pursuant to G. S. 62-134(e)

Carolina Power & Light Company
E-2, Sub 446 2-26-82
E-2, Sub 452 6-17-82
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Nantahala Power and Light Company
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E-13, Sub 29 5-4-82
E-13, Sub 29 8-17-82 (Errata, 8-17-82)
E-13, Sub 35 8-16-82

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SECURITIES

Carolina Power & Light Company - Order Granting Authority to Issue and Sell Additional Securities (Long-Term Debt)
E-2, Sub 445 (2-16-82)

Carolina Power & Light Company - Amendment to the Order Granting Authority to Issue and Sell Additional Securities (Long-Term Debt)
E-2, Sub 445 (10-20-82)

Carolina Power & Light Company - Supplemental Order Granting Authority to Guarantee Amended Agreement
E-2, Sub 451 (4-14-82)

Carolina Power & Light Company - Order Granting Authority to Issue and Sell First Mortgage Bonds
E-2, Sub 459 (12-21-82)

Duke Power Company - Order Granting Authority to Issue and Sell Seourities
E-7, Sub 337 (2-24-82)

Duke Power Company - Order Granting Authority to Issue and Sell Shares of Common Stock Under a Dividend Reinvestment and Stock Purchase Plan
E-7, Sub 347 (9-8-82)

Duke Power Company - Order Granting Authority to Issue and Sell Securities
E-7, Sub 348 (9-7-82)

Duke Power Company - Order Granting Authority for Pollution Control Financing Arrangement
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TARIFFS

Carolina Power & Light Company - Order Allowing Withdrawal of Tariff Filing and Closing Docket
E-2, Sub 443 (2-12-82)

Carolina Power & Light Company - Order Approving Tariffs
E-2, Sub 444 (9-30-82)

Duke Power Company - Order Approving Tariffs
E-7, Sub 338 (11-5-82)

MISCELLANEOUS

Carolina Power & Light Company - Order Granting Application for Approval of a Method of Rendering Bills Under Circumstances Contemplated by G. S. 66-9
E-2, Sub 424 (6-15-82)

Carolina Power & Light Company - Order Approving Proposed Interim Accounting Methodology
E-2, Sub 441 (2-25-82)

Carolina Power & Light Company - Order Approving Residential All-Energy Time-of-Use Schedule R-TOUE-1
E-2, Sub 444 (11-17-82)

Carolina Power & Light Company - Order Approving Small General Service Comparative Billing Program
E-2, Sub 458 (11-17-82)

Duke Power Company - Order Approving Purchase of Distribution Facilities and Transfer of Customers
E-7, Sub 350 (12-8-82)

Virginia Electric and Power Company - Order Denying Motion and Petition for Reconsideration
E-22, Sub 265 (10-12-82)

Virginia Electric and Power Company - Order Approving Rider A/C, Interruptible Air Conditioning Service
E-22, Sub 268 (5-4-82) (Errata Order, 5-6-82)

Virginia Electric and Power Company - Order Approving Test of Rider A/C Interruptible Air Conditioning Service
E-22, Sub 268 (7-20-82); (Errata Order, 12-21-82)

Virginia Electric and Power Company - Order Revising Residential Time-of-Date Rate Schedule 1P
E-22, Sub 270 (11-24-82)

Virginia Electric and Power Company - Order Approving Revision of Residential Dual-Fuel Schedule 1DF and Interruptible Air Conditioning Rider A/C
E-22, Sub 271 (11-4-82)

GAS

CERTIFICATES

Public Service Company of North Carolina, Incorporated, and United Cities Gas Company - Order Granting Certificate of Public Convenience and Necessity and Reassigning Service Area of Natural Gas Utility Property in Henderson County
G-5, Sub 179 (9-27-82)

COMPLAINTS

North Carolina Natural Gas Company - Complaints of Harnett Educational Foundation, Inc., t/a Cape Fear Christian Academy - Order Accepting Stipulation of Dismissal and Closing Docket
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Piedmont Natural Gas Company - Order Dismissing Complaint of Jim Rosenberger, Greensboro, and Closing Docket
G-9, Sub 222 (9-28-82)

RATES

Pennsylvania & Southern Gas Company - Final Order for Authority to Adjust and Increase Its Rates and Charges
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RATES - EXPLORATION AND DEVELOPMENT

North Carolina Natural Gas Corporation - Order Approving Exploration Tracking Adjustment Effective January 1, 1982
G-21, Sub 223 (1-7-82)

North Carolina Natural Gas Corporation - Order Approving Exploration Tracking Reduction Effective July 1, 1982, and Approval of Refund Plan
G-21, Sub 226 (6-30-82)

Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) - Order Allowing Exploration Tracking Adjustment
G-3, Sub 106 (1-27-82)

Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) - Order Approving Exploration and Development Refund Plan
G-3, Sub 109, (11-3-82)

Piedmont Natural Gas Company, Inc. - Order Allowing Withdrawal of Filing and Implementation of Zero Surcharge
G-9, Sub 217 (1-6-82)

Piedmont Natural Gas Company, Inc. - Order Approving Exploration and Development Refund Plan
G-9, Sub 221 (10-12-82)

Public Service Company of North Carolina, Inc. - Order Allowing Surcharge to Recover Costs in Exploration Programs to Be Effective January 1, 1982
G-5, Sub 170 (1-6-82)

Public Service Company of North Carolina, Inc. - Order Approving Exploration and Development Refund Plan
G-5, Sub 177 (9-29-82)

United Cities Gas Company - Order Allowing Surcharge to Recover Costs in Exploration Programs
G-1, Sub 89 (1-27-82)

RATES - NEGOTIATED

North Carolina Natural Gas Corporation - Order Amending Order for Approval of Negotiated Rate
G-21, Sub 192 (3-23-82)

RATES - PURCHASED GAS ADJUSTMENT

North Carolina Natural Gas Corporation - Order Reducing Rates Effective May 1, 1982, for Rate Schedule No. 7
G-21, Sub 216 (5-18-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase for all Rates Except Rate Schedule No. 7 Effective March 1, 1982
G-21, Sub 224 (2-23-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase for Rate Schedule No. 7 Effective March 1, 1982
G-21, Sub 225 (2-23-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase Effective September 1, 1982, and Inventory Appreciation Rate Decrease Effective November 1, 1982
G-21, Sub 228 (8-31-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase Effective September 1, 1982, and Inventory Appreciation Rate Decrease Effective November 1, 1982
G-21, Sub 229 (8-31-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase Effective October 1, 1982
G-21, Sub 230 (10-5-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Changes Effective October 1, 1982, for Rate Schedule No. 7
G-21, Sub 231 (11-9-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase Effective November 1, 1982
G-21, Sub 232 (11-3-82)

North Carolina Natural Gas Corporation - Order Allowing PGA Increase Effective November 1, 1982, for Rate Schedule No. 7
G-21, Sub 233 (11-30-82)

Pennsylvania & Southern Gas Company (North Carolina Gas Service Division) - Order Approving PGA Decrease
G-3, Sub 101, and G-3, Sub 108 (6-22-82)

Pennsylvania & Southern Gas Company - Order Allowing PGA Increase
G-3, Sub 107 (3-9-82)

Pennsylvania & Southern Gas Company - Order Allowing PGA Increase
G-3, Sub 110 (9-8-82)

Pennsylvania & Southern Gas Company - Order Allowing PGA Increase, September 1, 1982
G-3, Sub 110 (10-26-82)

Pennsylvania & Southern Gas Company - Order Allowing PGA Increase October 1, 1982
G-3, Sub 111 (10-26-82)

Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) - Order Allowing PGA Increase Effective November 1, 1982
G-3, Sub 112 (11-3-82)

Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) - Order Granting Petition and Accepting Tariff's Reducing Rates
G-3, Subs 112 and 113 (12-22-82)

Piedmont Natural Gas Company, Inc. - Order Approving Rate Decrease Effective May 1, 1982
G-9, Sub 206, and G-9, Sub 220 (5-18-82)

Piedmont Natural Gas Company - Order Approving PGA Increase Effective on March 1, 1982
G-9, Sub 218 (2-23-82)

Piedmont Natural Gas Company, Inc. - Order Allowing PGA Increase Effective September 1, 1982
G-9, Sub 223 (8-31-82)

Piedmont Natural Gas Company, Inc. - Order Allowing PGA Increase Effective October 1, 1982
G-9, Sub 224 (10-5-82)

Piedmont Natural Gas Company, Inc. - Order Allowing PGA Increase Effective November 1, 1982
G-9, Sub 226 (11-4-82)

Public Service Company of North Carolina, Inc. - Order Reducing Rates Effective May 1, 1982
G-5, Sub 161 (5-11-82)

Public Service Company of North Carolina, Inc. - Order Allowing PGA Increase Effective March 1, 1982
G-5, Sub 171 (2-23-82)

Public Service Company of North Carolina, Inc. - Order Allowing PGA Increase Effective September 1, 1982
G-5, Sub 176 (8-31-82)

Public Service Company of North Carolina, Inc. - Order Allowing PGA Increase Effective October 1, 1982
G-5, Sub 178 (10-5-82)

Public Service Company of North Carolina, Inc. - Order Allowing PGA Increase Effective November 1, 1982
G-5, Sub 180 (11-3-82)

United Cities Gas Company - Order Approving PGA Decrease Effective June 1, 1982
G-1, Sub 83, and G-1, Sub 91 (5-25-82)

United Cities Gas Company - Order Allowing PGA Increase Effective April 1, 1982
G-1, Sub 90 (3-18-82)

United Cities Gas Company - Order Allowing PGA Increase Effective September 1, 1982
G-1, Sub 92 (8-31-82)

SECURITIES

Public Service Company of North Carolina, Inc. - Order Granting Authority to Issue and Sell First Mortgage Bonds
G-5, Sub 174 ((8-5-82)

Public Service Company of North Carolina, Inc. - Order Granting Authority to Issue and Sell Common Stock
G-5, Sub 175 (7-29-82)

Public Service Company of North Carolina, Inc. - Order Granting Authority to Issue and Sell Securities
G-5, Sub 182 (12-7-82)

TARIFFS

Pennsylvania & Southern Gas Company - Order Approving Tariffs Effective on August 1, 1982
G-3, Sub 103 (8-4-82)

Public Service Company of North Carolina, Inc. - Order Accepting Tariff Filings to Eliminate in Rates and Charges for Exploration and Development
G-5, Sub 170 (6-30-82)

MISCELLANEOUS

North Carolina Natural Gas Corporation - Order Allowing Refunding of Transportation Revenues and Overcollected CRT Dollars
G-21, Sub 177-C (1-21-82)

