

115, column (e) of Duke's FERC Form 1 disaggregates the total taxes paid by Duke for its electric utility operations. Thus, Duke has calculated the numerator of its normalized taxes component using the figures contained in column (e).^{31/}

In order to maintain consistency, Duke has included in the denominator Duke's total electric plant net of electric plant ADIT. The resulting quotient more closely approximates the actual Normalized Taxes component of Duke's electric carrying costs.

e. Rate of Return on Common Equity

The Commission's formula requires that the utility's most recently authorized intrastate rate-of-return figure be used as the cost of capital figure when computing its CATV pole attachment rate. Complainants object to Duke's use of its SCPSC approved rate of return of 13.0% in its CATV pole attachment rate. However, as stated above, the Commission treats its formulas "as rebuttable presumptions," to be used unless an acceptable alternative is provided. Duke believes its use of 13.0% as its rate of return component is appropriate for calculating its CATV pole attachment rate.

Duke consistently has used its rate of return figure to calculate its CATV pole attachment rate. In Booth American Company v. Duke Power Company, PA82-0068, mimeo 3064 (released March 22, 1984) rehearing denied, slip opinion (September 20, 1984) (Booth

^{31/} See Exhibit E for a calculation of Duke's Normalized Taxes component.

American),^{32/} Duke calculated its CATV pole attachment rate using its rate of return figure. Booth American filed a complaint with the Commission claiming that Duke's rate was too high. In its order, the Commission accepted Duke's rate of return figure. Id., mimeo at 7. This was so notwithstanding the fact that the Commission could have -- on its own motion -- rejected Duke's use of its rate of return and replaced it with Duke's approved overall weighted cost of capital.

Moreover, Duke's use of its rate of return figure appeared proper in calculating the Booth American CATV pole attachment rate because the Commission had previously sanctioned its use in Teleprompter of Greenwood, Inc. v. Duke Power Company, Memorandum Opinion and Order, Mimeo 001866 (released on July 6, 1981) (Teleprompter). There, Teleprompter had opposed, among other things, Duke's rate of return figure. The Commission accepted the use of Duke's rate of return figure, adjusting it only to be consistent with the use of gross figures throughout the calculation of the appropriate CATV pole attachment rate. Teleprompter, mimeo at 3, n.2.^{33/}

^{32/} While Complainant argues that Booth American has been "superceded," Complainant is unclear as to why or when this precedent was disturbed. Indeed, Complainant concedes that the rate of return figure "... was never challenged."

^{33/} The method by which the Commission adjusted Duke's rate of return in Teleprompter is adopted by Duke for purposes of calculating its CATV pole attachment rate. See Exhibit F.

Duke's consistent use of its rate of return figure in calculating its CATV pole attachment rate is thus based on the Commission's acceptance of its use in prior contested proceedings. The Commission should give some weight to the fact that it implicitly has upheld this component of Duke's rate on at least two prior occasions.

Finally, with respect to the rate of return issue, Duke believes its use of 13.0% is a compromise. The Commission and the courts have made it clear that CATV pole attachment rates should be based on system-wide data.^{34/} Duke's system spans two states, yet it uses only the rate of return figure approved in South Carolina. If Duke were to use system-wide data, it would develop a weighted average of its 13.0% figure and its NCUC approved 13.2% rate of return figure. Duke has declined to increase its rate of return figure despite this apparent opportunity to do so.

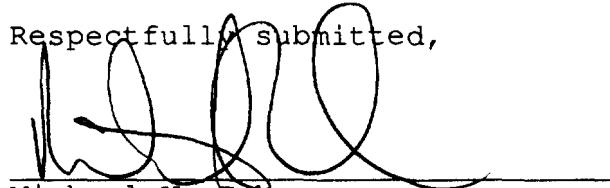
On these bases, the Commission is requested to again refrain from upsetting this component in Duke's rate calculation which has remained unchanged since the inception of the Commission's methodology for calculating such rates.

^{34/} See, e.g., Texas Power & Light Company v. FCC, 784 F.2d 1265, at 1275 (5th Cir. 1986); 47 C.F.R. § 1.1404(g).

CONCLUSION

WHEREFORE, Duke Power Company respectfully requests that the Commission defer ruling on the applicable CATV pole attachment rate Duke may charge for calendar year 1991 until Duke has proffered its 1991 rate based upon its FERC Form 1 for calendar year 1990. In the event the Commission evaluates Duke's interim CATV pole attachment rate, Duke requests the Commission to deny all the relief requested by Complainants and declare that Duke's CATV pole attachment rate is just and reasonable.

Respectfully submitted,



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Attorneys for Duke Power Company

February 14, 1991

EXHIBIT A

Duke Power Company
Pole Attachment Rate for Cable TV Companies

1989*

Schedule 1 - Summary of Charges Under FCC Rulemaking

1	Depreciation	Sch. 2, L11	3.85%
2	Administration	Sch. 3, L5	2.49%
3	Maintenance	Sch. 3, L15	4.93%
4	Taxes	Sch. 4, L9	5.80%
5	Cost of Capital	Sch. 5, L8	10.33%

6	Total	L1 thru L5	27.40%

7	Percent of space applicable to CATV	Note (a)	7.41%
8	Bare pole investment	Sch. 2, L7	\$241.61

9	Pole attachment rate per pole	L6 x L7 x L8	\$4.91

Notes:

(a) See Report and Order.

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

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November 5, 1986
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the Company to improve its financial posture and earn the return approved. In addition to the review of the Company's cost of service in the context of this proceeding and our express expectations of efficient and effective management, the Commission considers the accepted regulatory devices of the use of a year-end rate base, adjustments for customer growth and annualized depreciation, together with adjustments for identifiable and measurable changes in revenues and expenses to combine to represent a reasonable regulatory approach to the earnings erosion attributable to inflation.

The Commission has found that the capitalization ratios as of April 30, 1986, are appropriate and should be used in the instant proceeding. The Commission has likewise found that the respective embedded cost rates for long-term debt of 8.73% and for preferred stock and preference stock of 8.27%, should be utilized in the determination of a fair overall rate of return. For the purpose of this proceeding, the Commission has herein found the proper cost rate for the Company's common equity capital to be 13.0%.

Using these findings, the overall fair rate of return on rate base for the Company's South Carolina retail electric operations may be derived as computed in the following table:

EXHIBIT C

Duke Power Company
Pole Attachment Rate for Cable TV Companies

1989*

Schedule 2 - Bare Pole Investment:

1	Account 364 - Gross Pole