North Carolina Natural Gas Corporation - Order Approving Change in Curtailment Tracking Rate Effective November 1, 1982
G-21, Sub 177-E (10-26-82)

North Carolina Natural Gas Corporation - Order Approving Refund Plan
G-21, Sub 214 (5-11-82)

North Carolina Natural Gas Corporation - Order Approving Refund Plan
G-21, Sub 214 (8-24-82)

North Carolina Natural Gas Corporation - Order Reducing Rates Effective May 1, 1982, for all Rate Schedules Except Rate Schedule No. 7
G-21, Sub 215 (5-18-82)

Pennsylvania & Southern Gas Company - Order Refunding Dollars Accrued in Account No. 253
G-100, Sub 40; G-3, Sub 98; G-3, Sub 95; G-3, Sub 76A; G-3, Sub 76B; and G-3, Sub 76C (2-23-82)

Pennsylvania & Southern Gas Company - Order Refunding Dollars Accrued in Account No. 253
G-3, Sub 98, and G-3, Sub 101 (8-24-82)

Piedmont Natural Gas Company, Inc. - Order Granting Waiver of Commission Rules R1-17(g)(6) and R1-17(g)(7)
G-9, Sub 224 (9-10-82)

Piedmont Natural Gas Company - Order Requiring Refund to Customers
G-9, Sub 225 (9-10-82)

Public Service Company of North Carolina, Inc. - Order Approving Refund Plan to Its Customers
G-5, Sub 159 (8-24-82)

Public Service Company of North Carolina, Inc. - Order Accepting Rules and Regulations for Filing
G-5, Sub 173 (7-20-82)

United Cities Gas Company - Order Refunding Dollars Accrued in Account No. 253
G-1, Sub 80 (2-9-82)

United Cities Gas Company - Order Approving Refund Plan
G-1, Sub 80 (7-28-82)

MOTOR BUSES

APPLICATIONS WITHDRAWN

Hillbilly Mini-Tours, Mary Frances Banks, d/b/a - Order Allowing Withdrawal of Application for Authority to Transport Passengers
B-386 (10-28-82)

Valley Sightseeing Service, Verndon O. Singleton, d/b/a - Order Allowing Withdrawal of Application for Authority to Transport Passengers
B-383 (8-27-82)

AUTHORITY GRANTED

Dunn Management Service, Inc. - Order Granting Common Carrier Authority
B-389 (10-15-82)

Gary Line Sightseeing Tours, Archie Thomas Gary, d/b/a - Order Granting Common Carrier Authority to Transport Passengers
B-379 (7-7-82)

Pleasure Island Limosine Service, Inc. - Order Granting Common Carrier Authority to Engage in the Transportation of Passengers, Their Baggage, etc.
B-372 (3-10-82)

BROKER'S LICENSES

Brantley Seashore Coach Tours - Recommended Order Granting Broker's License
B-370 (4-28-82)

Country Cottage Tours, Sylvia Strickland and Kenneth Strickland, Sr., d/b/a - Order Granting Broker's License
B-373 (5-20-82)

Designers of Raleigh, Inc. - Order Granting Broker's License
B-385 (11-18-82)

Happy Daze Tours, Carolyn Parr and Fern Holt, d/b/a - Recommended Order Granting Broker's License
B-369 (4-27-82)

Shopping Sprees, A Division of Topics, Inc. - Order Granting Broker's License
B-380 (7-7-82)

NAME CHANGE

Gary Line Sightseeing Tours, Inc. - Order Granting Motion for Authority to Incorporate and Transfer Certificate No. B-379 from Archie Thomas Gary, d/b/a Gary Line Sightseeing Tours to Gary Line Sightseeing Tours, Inc.
B-379 (9-14-82)

RATES

Greyhound Lines, Inc. - Recommended Order Granting Increase in Rates
B-7, Sub 97 (10-14-82)

Greyhound Lines, Inc. - Final Order on Exceptions
B-7, Sub 97 (11-30-82)

Seashore Transportation Company - Recommended Order Approving Increase in Rates and Charges
B-79, Sub 22 (11-2-82)

SALES AND TRANSFERS

Central Buslines of North Carolina, S. D. Small, d/b/a - Order Approving Application for Authority to Purchase and Transfer a Portion of Operating Authority from Carolina Coach Company
B-254, Sub 7 (4-27-82)

Piedmont Coach Lines, Inc. - Order Approving Sale and Transfer of a Portion of Authority Set Forth in Certificate No. B-7 from Greyhound Lines, Inc.
B-110, Sub 20 (4-6-82)

Touring Buddie, William Sammy Roberts, d/b/a - Order Approving Application for Authority to Purchase and Transfer Certificate No. B-369 from Carolyn Parr Roberts (Formally Carolyn Jane Parr) and Fern Holt, d/b/a Happy Daze Tours
B-384 (8-17-82)

Safety Transit Tours of Eden, Inc. - Order Approving Application for Authority to Incorporate and Transfer Certificate No. B-233 from R. J. Gauldin, d/b/a Safety Transit Lines
B-377 (2-23-82)

TEMPORARY AUTHORITY

American Charters, Ltd. - Order Granting Temporary Authority to Conduct Operations Under Certificate No. B-49
B-366, Sub 1 (5-20-82)

Archie's Bus & Transit, Archie Bond, d/b/a - Order Granting Temporary Authority to Transport Passengers
B-382 (7-2-82)

Big C Tours, Big "C" Enterprises, Inc., d/b/a - Order Granting Temporary Authority (Broker)
B-390 (9-15-82)

Dunn Management Service, Inc. - Order Granting Temporary Authority to Engage in the Transportation of Passengers and Their Baggage over Specified Routes
B-389 (9-14-82)

Hillbilly Mini-Tours, Mary Frances Banks, d/b/a - Order Granting Temporary Authority to Transport Passengers and Their Baggage
B-386 (9-14-82)

Shopping Sprees, A Division of Topics, Inc. - Order Granting Temporary Authority to Engage in the Business of a Broker in Intrastate Operations
B-380 (5-12-82)

MISCELLANEOUS

Raleigh Transportation Services, Yellow Cab Company of Raleigh, Inc. d/b/a - Order Declaring Exempt Status and Withdrawal of Application
B-375 (3-15-82)

Trailways Southeastern Lines, Inc. - Recommended Order Authorizing Discontinuance of Bus Runs
B-69, Sub 130 (3-26-82)

Trailways Southeastern Lines, Inc. - Order Allowing Withdrawal of Proposed Schedules, Cancellation of Hearing, and Closing Docket File
B-69, Sub 132 (1-5-82)

MOTOR TRUCKS

APPLICATIONS AMENDED

Bralley-Willet Tank Lines, Inc. - Order Amending Final Order by Adding "DMT (Dimethyl Terephthalate)" to List of Commodities in Restriction to Operating Authority Granted
T-1930, Sub 1 (6-23-82)

Coastal Delivery Services, William Terry, d/b/a - Order Amending Application; Allowing Withdrawal of Protests; and Cancelling Hearing
T-2174 (4-13-82)

Council's Mobile Movers, Inc. - Order Granting Motion to Amend Application
T-2032, Sub 2 (9-14-82)

Eastern Delivery Service, Inc. - Order Allowing Amendment; Allowing Protestant's Withdrawal; and Cancelling Hearing
T-1889, Sub 7 (7-23-82)

Epes Transport System, Incorporated - Order Amending Application to Exclude Transportation of Commodities in Bulk; Allowing Kenan Transport Company to Withdraw as Protestant; and Cancelling Hearing
T-688, Sub 6 (8-31-82)

Lewis Truck Lines, Inc. - Order Amending Application; Allowing Moss Trucking Company to Withdraw as Protestant; and Cancelling Hearing
T-2224 (10-19-82)

APPLICATIONS DENIED

Merritt Trucking Company, Inc. - Recommended Order Denying Application
T-2143, Sub 1 (1-8-82)

Wallace Trucking Company - Recommended Order Denying Application to Transport Group 3, Statewide
T-1293, Sub 5 (9-13-82)

APPLICATIONS DISMISSED

Carter, Simon - Recommended Order Reaffirming Dismissal of Application for Common Carrier Authority Without Prejudice
T-2196 (6-9-82)

Super Motor Lines, Inc. - Order Dismissing Application for Common Carrier Authority
T-155, Sub 6 (3-10-82)

APPLICATIONS GRANTED

Motor Common Carriers - Recommended Order Granting Application as Amended; Allowing Increases in Rates and Charges for Household Goods Services
T-825, Sub 270 (4-29-82)

Motor Common Carriers - Final Order Reviewing Recommended Order
T-825, Sub 270 (4-29-82)

Piedmont Fuel & Distributing Co., Inc. - Recommended Order Granting Application for Additional Common Carrier Authority to Transport Petroleum, etc., Within Designated Counties
T-1062; Sub 7 (2-10-82)

APPLICATIONS WITHDRAWN

CT Trucking, Inc. - Order Allowing Withdrawal of Application
T-2186 (4-6-82)

Carolina Wheel & Axle, Inc. - Order Allowing Withdrawal of Application
T-2236 (12-6-82)

Courier Services, Inc. - Order Allowing Withdrawal of Application
T-2242 (12-8-82)

Harrell, R. O., Inc. - Order Allowing Withdrawal of Application
T-2064, Sub 1 (7-13-82)

Joyner Trucking Company - Order Allowing Withdrawal of Application
T-122, Sub 3 (5-20-82)

Merritt Trucking Company, Inc. - Order Allowing Withdrawal of Application and Cancelling Hearing
T-2143 (2-23-82)

Motor Common Carriers - Order Granting Leave to Withdraw Applications in this Docket
T-825, Sub 271 (6-15-82)

Observer Transportation Company - Order Allowing Withdrawal of Application
T-107, Sub 16 (10-6-82)

Truckload Express, Stewart Intermodal Transport, Inc., d/b/a - Order Allowing Withdrawal of Application
T-2213 (7-13-82)

AUTHORITY DENIED

Colley's Mobile Home Service, James L. Colley, t/a - Recommended Order Denying Common Carrier Authority
T-2160 (9-13-82)

AUTHORITY GRANTED - COMMON CARRIER

2800 Corporation - Order Granting Common Carrier Authority to Transport Group 21, General Commodities, and Group 5, Solid Refrigerated Products, Between Mecklenburg County on the one Hand, and on the Other, all Points in North Carolina
T-2042, Sub 1 (4-16-82)

A & A Courier Service, Larry R. Reep, d/b/a - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Except in Bulk, in Designated Counties and Between Designated Counties and all Points in North Carolina
T-2227 (11-12-82)

A.J.S. Trucking Company, Arlive Jackson Scoggins, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Beer and Malt Liquor Products and Empty Beer and Malt Liquor Product Containers, Including, but not Limited to, Bottles Can, Kegs, and Cartons, Statewide
T-1793, Sub 3 (9-2-82)

Alterman Transport Lines, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Such Commodities as are Dealt in or Used by Grocery Business Houses, Statewide
T-2181 (4-16-82)

Apple Courier, William B. Cosby, d/b/a - Order Granting Common Carrier Authority to Transport Group 1, General Commodities Within Wake and Durham Counties
T-2223 (10-25-82)

Barnett Truck Lines, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide (Except in Bulk, in Tank Trucks)
T-1012, Sub 9 (9-22-82) (Errata Order, 9-28-82)

Best Cartage, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities Except in Bulk, in Tank Trucks; Group 10, Building Materials; Group 16, Furniture Factory Goods and Supplies; and Group 17, Textile Mill Goods and Supplies, from Points in Designated Counties to all Points Within the State of North Carolina and Return from all Points in the State to Points in said Counties
T-2214 (9-8-82)

Bralley-Willett Tank Lines, Inc. - Final Order Granting Authority to Transport Group 21, Liquid Commodities in Bulk, in Tank Trucks, Statewide, with Restrictions
T-1930, Sub 1 (5-10-82) (Amended, 6-23-82 - See Applications Amended)

Bullock, Richard Edwin - Recommended Order Granting Common Carrier Authority
T-2546, Sub 2 (7-14-82)

Cabarrus Consolidating and Management Company - Order Granting Common Carrier Authority to Transport Group 17, Textile Mill Goods and Supplies, Between Concord, and Points and Places Within the State
T-2070, Sub 1 (7-22-82)

Canipe's Wrecker Service and Mobile Homes Movers, Ernest Canipe, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes, Within Designated Counties
T-2212 (8-12-82)

Carl's Mobile Home Service, Carl Mack Peele, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes or House Trailers from Points and Places in Richmond County to all Points in North Carolina and from all Points and Places in North Carolina to all Points and Places in Richmond County
T-2131, Sub 1 (3-10-82)

Carolina Cartage Company, D. L. Cable, d/b/a - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Between Points in Designated Counties and Points and Places in North Carolina
T-2239 (12-9-82)

Coastal Delivery Services, William Terry, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Furniture, Gas, and Electric Appliances Within the Counties of Brunswick, New Hanover, and Pender (Restricted Against the Transportation of Group 18, Household Goods, as Defined in Commission Rule R2-37)
T-2174 (4-27-82)

Columbus Motor Lines, Inc. - Order Granting Common Carrier Authority to Transport Group 17, Textile Mill Goods and Supplies, Statewide
T-304, Sub 10 (7-19-82)

Cox Trucking, Ben Cox, Inc., d/b/a - Order Granting Common Carrier Authority to Transport Group 1, General Commodities in Bulk, in Tank Vehicles, and Group 16, Furniture Factory Goods and Supplies, Statewide
T-2053, Sub 1 (8-30-82)

D & N Motors, Norman Duncan, t/a - Order Granting Common Carrier Authority to Transport Group 21, Bulk Tobacco Barns Between Columbus and Brunswick Counties and to and from Points and Places in North Carolina
T-1732, Sub 3 (12-9-82)

Dixie Trucking Company, Inc. - Order Granting Common Carrier Authority to Transport Group 21, General Commodities, Except Commodities in Bulk, Between Designated Counties in North Carolina
T-299, Sub 6 (12-9-82)

Eagle Transport Corporation - Order Granting Common Carrier Authority to Transport Group 21, Products from Corn and Blends Thereof, in Bulk, Statewide
T-151, Sub 17 (4-16-82)

Eastern Delivery Service, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Yarn and Machine Parts and Emergency Supplies and Equipment Necessary for the Operation, Installation, or Repair of Machine Parts Between Points in Durham, Johnston, Orange, and Wake Counties and Points in North Carolina
T-1889, Sub 7 (8-13-82)

Epes Transport System, Incorporated - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Except in Bulk, Statewide
T-688, Sub 6 (11-10-82)

Food Carrier, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Liquid Sweetness, in Bulk, Statewide
T-2202 (7-8-82)

Fredrickson Motor Express Corporation - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Between all Points and Places Throughout the State of North Carolina
T-645, Sub 19 (3-10-82)

Glosson Enterprises, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide
T-2203 (7-19-82)

Goldston Transfer, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide, with Restriction: Transportation of Commodities in Bulk, in Tank Vehicles is not Authorized
T-125, Sub 11 (10-6-82)

Hall's Mobile Home Movers, Carlton Ray Hall, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes, as Follows: (1) Between all Points and Places in Duplin County, (2) From all Points and Places in Duplin County to all Points and Places in North Carolina, and (3) From all Points and Places in the State to all Points and Places in Duplin County
T-2170 (3-10-82)

Inman, Gene, Trucking, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Lumber or Wood Products, Statewide
T-2159 (1-20-82)

Kenan Transport Company - Recommended Order Granting Authority to Transport Plastic Pellets, in Bulk, in Tank Vehicles, Between the Facilities of Rohm & Haas in or near Cedar Creek, North Carolina, and all Points and Places in North Carolina
T-127, Sub 17 (2-12-82)

Lewis Truck Lines, Inc. - Order Granting Authority to Transport Group 1, General Commodities, Statewide, with Restriction
T-2224 (12-28-82)

Lower Creek Mobile Home Park, Claud E. Mabe, d/b/a - Order Granting Authority to Transport Group 21, Mobile Homes, Within Designated Counties and Between Said Counties and Points in Burke and Caldwell Counties
T-1516, Sub 3 (2-15-82)

Lower Creek Mobile Homes, Claud E. Mabe, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes, as follows: (1) from Points and Places in Designated Counties to Points and Places in North Carolina and (2) from Points and Places in North Carolina to Points and Places in the Counties
T-1516, Sub 4 (7-19-82)

Lumbee Trucking Co., Inc. - Order Granting Common Carrier Authority to Transport Group 21, Structural Components of Pre-Engineered Buildings, Between Points in Scotland County, and all Points in North Carolina
T-2154, Sub 1 (4-5-82)

M & M Movers, Richard C. Hall, d/b/a - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes, Modulars and Related Products Between Wilkes and Alexander Counties and all Points in North Carolina
T-1750, Sub 2 (4-15-82)

McClendon, Glenn, Trucking Company, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Except in Bulk, in Tank Vehicles, Statewide
T-1803, Sub 3 (11-29-82)

Mid-State Delivery Service, Inc. - Final Order Overruling Recommended Order and Granting Authority to Transport Group 20, Motion Picture Film and Special Service Statewide with Weight Limit and Restriction in Mecklenburg County
T-368, Sub 12 (11-1-82)

Mitchell, Cyrus A., Jr. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Within Buncombe County, North Carolina
T-2187 (4-27-82)

Northside Storage Co., Inc. - Order Granting Common Carrier Authority to Transport Group 21, Office and Business Records to and from Places of Storage Owned by Northside Storage Co., Inc., or the Shipper, Between Points in Wake, Orange, and Durham Counties
T-2208 (7-22-82)

Pines Mobile Home Park and Service Company, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes, etc., in Designated Areas in North Carolina
T-2230 (10-28-82)

Rapid Transit, Trafficking Services, Inc., d/b/a - Order Granting Common Carrier Authority to Transport Group 1, Same Day and Next Day Pick Up and Delivery
T-2222 (10-14-82)

Regional Storage & Transport, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide
T-1906, Sub 3 (10-6-82)

Rogers Transportation Co., Inc. - Recommended Order Granting Common Carrier Authority to (1) Transport Group 3, Petroleum and Petroleum Products, Liquid,

in Bulk, in Tank Trucks, Statewide and (2) Transport Liquid Fertilizer, in Bulk, in Tank Vehicles, Statewide
T-462, Sub 5 (2-24-82)

Rowan Freight Co., Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities Between Points in Rowan County and all Points in North Carolina
T-2142 (3-18-82)

Rowan Freight Co., Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities to, from, and Between Points in Designated Counties and all Points in North Carolina
T-2142, Sub 1 (10-6-82)

Rupard, C. B., and Sons, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Mobile Homes Within Designated Counties
T-2228 (11-10-82)

Short's Pickup and Delivery Service, Glen A. Short and Gayle M. Short, d/b/a - Order Granting Common Carrier Authority to Transport Group 1, General Commodities Between all Points and Places in North Carolina Within a Radius of 200 Miles of Morganton
T-2198 (7-8-82)

Smith, Larry M., Trucking, Inc. - Recommended Order Granting Common Carrier Authority to Transport Group 21, as follows: New and Used Mobile Homes, Recreational Vehicles, Modular Homes, Mobile Office Units, Tool Vans, Any and all Other New and Used Mobile Units, and all Fixtures, Apparatus, and Necessaries Incident to the Above; Originating in Chatham, Orange, Durham, and Wake Counties; Between all Points and Places in Those Counties to all Points and Places in North Carolina over Irregular Routes; and Returning from all Points and Places in North Carolina to all Points and Places Within Chatham, Orange, Durham, and Wake Counties over Irregular Routes
T-2178 (6-10-82)

South Freight Service, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide. Restriction: Transportation of Commodities in Bulk, in Tank Vehicles
T-2219 (9-8-82)

Super Motor Lines, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Statewide
T-155, Sub 7 (3-10-82)

Terminal Trucking Company, Inc. - Recommended Order Granting Common Carrier Authority to Transport Group 1, General Commodities in Designated Counties
T-447, Sub 5 (10-28-82) (Errata Order, 11-1-82)

Thompson, David, Trucking Company - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Except Commodities in Bulk, Between Points in Mecklenburg County and other Points in Designated Counties
T-2210 (8-26-82)

Thurston Motor Lines, Inc. - Order Granting Common Carrier Authority to Transport Group 21, General Commodities, Except Commodities in Bulk in Designated Counties in North Carolina
T-480, Sub 31 (12-9-82)

Tidewater Transit Company, Inc. - Order Reversing Recommended Order and Granting Authority to Transport Group 21, Chemicals, Statewide
T-380, Sub 20 (10-26-82)

Tri-State Motor Transit Co. - Order Granting Common Carrier Authority to Transport Group 21, Unirradicated Nuclear Fuel Assemblies and Nuclear Reactor Component Parts and Related Equipment, Between the Facility of the General Electric Company, Wilmington and the Brunswick Facility of Carolina Power & Light Company at Southport
T-2207 (8-12-82)

Twisdale Trucking Company, Inc. - Order Granting Common Carrier Authority to Transport Group 9, Forest Products: Group 10, Building Materials; and Group 16, Furniture Factory Goods and Supplies, Statewide
T-2201 (10-6-82)

United Parcel Service, Inc. - Order Granting Amendment to Common Carrier Authority to Transport Packages or Articles, Subject to the Following Restrictions, Over Irregular Routes, Between all Points and Places Within the State: Packages or Articles Must Weigh Less Than 50 Pounds and not Exceed 108 Inches in Length and Girth Combined, and Each Package or Article Shall be Considered as a Separate and Distinct Shipment
T-1317, Sub 19 (2-5-82)

Wendell Transport Corporation - Recommended Order Granting Operating Authority to Transport Group 21, Streptomyces Solubles from Points in New Hanover County to Points in North Carolina
T-1039, Sub 8 (3-29-82)

Western Carolina Express, Inc. - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Except Commodities in Bulk, in Tank Vehicles, Statewide
T-2079, Sub 2 (12-9-82)

Wicker Services, Inc. - Order Granting Common Carrier Authority to Transport General Commodities, Except those Requiring Special Equipment, over Irregular Routes Between Points in Alamance County and Designated Points in North Carolina
T-65, Sub 10 (6-10-82)

Wicker Service, Inc. - Order Granting Common Carrier Authority to Transport General Commodities, Except Those Requiring Special Equipment, over Irregular Routes, Statewide
T-65, Sub 11 (12-9-82)

Wilson Trucking Corporation - Order Granting Common Carrier Authority to Transport Group 1, General Commodities, Between all Points and Places Within Designated Counties
T-1981, Sub 2 (4-5-82)

Wingate Trucking Company, Inc. - Order Granting Common Carrier Authority to Transport Group 21, Chemicals, in Containers, Statewide
T-2184 (7-19-82)

AUTHORITY GRANTED - CONTRACT CARRIER

All Ohio Trucking Company - Order Granting Contract Carrier Authority to Transport Group 21, Culvert Pipe and Materials, etc., from the Plant Site of Wheeling Corrugating Company, a Division of Wheeling - Pittsburgh Steel Corporation, Located at or Near Statesville to and from all Points in North Carolina, Under Contact with Wheeling - Pittsburgh Steel Corporation
T-2235 (12-9-82)

Arndt Trucking, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Gasoline, Kerosene, Heating Oil, and Diesel Fuel, from Charlotte to Points in Designated Counties Under Individual Bilateral Written Contracts with Broyhill Furniture Industries, Inc., Lenoir Ice and Fuel Company, Nelson Oil Company, Inc., Beall Oil Company, and Dixie Oil Company
T-2152, Sub 1 (4-5-82)

Boone, The A. G., Company - Order Granting Contract Carrier Authority to Transport Group 21, Such Commodities as are Dealt in or Used by Grocery, Food, Drug, and Department Stores, and Materials, Equipment, and Supplies Used in the Manufacture, Sale, and Distribution of Such Commodities Between all Points and Places in North Carolina Under Continuing Contracts with Kraft, Inc.
T-24, Sub 6 (4-16-82)

Boone, The A. G., Company - Order Granting Contract Carrier Authority to Transport Commodities Dealt in or Used by Grocery, Food, Drug, and Department Stores, etc., Between Points in the State Under Continuing Contracts with White Rock Products Corporation
T-24, Sub 7 (12-9-82)

Boone, The A. G., Company - Order Granting Contract Carrier Authority to Transport Commodities Between Points in the State Under Continuing Contract with Superbrand Dairy Products, Inc., a Subsidiary of Winn-Dixie
T-24, Sub 8 (10-28-82)

Catawba Trucking Company - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities and Group 17, Textile Mill Goods and Supplies Between Points and Places in Burke County, and Between Points and Places in Burke County, and Points and Places in North Carolina, Under Continuing Contract with McLowenstein Corporation
T-2220 (8-26-82)

Coley Moving & Storage, Inc. - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities, Statewide, under Contract with Burlington Industries, Inc.; Webco II, Inc.; Shadowline, Inc.; and Carolina Aluminum Company
T-1268, Sub 6 (2-15-82)

East Carolina Cartage Company, Delmer Ray Ipock, d/b/a - Order Granting Contract Carrier Authority to Transport Group 21, Paper and Paper Products and Equipment and Supplies Used in the Manufacture and Distribution of Paper and Paper Products, Statewide, Under Continuing Contract with Sonoco Products Company
T-1922, Sub 3 (5-19-82)

Eastern Courier Corporation - Recommended Order Granting Application in Part
T-1709, Sub 6 (11-9-82)

Freeman Contract Service, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Steel and Aluminum Products, Between all Points in North Carolina, Under a Continuing Contract with Edgecombe Metals Company
T-2167 (4-27-82)

General Trucking Service, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Paint and Related Products, Statewide, Under Contract with SCM Corporation
T-2226 (11-10-92)

Goco Transportation, Inc. - Order Granting Contract Carrier Authority to Transport Group 3, Petroleum and Petroleum Products, in Bulk, in Tank Trucks, from Originating Terminals at or Near Wilmington and Selma, to Points and Places in Pamlico, Carteret, and Craven Counties and the Transportation of Petroleum and Petroleum Products, in Bulk, in Tank Trucks, Between Points and Places Within Said Counties, Under Contract with Gatlin Oil Co., Bayboro
T-2173 (3-5-82)

Harris, William Lester - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities, Group 14, Dump Truck Operations, Group 17, Textile Mill Goods and Supplies, and Group 21, Aluminum or Other Metal Scraps, Used by Facet Enterprises, Inc., to Make Filters, Statewide, Under Contract with Americal Corporation and Facet Enterprises, Inc.
T-2048, Sub 2 (6-18-82)

Harris, William Lester - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities, Except Commodities in Bulk, Statewide, Under Contract with Dodd Distributing Co., Inc.
T-2048, Sub 3 (8-30-82)

John's Auto Repair, Inc. - Order Granting Authority to Transport Group 21, Paper and Paper Products, etc., Between Points in the State Under Continuing Contract with Halifax Paper Board Company, Inc.
T-2241 (12-21-82)

Lumbee Trucking Company, Inc. - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities, Statewide, Under Contract with Campbell Soup Company
T-2154 (1-20-82)

MTL Courier Service, Philip Gene Hogan, d/b/a - Order Granting Contract Carrier Authority to Transport Group 21, Checks and Deposit Slips and all Other Papers Required in the Operation of Richmond County Bank of Rockingham, and the Lumbee Bank of Pembroke from Pembroke to Rockingham and to

Winston-Salem and Return Under Contract with Richmond County Bank and Lumbee Bank
T-2180, Sub 1 (7-23-82)

Mills Trucking Company, Delna R. Mills, d/b/a - Order Granting Contract Carrier Authority to Transport Group 21, Automobile Parts and Supplies, Delivered to Automobile Dealers Within the Area Having Boundaries Being Statesville to the West, Interstate 40 and U.S. Highway 64 to the North, Williamston, Washington, New Bern, and Beaufort to the East, and Wilmington, Lumberton, and Laurinburg to the South, Under Written Contract with Carolina Automotive Supply Co., Inc.
T-2221 (8-30-82)

Mitchell Express, Inc. - Order Granting Authority to Transport Group 21, Malt Beverages, etc., Between Winston-Salem and Salisbury Under Contract with Piedmont Distributors, Inc.
T-2240 (12-23-82)

Moore's Express, Charlie C. Moore, Jr. d/b/a - Order Granting Contract Carrier Authority to Transport Group 17, Textile Mill Goods and Supplies in Designated Counties Under Contract with Mochican Mills, Division of FAB Industries, Lincolnton
T-2231 (11-24-82)

Morgan Trucking, Larry Edison Morgan, d/b/a - Order Granting Contract Carrier Authority to Transport Group 21, Spring Water and Orange Juice, Bottled, Statewide, Under Contract with Arcadia Dairy Farms, Inc.
T-2166 (4-27-82)

O'Boyle Tank Lines, Incorporated - Order Granting Contract Carrier Authority to Transport Group 21, Cement from Salisbury to all Points and Places in North Carolina
T-804, Sub 21 (11-12-82)

Observer Transportation Company - Order Granting Contract Carrier Authority to Transport Group 1, General Commodities, Statewide, Under Continuing Contract with Richway, a Division of Federated Department Stores, Inc.
T-107, Sub 14 (3-5-82)

Observer Transportation Company - Order Granting Authority to Transport Group 1, General Commodities, Statewide, Under Continuing Contract with Textilease Corporation
T-107, Sub 17 (12-28-82)

Reynolds Trucking Company - Order Granting Contract Carrier Authority to Transport Group 14, Dump Truck Operations, Between all Points and Places Within Designated Counties Under Contract with Southern Salt Company
T-2191 (7-19-82)

Sanders, Ervin - Order Granting Contract Carrier Authority to Transport Group 21, Other Specific Commodities, Concrete Pipe, Concrete Block, etc., Exception: Restricted Against Cement, Lime, and Mortar in Bulk
T-2200 (7-8-82)

South Freight Service, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Filters and Materials and Supplies Used in the Manufacture, Sale, and Distribution of Filters Between Points in North Carolina, Under Continuing Contract with Wix Corporation
T-2219, Sub 1 (9-21-82)

Transport Service Company - Order Granting Contract Carrier Authority to Transport Group 21, Liquid Sweetners, Sugars, Derivatives and Blends Thereof, and Alcohol Between Points in North Carolina Under Continuing Contract with A. E. Staley Manufacturing Company
T-2204 (8-12-82)

Tultex Transportation, Incorporated - Order Granting Contrtact Carrier Authority to Transport Group 1, General Commodities, with Exceptions, Statewide, Under Contract with Tultex Corporation and Peerless Yarn and Washington Mills Company
T-2216 (11-10-82)

Waco Drivers Service, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Nonalcoholic Beverages and Materials, Equipment, etc., Between Points in the State Under Contract with Shasta Beverages, Inc.
T-1994, Sub 2 (11-10-82)

Waco Drivers Service, Inc. - Order Granting Contract Carrier Authority to Transport Group 21, Filters (air), Air Filter Elements, etc., Statewide, Under Contract with Facet Enterprises, Inc.; Mops, Mop Handles, etc., Statewide, Under Contract with Piedmont Mop Co.; and Recycled Newspapers, Cellulose Insulating Materials Packaged in Bags, etc., Statewide, Under Contract with Gery Manufacturing Co.
T-1994, Sub 3 (7-19-82)

Wayne, Jack, Brothers - Order Granting Contract Carrier Authority to Transport Group 21: (1) Coca-Cola Products and Materials and Supplies, Under Contract with Mid-Atlantic Coca-Cola Bottling Co., Inc., (2) Coal Between Points in Pasquotank and Chowan Counties Under Continuing Contract with United Piece Dye Works, Inc.
T-2172 (4-5-82)

WestPoint Pepperell Transportation Company - Order Granting Contract Carrier Authority to Transport Group 7, Cotton in Bales, and Group 17, Textile Mill Goods and Supplies to, from, and Between all Facilities Owned and/or Operated by WestPoint Pepperell Within the State Under Contract with WestPoint-Pepperell, Inc.
T-2176 (4-5-82)

BROKER'S LICENSE

Carousel of Raleigh, Sally B. Cooke and Grayson W. ReVille, d/b/a - Order Granting Broker's License
T-381 (11-16-82)

CERTIFICATES AND/OR PERMITS CANCELLED OR REVOKED

Company and Certificate Number	Docket Number	Date
Barnes, Milton Ray (P-30)	T-1907	6-29-82
Branch's Transfer, H.G. Branch, d/b/a (C-31)	T-278, Sub 2	6-29-82
Dahn, Richard, Inc. (C-1127)	T-1950	5-3-82
J & M Transportation Co., Inc. (C-1096)	T-1902, Sub 1	7-14-82
Langer Transport Corporation (C-1098)	T-1904, Sub 1	7-1-82
Scott, Dennis Michael (P-352)	T-2059	5-20-82

CHANGE OF CONTROL

Fleet Transport Company, Inc. - Order Approving Change of Control to Leaseway Transportation Corp.
T-2182 (3-10-82)

COMPLAINTS

Harper Trucking Company - Recommended Order Dismissing Complaint Against Fredrickson Motor Express Corporation and Standard Trucking Company
T-1287, Sub 37 (7-2-82)

Kenan Transport Company, Complainant, vs Wendell Transport Corporation, Respondent - Order Closing Docket
T-1039, Sub 9 (2-24-82)

LEASES

CT Trucking, Inc. - Order Cancelling Lease of Certificate No. C-191 from State Trucking Company
T-2053 (6-23-82)

MERGERS

McLean Trucking Company - Order Approving Merger with Meridian Acquisition Subsidiary, Inc.
T-106, Sub 7 (8-2-82)

NAME CHANGE

Carteret Mobile Home Movers, Larry Gaston Eubanks, d/b/a - Order Approving Change in Trade Name from Carteret Mobile Home Repair
T-2177 (4-6-82)

DeWitt, L. G., Trucking Company, Inc. - Order Approving Change in Name from L.G. Dewitt, Inc.
T-1041, Sub 2 (12-30-82)

National Trailer Convoy of America, Inc. - Order Approving Change in Name from National Trailer Convoy, Inc.
T-1097, Sub 7 (6-23-82)

Truck Air, Inc. - Order Approving Change in Corporate Name from Truck Air of Georgia, Inc.
T-2088, Sub 1 (6-10-82)

West's Moving & Storage, West's Durham Transfer & Storage, Inc., d/b/a - Order Approving Use of Trade Name
T-1865, Sub 1 (8-13-82)

Youngblood Truck Lines, Youngblood Transportation System, Inc., d/b/a - Order Approving Change in Name from Youngblood Truck Lines, Inc.
T-324, Sub 19 (12-30-82)

RATES

North Carolina Motor Carriers of Passengers and Property - Order Approving Surcharge Reduction
T-825, Sub 248 (10-20-82)

North Carolina Motor Carriers of Passengers and Property - Supplemental Order Approving Fuel Surcharge Reduction
T-825, Sub 248 (10-22-82)

North Carolina Motor Carriers - Order Granting Partial Increase in Rates
T-825, Sub 263 (1-4-82)

North Carolina Motor Carriers Association, Inc. - Recommended Order Approving Rates
T-825, Sub 269 (2-19-82)

Observer Transportation Company - Final Order to the Order Granting Increase and Approving Tariff Filing Dated April 5, 1982
T-107, Sub 15 (4-5-82)

United Parcel Service, Inc. - Order Vacating Suspension and Allowing Increase in Rates
T-1317, Sub 20 (6-15-82)

SALES AND TRANSFERS

Advanced Moving and Storage Co., Inc., Franklin Pawn and Coin Co., Inc., d/b/a - from Eugene M. Ferguson, d/b/a Eugene M. Ferguson Moving Company
T-2217 (8-16-82)

Bell's Cargo, Intertruck Corporation, d/b/a - from David L. Chapman, d/b/a Land of the Sky Delivery Service (C-116)
T-2175 (3-24-82)

Bralley-Willett Tank Lines, Inc. - Order Approving Sale and Transfer of Certificate No. C-375 from Shramrook Transport Company
T-1930, Sub 2 (10-21-82)

Bryant, Billy, Trailer Moving, Billy Joe Bryant, d/b/a - from Thomas A. Stephenson, d/b/a Stephenson Mobile Transport (C-986)
T-2158 (1-29-82) (Errata, 2-12-82)

Campbell Trucking, Inc. - to Incorporate and Transfer from Cecil S. Campbell (C-1170)
T-2077, Sub 2 (1-19-82)

Carroll's Mobile Home Transport, Elwood Carroll Williams, d/b/a - from Bennie D. Williams, d/b/a Williams Mobile Home Transport (C-855)
T-2211 (8-16-82)

Carroll's Transfer, Inc. - from Pait Transfer, Inc. (C-24)
T-412, Sub 2 (5-12-82)

Carteret Mobile Home Repair, Larry Gaston Eubanks, d/b/a - from William Henry Carraway (C-975)
T-2177 (3-19-82)

Colonial Refrigerated Transportation, Inc. - from Claremont Motor Lines, Inc. (C-409)
T-2004, Sub 1 (3-23-82)

Council, Jimmy, Jimmy Robert Council, d/b/a - Order Approving Sale and Transfer of Certificate No. C-135 from Tilmon R. Coltrain
T-2032, Sub 1 (1-26-82)

Council, Jimmy Reno - Order Approving Sale and Transfer of Certificate No. C-971 from Carolina Mobile Movers, Inc.
T-2032, Sub 2 (8-4-82)

David's Economove, Inc. - Order Approving Incorporation and Transfer of Certificate No. C-441 from David's Econo-Move
T-1996, Sub 1 (12-30-82)

Federated Transport, Inc. - Order Approving Purchase and Transfer of a Portion of Authority Set Forth in Certificate No. C-113 from Farmers Oil Co., Inc.
T-1828, Sub 2 (1-26-82)

Gardner-Creech Oil Co., Inc. - Order Approving Incorporation and Transfer from Jonas M. Gardner and David A. Creech, d/b/a Gardner-Creech Oil Co. (C-574)
T-790, Sub 5 (4-15-82)

Gasperson Transfer, Inc. - Order Approving Incorporation and Transfer from Roy M. Gasperson (C-664)
T-872, Sub 1 (1-19-82)

Gilbert, Jimmy Randal, from Barman Cornett, Jr., d/b/a Cornett Mobile Movers (C-1071)
T-2163 (1-26-82)

Liquid Transporters, Inc. - Order Approving Sale and Transfer of Certificate No. C-367 from Russ Transport, Inc., Chattanooga, Tennessee
T-2229 (11-16-82)

McLaurin Trucking Company - Recommended Order Approving Sale and Transfer of Certificate No. C-162 from Johnson Motor Lines, Inc.
T-1974, Sub 1 (6-10-82)

Merritt Trucking Copmpany, Inc. - Order Approving Purchase and Transfer of a Portion of Authority from O'Boyle Tank Lines (CP-20)
T-2143, Sub 2 (2-2-82)

Neuse Transport, Inc. - Order Approving Purchase and Transfer of a Portion of Authority from Farmers Oil Company, Inc. (C-113)
T-2171 (1-26-82)

Neuse Transport, Incorporated - Order Approving Sale and Transfer of Certificate No. C-52 from T. P. Ashford Oil Company
T-2171, Sub 1 (11-16-82)

North American Transfer and Storage of Asheville, Inc. - from North America Movers of North Carolina, Inc. (C-741)
T-1956 (4-6-82)

Parmenter Transport Company, Inc. - Order Approving Purchase and Transfer of a Portion of Operating Authority from Morven Freight Lines, Inc. (C-570)
T-2161 (1-26-82)

Petroleum Transport Company, Inc. - Order Approving Authority for C.B. Roberson, Individually to Acquire Control of Petroleum Transport Company, Inc., from C. B. Roberson, Inc. (C-95)
T-36, Sub 6 (2-16-82)

Pope's Mobile Home Moving, Inc. - Order Approving Incorporation and Transfer from Albert Reece Pope, Jr., d/b/a Pope's Mobile Home Moving (C-1022)
T-1704, Sub 2 (2-16-82)

Proctor Brothers Moving & Storage, Inc. - Order Approving Sale and Transfer of Certificate No. C-695 from Leon Sain
T-2225 (10-21-82)

Rosdahl, LLoyd, Machinery Riggers, Inc. - Order Approving Transfer of Permit No. P-120 from Lloyd Rosdahl
T-1008, Sub 3 (12-23-82)

Strick's Transporters, Steve Strickland, d/b/a - Recommended Order Granting Application to Sell and Transfer Certificate No. C-972 to Clyde Dean Haugen and Boyce Rhymer, d/b/a Atlantis Transporters
T-2193 (11-22-82)

Triad Transport, Inc. - Order Approving Purchase and Transfer of a Portion of the Operating Authority from Farmers Oil Company, Inc. (C-113)
T-2016, Sub 1 (3-23-82)

Turner, Guy M. - from Carolina Crane Corp. (C-929)
T-2190 (5-18-82)

Wilmington Oil and Moving Service, Inc. - from James C. DeShields, d/b/a Wilmingtron Moving and Transfer Co. (C-663)
T-2183 (5-12-82)

SECURITIES

Herman Brothers, Inc. - Order Approving Transfer of Stock
T-2021, Sub 1 (10-26-82)

MISCELLANEOUS

Piedmont Mobile Home Movers, Shelby Ozum, d/b/a - Order Reinstating Authority for Certificate No. C-1035
T-1691, Sub 1 (11-15-82)

Southeastern Freight Lines - Order Denying Exceptions and Affirming Recommended Order
T-2136 (1-27-82)

RAILROADS

AGENCY STATIONS

Norfolk Southern Railway Company - Order Denying Motion and Reaffirming Recommended Order Denying Petition to Discontinue the Agency Station at Belhaven
R-4, Sub 139 (7-14-82)

Southern Railway Company - Recommended Order Granting Petition to Discontinue Agency Station at Hot Springs
R-29, Sub 375 (9-29-82)

Southern Railway Company - Order Granting Motion to Withdraw Petition to Discontinue Agency Station at Kernersville
R-29, Sub 404 (10-22-82)

COMPLAINTS

Seaboard Coast Line Railroad Company - Final Order Overruling Exceptions and Affirming Recommended Order in Complaint of the Lumbee Indians, Allenton Community, Robeson County
R-71, Sub 93 (1-5-82)

MOBILE AGENCY STATIONS

Seaboard Coast Line Railroad Company - Order Granting Application to Implement Mobile Agency Concepts in Greenville and Wilmington Areas, Eliminating Present Mobile Agency Concepts Operating out of Jacksonville and Warsaw, and Realigning the Goldsboro Mobile Agency on a Permanent Basis
R-71, Sub 94 (2-19-82)

Seaboard Coast Line Railroad Company - Order Granting Application to Retire Its Track Nos. 2, 7, and 8 and Discontinue the Mobile Agency Station at Elrod
R-71, Sub 115 (7-29-82)

NONAGENCY STATIONS

Norfolk Southern Railway Company - Order Granting Petition to Change Station at Dallas to an Open Nonagency Station Governed by Gastonia
R-4, Sub 144 (7-7-82)

OPEN AND PREPAY STATIONS

Southern Railway Company - Order Granting Petition to Remove the Station at Eufola from the Open and Prepay Station List
R-29, Sub 384 (1-13-82)

Southern Railway Company - Order Granting Petition to Remove Sandclay from the Open and Prepay Station List
R-29, Sub 385 (1-8-82)

SIDE TRACKS AND TEAM TRACKS

Atlantic and East Carolina Railway Company - Order Granting Petition to Remove Side Track No. 90-1, Morehead City
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Carolina and Northwestern Railway Company (Norfolk Southern Railway Company) - Order Granting Petition to Retire and Remove a Sidetrack Located at Wendell
R-29, Sub 413 (9-23-82)

Norfolk Southern Railway Company - Order Granting Petition to Retire and Remove Industrial Track, Raleigh
R-4, Sub 142 (3-26-82)

Norfolk Southern Railway Company - Order Granting Petition to Retire and Remove a Track at Gulf
R-4, Sub 143 (3-26-82)

Norfolk Southern Railway Company - Order Granting Petition to Retire and Remove a Track Located at M.P. NS229.8 near Raleigh
R-4, Sub 147 (7-7-82)

Seaboard Coast Line Railroad Company - Order Granting Authority to Relocate Team Track at Terminal End of New Bern Subdivision, Queen Street
R-71, Sub 104 (3-10-82)

Seaboard Coast Line Railroad Company - Order Granting Authority to Retire Team Track at Polkton and Change Status to Private Siding Station
R-71, Sub 109 (1-21-82)

Seaboard Coast Line Railroad Company - Order Granting Authority to Retire and Remove Team Track at Lucama and Change Status to Private Siding Station
R-71, Sub 110 (1-19-82)

Seaboard Coast Line Railroad Company - Order Granting Authority to Retire Team Track and Discontinue Mobile Agency Station at Spring Hill
R-71, Sub 111 (2-12-82)

Seaboard Coast Line Railroad Company - Order Granting Authority to Retire and Remove Team Track at Waco and Change Status to Private Siding Station
R-71, Sub 113 (9-9-82)

Southern Railway Company - Recommended Order Granting Petition to Retire and Remove Industrial Track at Waynesville
R-29, Sub 342 (1-19-82)

Southern Railway Company - Final Order Overruling Exceptions and Affirming Recommended Order of January 19, 1982, Granting Authority to Retire and Remove Industrial Track at Waynesville
R-29, Sub 342 (6-23-82)

Southern Railway Company - Recommended Order Granting Petition to Remove Side Track Nos. 154-4 and 154-5 at Shelby
R-29, Sub 345 (4-19-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 348-5 at Kannapolis
R-29, Sub 361 (9-14-82)

Southern Railway Company - Order Amending Order of October 16, 1981, and Allowing Removal of Side Track Nos. 63-2 and 63-3 at Hildebran
R-29, Sub 363 (4-27-82)

Southern Railway Company - Recommended Order Authorizing Removal of Side Track No. 49-12 at Newton and Deferring Decision on Side Track No. 49-11
R-29, Sub 364 (2-25-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Track No. 80-3 at Morganton
R-29, Sub 377 (7-7-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Track and Trestle at Asheville
R-29, Sub 379 (1-4-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 110-5 and a Portion of Side Track No. 110-4 at Selma
R-29, Sub 386 (1-22-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 97-2 at Clayton
R-29, Sub 387 (1-22-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Team Track No. 8-2 at McLeansville
R-29, Sub 390 (2-9-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Team Track No. 284-25 at Greensboro
R-29, Sub 391 (1-21-82)

Southern Railway Company - Order Granting Petition to Retire and Remove a Track at Fairview
R-29, Sub 392 (3-25-82)

Southern Railway Company - Order Granting Petition to Retired and Remove Track No. 74-2 at Vandalia
R-29, Sub 393 (3-26-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Industrial Track at Mebane
R-29, Sub 394 (3-18-82)

Southern Railway Company - Order Granting Petition to Retire and Remove 3,509 Feet of Track No. 389-2 at Belmont
R-29, Sub 396 (7-6-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Track No. 71-7 at Greensboro
R-29, Sub 398 (9-14-82)

Southern Railway Company - Order Granting Petition in Part to Retire and Remove Three Side Tracks at Salisbury (V.A. Hospital and White Packing Company)
R-29, Sub 399 (5-25-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 3-3 at Newbridge
R-29, Sub 401 (6-23-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Team Track at Rose and to Eliminate Rose from the Open and Prepay Station List
R-29, Sub 402 (5-20-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 22-9 at Brevard
R-29, Sub 403 (6-11-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track at Haw River
R-29, Sub 405 (6-11-82)

Southern Railway Company - Order Granting Petition to Retire and Remove a Track Located at Statesville
R-29, Sub 407 (7-7-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. S-99.1 at Marion
R-29, Sub 409 (7-20-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 24-2 at Flat Rock
R-29, Sub 410 (7-20-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 79-14 at Morganton
R-29, Sub 411 (7-20-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 375-1 at Charlotte
R-29, Sub 412 (8-18-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 128-5 at Goldsboro
R-29, Sub 414 (8-13-82)

Southern Railway Company - Order Granting Petition to Retire and Remove a Side Track at Siler City
R-29, Sub 416 (9-29-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 142-31 at Asheville
R-29, Sub 417 (12-7-82)

Southern Railway Company - Order Granting Petition to Retire and Remove Side Track No. 5-18 at Friendship
R-29, Sub 418 (11-19-82)

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Norfolk and Western Railway Company - Order Granting Relief from Requirement to File Annual Reports for Class III Subsidiary Lines Company Operating in North Carolina
R-26, Sub 29 (3-5-82)

Southern Railway Company - Recommended Order Keeping Record Open for Petition to Retire and Remove Track No. 24-3 at Statesville Until April 1, 1983
R-29, Sub 408 (10-18-82)

Southern Railway Company - Order Granting Petition to Relocate Depot Station at Old Fort
R-29, Sub 415 (10-8-82)

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APPLICATIONS DISMISSED OR WITHDRAWN

Darecom, Inc. - Order Allowing Withdrawal of Application for a Certificate to Provide Common Carrier Radio and Paging Service to Dare County and Closing Docket
P-132 (9-27-82)

Two-Way Radio of Carolina, Inc.; Telephone II, Inc.; and Rutherford Communications, Inc. - Recommended Order Dismissing Applications and Vacating Suspension of the Revised Tariff NCUC No. 1 of Two-Way Radio
P-84, Sub 16; P-129; and P-130 (3-18-82)

COMPLAINTS

Aircall, Inc. - Recommended Order Allowing Withdrawal of Complaint Without Prejudice and Closing Docket in Complaint Against James Fletcher, Jr., d/b/a Fletcher's Seamless Gutters, et al.
P-82, Sub 12 (4-5-82)

Carolina Telephone and Telegraph Company - Order Requiring Tariff in Complaint of The City of Fayetteville
P-7, Sub 660 (8-3-82) (Errata Correcting Date as Shown, 8-5-82)

General Telephone Company of the Southeast - Order Closing Docket in Complaint of Kenneth M. Munsch, Atcom, Incorporated
P-19, Sub 189 (4-19-82)

Southern Bell Telephone and Telegraph Company - Order Closing Docket in Complaint of James T. Hoyle, Jr.
P-55, Sub 790 (2-25-82)

Southern Bell Telephone and Telegraph Company - Recommended Order Dismissing Complaint and Requiring Payment of Termination Charge in Complaint of Harry S. Swimmer, d/b/a Swimmer Insurance Agency, Inc.
P-55, Sub 797 (8-16-82)

Southern Bell Telephone and Telegraph Company - Order Closing Docket in Complaint of Tim Rogers, Manager, Rogers Scrap Metal Service Co., Inc.
P-55, Sub 801 (7-14-82)

Southern Bell Telephone and Telegraph Company - Order Serving Notification of Settlement in Complaint of Tim Rogers, Manager, Rogers Scrap Metal Service Co., Inc.
P-55, Sub 801 (8-3-82)

Southern Bell Telephone and Telegraph Company - Order Closing Docket in Complaint of P. Weber, Portable Welding Service
P-55, Sub 807 (11-5-82)

Westco Telephone Company - Order Closing Docket in Complaint of Joseph N. Clayton, d/b/a Tri County Glass
P-78, Sub 51 (9-1-82)

EXTENDED AREA SERVICE

Carolina Telephone and Telegraph Company - Order Establishing Extended Area Service in Johnston County
P-7, Sub 665 (11-29-82)

Central Telephone Company - Order Requiring an EAS Poll for Hillsborough to Durham and Chapel Hill
P-10, Sub 398 (6-4-82)

Central Telephone Company - Order Denying EAS and Requiring Implementation of Discounted Optional Toll Calling Plan
P-10, Sub 398 (8-27-82)

Central Telephone Company - Order Requiring an EAS Poll Between Danbury and Walnut Cove to Winston-Salem and Danbury to Sandy Ridge
P-10, Sub 407 (6-16-82)

Central Telephone Company - Order Granting the Petition for EAS Between the Sandy Ridge and Danbury Exchanges and Denying in Part EAS Petition
P-10, Sub 407 (11-23-82)

Southern Bell Telephone and Telegraph Company - Order re Petition Requesting EAS Throughout Buncombe County
P-55, Sub 792 (9-17-82)

Two-Way Radio of Carolina, Inc. - Order Approving Extension of Service Area to Include all of Randolph County with Some Exclusions
P-84, Sub 19 (1-27-82)

RATES

Anser-Quik Enterprises, Inc. - Order Revising Refund Interest Rate Applicable to Intrastate Radio Common Carrier Service
P-110, Sub 15 (8-26-82)

Lexington Telephone Company - Order Setting Rates
P-31, Sub 110 (6-23-82)

Sandhills Telephone Company - Order Waiving Items 26(j), 45(b), and 46(b) of Form P-1
P-53, Sub 47 (11-12-82)

Southern Bell Telephone and Telegraph Company - Order Approving Rates and Charges
P-55, Sub 794 (3-12-82)

Western Carolina Telephone Company and Westco Telephone Company - Final Order Overruling Exceptions and Affirming Recommended Order
P-78, Sub 48, and P-58, Sub 121 (3-19-82)

Westco Telephone Company - Order Setting Rates
P-78, Sub 50 (12-16-82)

Western Carolina Telephone Company - Order Setting Rates
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Western Union Telegraph Company - Order Adopting Recommended Order of May 19, 1982, Approving Proposed Tariffs
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Coastal Carolina Communications, Inc. - Order Granting Transfer of Operating Rights to Coastal Communications
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SECURITIES

Central Telephone Company - Order Granting Authority to Issue and Sell Revolving Credit Notes and Term Notes
P-10, Sub 410 (4-14-82)

Central Telephone Company - Order Granting Authority to Issue and Sell Bonds, Debentures, or Notes
P-10, Sub 411 (7-22-82)

Continental Telephone Company of Virginia - Order Granting Authority to Sell First Mortgage Bonds
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General Telephone Company of the Southeast - Order Granting Authority to Issue and Sell First Mortgage Bonds and Common Stock
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TARIFFS

Anser-Quik Enterprises, Inc. - Order Approving Proposed Tariffs and Refund Plan
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Carolina Telephone and Telegraph Company - Order Approving Tariffs
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Carolina Telephone and Telegraph Company - Order Approving Tariffs
P-7, Sub 662 (6-29-82)

Central Telephone Company - Order Allowing Tariffs
P-10, Sub 400 (1-7-82)

Central Telephone Company - Recommended Order Requiring Tariff Revision
P-10, Sub 406 (3-5-82)

Central Telephone Company - Order Approving Tariff
P-10, Sub 406 (6-29-82)

Central Telephone Company - Order Disapproving Tariff
P-10, Sub 409 (3-16-82)

General Telephone Company - Order Allowing Withdrawal of Tariff and Closing Docket
P-19, Sub 184 (1-21-82)

Southern Bell Telephone and Telegraph Company - Order Allowing Withdrawal of Tariff and Closing Docket
P-55, Sub 795 (1-21-82)

Southern Bell Telephone and Telegraph Company - Order Suspending Tariff
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MISCELLANEOUS

Barnardsville Telephone Company - Order (Compliance with the Economic Recovery Tax Act of 1981 Concerning Accelerated Cost Recovery System (ACRS) Depreciation)
P-75, Sub 30 (12-30-82)

Carolina Telephone and Telegraph Company - Order Allowing October 1, 1982, CPE Freeze Date for Certain Customer Premises Equipment Accounts
P-7, Sub 671 (9-29-82)

Carolina Telephone and Telegraph Company - Order Approving Contract of Calling Card Services Agreement with United Telephone System, Inc.
P-7, Sub 672 (10-5-82)

Central Telephone Company - Order Affirming Recommended Order
P-10, Sub 406 (5-25-82) (corrected by Order dated 6-17-82)

Central Telephone Company - Order ("Call-Waiting")
P-10, Sub 412 (8-10-82)

Central Telephone Company of North Carolina - Order Allowing June 30, 1982, CPE Freeze Date
P-10, Sub 413 (9-14-82)

Central Telephone Company and Centel Corporation - Order Amending Order Issued in Docket No. P-10, Sub 354, Issued July 16, 1975
P-10, Sub 416 (12-20-82)

General Telephone Company of the Southeast - Order Approving Operating Agreement
P-19, Sub 185 (3-3-82)

General Telephone Company of the Southeast - Supplemental Order (Compliance with the Economic Recovery Tax Act of 1981 Concerning Accelerated Cost Recovery System (ACRS) Depreciation)
P-19, Sub 191 (12-22-82)

Sandhills Telephone Company - Order Waiving Items 26(j), 45(b), and 46(b) of Form P-1
P-53, Sub 47 (11-12-82)

Service Telephone Company - Order (Compliance with the Economic Recovery Tax Act of 1981 Concerning Accelerated Cost Recovery System (ACRS) Depreciation)
P-60, Sub 46 (12-30-82)

WATER AND SEWER

APPLICATIONS AMENDED, DENIED, DISMISSED, OR WITHDRAWN

Cook, L. V., Water Supply - Recommended Order Dismissing Application
W-540, Sub 2 (12-2-82) (Amended Order, 12-7-82)

Gresham's Lake Utility Company, Inc. - Order Allowing Application Amendment and Requiring Public Notice
W-633, Sub 2 (11-17-82)

Laurel Hill Water Company, a Division of Z.V. Pate, Inc. - Order Allowing Withdrawal of Application and Closing Docket
W-67, Sub 4 (1-8-82)

Water Service Company - Recommended Order Denying Application for Sale and Transfer
W-738, Sub 6 (12-14-82)

CERTIFICATES CANCELLED

Alexander, J. R. - Order Approving Transfer of Public Utility Ownership and Cancelling Franchise
W-19, Sub 1 (5-11-82)

Cherry Acres Water System, S. P. Stanley, d/b/a - Order Cancelling Franchise to Furnish Water Utility Service in Cherry Acres
W-639, Sub 1 (4-23-82)

Colony Park Utilities - Order Cancelling Franchise to Furnish Water Utility Service in Colony Park Subdivision
W-208, Sub 2 (6-22-82)

Highlands Country Club, Highlands Gulf, Ltd., d/b/a/- Order Approving Transfer of Public Utility Ownership and Cancelling Franchise
W-719, Sub 1 (1-29-82)

Lake Sheila Homeowners Association, Inc. - Order Cancelling Franchise to Provide Water Service in Lake Sheila Subdivision in Henderson County
W-546, Sub 2 (12-22-82)

Lea Water Company - Order Cancelling Franchise to Furnish Water Utility Service in Lea Acres Subdivision
W-377, Sub 2 (6-22-82)

Ludwig Water System - Order Cancelling Franchise to Provide Water Utility Service in Everette and Presson Subdivisions in Robeson County and Porter Road Subdivision in Cumberland County
W-317, Sub 4 (10-5-82)

Morehead Water System, Sides and Hudgens, d/b/a - Order Cancelling Franchise to Furnish Water Utility Service in Rocky River Acres and Morehead Road Subdivisions
W-525, Sub 1 (5-4-82)

Mountain Retreat Association - Order Cancelling Franchise
W-385, Sub 2 (7-13-82)

Picture Park Water Supply, Inc. - Order Cancelling Franchise to Furnish Water Utility Service to Picture Park Subdivision
W-538, Sub 3 (2-23-82)

Picture Park Water Supply, Inc. - Order Cancelling Franchise in Docket No. W-358 to Furnish Water Utility Service to Picture Park Subdivision
W-358, Sub 3 (3-30-82)

Ricks, Frank - Order Cancelling Franchise to Furnish Water Utility Service in Old Settlers Beach Subdivision
W-529, Sub 2 (5-11-82)

Rozzell, Fred D. - Order Cancelling Franchises in Docket Nos. W-202, Sub 1, and W-202, Sub 5
W-202, Sub 8 (7-13-82)

CERTIFICATES GRANTED

Bailey's Utilities, Inc. - Order Granting Franchise and Approving Rates
W-365, Sub 13 (6-30-82) (Amended Order, 7-20-82)

Bailey's Utilities, Inc. - Order Granting Franchise and Approving Rates
W-365, Sub 14 (11-10-82)

Beechwood Cove Utilities - Recommended Order Granting Franchise and Approving Rates - Granted a Certificate of Public Convenience and Necessity to Furnish Water Utility Service in Beechwood Cove Subdivision in Chatham County
W-753 (6-28-82)

Forest Trail Utility, W. Reid Wright, d/b/a - Order Granting Certificate of Public Convenience and Necessity to Provide Water Utility Service in the Forest Trail Estates Subdivision in Wake County
W-678 (8-3-82)

Fox Ridge Owner's Association, BRTR, Inc., d/b/a - Recommended Order Granting Certificate to Furnish Water Utility Service in Fox Ridge Subdivision, Henderson County, and Approving Rates
W-762 (11-23-82)

Hasty Water Utilities, Inc. - Order Granting Franchise and Approving Rates to Furnish Water Utility Service in Northwest Woods Subdivision, Wake County
W-736, Sub 2 (7-13-82)

Hasty Water Utilities, Inc. - Order Granting Franchise and Approving Rates to Furnish Water Utility Service in Steeplechase Subdivision in Wake County
W-736, Sub 4 (9-8-82)

Hensley Enterprises, Inc. Order Granting Certificate and Cancelling Temporary Operating Authority
W-89, Sub 17 (3-15-82)

Hensley Enterprises, Inc. - Order Granting Certificate to Furnish Water Utility Service in Country Meadows Subdivision in Gaston County and Approving Rates
W-89, Sub 21 (12-7-82)

Hydraulics, Ltd., Order Granting Franchise, Granting Temporary Operating Authority, and Approving Rates and to Provide Water Utility Service in Woodbridge Subdivision in Chatham County
W-218, Sub 25 (3-2-82)

Mid South Water Systems, Inc. - Order Granting Franchise and Approving Rates to Furnish Water Utility Service in Chapel View Circle and Lynmore Subdivisions in Catawba County
W-720, Sub 8 (5-4-82)

Mid South Water Systems, Inc. - Order Granting Franchise and Approving Rates and to Furnish Water Utility Service in Rolling Hills Subdivision in Catawba County and Holly Hills Subdivision in Rutherford County
W-720, Sub 9 (7-13-82)

North Topsail Water and Sewer Company, Inc. - Recommended Order Granting Franchise and Approving Rates and to Furnish Sewer Utility Service in North Topsail Shores and Topsail Reef Subdivisions
W-754 (6-17-82) (Errata, 6-24-82)

Pierce-Heavner Builders, Inc. - Order Granting Franchise and Approving Rates to Furnish Water Utility Service in Ole Lamp Place Subdivision in Gaston County
W-363, Sub 4 (8-10-82)

Sherwood Forest Utility, Inc. - Order Granting Franchise and Approving Rates to Furnish Sewer Utility Service in Sherwood Forest and Sheffield Place Subdivisions in Transylvania County
W-706, Sub 2 (9-8-82)

Turner, T. H., Farms, Inc. - Order Granting Franchise and Temporary Operating Authority and Approving Rates and to Furnish Water Utility Service in Turner Farms Subdivision, Section III, in Wake County
W-687, Sub 1 (8-31-82)

Water Service Company - Recommended Order Approving Sewer Franchise and Rates Upon Compliance with Order
W-738, Sub 4 (11-24-82)

Woods Water Works, Inc. - Order Granting Franchise and Approving Rates to Furnish Water Utility Servce in Brookdale Subdivision, Surry County
W-735, Sub 1 (9-8-82)

COMPLAINTS

Carolina Water Service, Inc. - Order Approving Settlement in Complaint of Tom G. Thompson - Requesting Report from Respondent
W-354, Sub 21 (6-9-82)

Cross-State Development Company - Order Granting Voluntary Dismissal of Complaint of Richard J. Bryan Without Prejudice
W-408, Sub 2 (6-9-82)

Hasty Water Utilities, Inc. - Order Dismissing Complaint of Ralph W. Morris Without Prejudice
W-736, Sub 1 (8-18-82)

Heater's Utilities, Inc. - Order Closing Docket in Complaint of Residents of Country Acres, Goldsboro
W-274, Sub 29 (4-19-82)

Mountain Lifestyles Water Company, Mountain Realty Water Company, d/b/a - Order Closing Docket in Complaint of Sands Heatherington
W-752, Sub 1 (9-1-82)

Owen Hill Utilities Corporation - Order Finding Failure to Comply with Commission Order and Finding Emergency in Complaint of Mrs. James Worth Thompson, Sr.
W-437, Sub 2 (12-3-82)

Pinehurst, Incorporated - Final Order in Complaint of Irving Lorber
W-6, Sub 7 (2-10-82)

Quail Run Water System - Order Closing Docket in Complaint of Quail Run Subdivision Residents
W-662, Sub 2 (8-17-82)

Regalwood Water Co., Inc. - Order Requiring New Well in Complaint of Charles Griffin, et al.
W-187, Sub 5 (6-10-82)

Regalwood Water Co. Inc. - Order Requiring Reports in Complaint of Charles Griffin, et al.
W-187, Sub 5 (7-27-82)

Skyview Water System, Inc. - Order Closing Docket in Complaint of Mr. and Mrs. Rocky Holloway, et al.
W-293, Sub 1 (2-25-82)

Spring Water Company, Inc. - Order Closing Docket in Complaint of J. E. McHale
W-337, Sub 5 (9-1-82)

Touch and Flow Water System, W. E. Caviness, d/b/a - Order Closing Docket in Complaint of Henry C. McGee
W-201, Sub 26 (5-20-82)

NAME CHANGE

Hickory Colonial Furniture, Inc. - Order Granting Request to Change Name to Pleasant Gardens Water Department
W-702, Sub 2 (10-7-82)

Lewis Realty and Construction Co. - Order Granting Petition to Change Name to Lewis Water Systems
W-288, Sub 5 (8-24-82)

RATES

Allen Hills Water Company - Recommended Order Granting Increase in Rates
W-50, Sub 7 (9-15-82)

B & C Builders, Inc. - Recommended Order Approving Rates and Requiring Continued Improvements
W-697, Sub 1 (4-16-82)

Bailey's Utilities, Inc. - Final Order Overruling Exceptions and Affirming Recommended Order
W-365, Sub 12 (7-14-82)

Bailey's Utilities, Inc. - Order Approving Implementation of Rates in Ashley Hills Subdivision but Denying Rates for Friendship Village
W-365, Sub 12 (9-29-82)

Bald Mountain Development Corporation - Order Granting Rate Increase and Requiring Installation of Meters and Filing of Reports
W-410, Sub 1 (4-23-82)

Bethlehem Utilities, Inc. - Recommended Order Granting Partial Increase in Rates
W-259, Sub 3 (5-19-82) (Errrata, 5-25-82)

Brookwood Water Corporation - Recommended Order Granting Partial Increase in Rates
W-177, Sub 17 (9-14-82) (Errata, 10-15-82)

Carolina Blythe Utility Company - Recommended Order Granting Increase in Rates
W-503, Sub 2 (7-1-82) (Errata, 7-15-82)

Carolina Blythe Utility Company - Final Order Overruling Exceptions and Affirming Recommended Order
W-503, Sub 2 (8-11-82)

Carolina Water Service, Inc. - Recommended Order Granting Increase in Rates
W-354, Sub 16 (1-26-82) (Errata, 1-26-82)

Carolina Water Service, Inc., of North Carolina - Recommended Order Allowing Partial Increase in Rates
W-354, Sub 23 (12-21-82)

Cliffdale Water Company - Order Granting Rate Increase
W-203, Sub 7 (12-21-82)

Cook, L.V., Water Supply, L. V. Cook, d/b/a - Order Denying Interim Rate Relief
W-540, Sub 2 (7-28-82)

Davis, Roy A., and Virginia B. - Order Approving Rates to Be Increased in KenRoy Estates in Wilson County
W-631, Sub 1 (7-13-82)

Fairway Acres Water System - Recommended Order Granting Partial Increase in Rates and Requiring Service Improvements
W-260, Sub 4 (9-14-82)

Faw, Frances S., Water System of Catawba County - Order Approving Rates
W-87, Sub 7 (12-14-82)

Fleetwood Falls, Inc. - Order Granting Rate Increase and Requiring Certain Improvements
W-308, Sub 2 (4-6-82)

Glendale Water, Inc. - Recommended Order Granting Partial Rate Increase
W-691, Sub 13 (9-15-82)

Goss Utility Company - Recommended Order Granting Partial Increase in Rates
W-457, Sub 4 (6-3-82)

Grandview Water Company, Inc. - Recommended Order Granting Increase in Rates
W-183, Sub 2 (5-24-82)

Heater Utilities, Inc. - Recommended Order Granting Increase in Rates
W-274, Sub 31 (10-25-82) (Errata Order, 11-1-82)

Hensley Enterprises, Inc. - Recommended Order Granting Increase in Rates Authorizing Assessment and Requiring Improvements
W-89, Sub 18 (1-25-82) (Errata Order, 3-9-82)

Hensley Enterprises, Inc. - Order of Clarification
W-89, Sub 20 (11-3-82)

Hensley Enterprises, Inc. - Recommended Order Granting Partial Increase in Rates, Authorizing Continuation of Assessment, and Requiring Improvements
W-89, Sub 20 (12-23-82)

Heritage Water Company, Inc. - Recommended Order Granting Partial Increase in Rates
W-679, Sub 1 (12-23-82)

Hickory Colonial Furniture Company, Inc. - Order Cancelling Hearing and Approving Rates for Water Utility Service in Pleasant Gardens Subdivision, Alexander County
W-702, Sub 1 (12-8-82)

Hound Ears Lodge & Club, Inc. - Order Granting Partial Rate Increase
W-397, Sub 1 (8-2-82)

Knob Creek Properties, Inc. - Order Closing Docket in Application for Authority to Increase Rates for Water Service in Knob Creek Subdivision, Transylvania County
W-486, Sub 2 (2-25-82)

Laurel Hill Water Company, A.V. Pate, Inc., d/b/a - Order Approving Rate Increase
W-67, Sub 5 (10-19-82)

Lewis Realty and Construction Company - Order Cancelling Hearing and Approving Rates
W-288, Sub 4 (12-21-82)

Lincoln Water Works, Inc. - Recommended Order Granting Rate Increase for Water Service in Lincoln County
W-335, Sub 3 (6-3-82)

Looper, Clark Russell - Order Cancelling Hearing and Approving Rates
W-501, Sub 3 (11-23-82)

Moseley and Nash Water Corporation - Order Approving Rates and Requiring Water Quality Improvements in Four Seasons Subdivision in Northampton County
W-475, Sub 1 (4-22-82)

Morlan Park Water Supply - Order Cancelling Hearing and Approving Rates for Water Service in Morlan Park Subdivision
W-42, Sub 2 (11-3-82)

Oakmont Water Company - Recommended Order Setting Rates
W-533, Sub 1 (3-10-82)

Pineview Water System, John Gensinger, d/b/a - Recommended Order Granting Rate Increase for Pineview Estates Subdivision, Wake County
W-549, Sub 2 (2-25-82) (Errata Order, 3-9-82)

Prior Construction Company, Inc. - Recommended Order Granting Rate Increase and Requiring Service Improvements in Deerfield Park Subdivision
W-567, Sub 2 (2-24-82)

Scientific Water and Sewerage Corporation - Recommended Order Granting Partial Increase in Rates
W-176, Sub 14 (6-23-82)

Scotland Water Company, Kenwyn N. Johnson, d/b/a - Order Granting Rate Increase for Service in Edgewood, Laurin Lakes, and Woodrun Subdivisions in Scotland County
W-426, Sub 1 (2-24-82)

Scotsdale Water and Sewer Company, Charles Wilkes, Trustee of - Order Approving Rate Increase for Service in Scotsdale Subdivision, Cumberland County
W-201, Sub 25 (4-27-82)

Setzer Brothers Well Boring, Inc. - Recommended Order for Authority to Increase Rates for Water Utility Service Areas in Catawba County
W-360, Sub 2 (3-31-82)

Sherwood Forest Utility, Inc. - Recommended Order Granting Increase in Rates in Sherwood Forest Subdivision
W-706, Sub 1 (3-10-82) (Errata Order, 3-26-82)

Sherwood Forest Utility, Inc. - Order Ruling on Exceptions and Motion to Dismiss
W-706, Sub 1 (6-23-82)

Sherwood Forest Utility, Inc. - Order Clarifying and Amending Water Rate Schedule
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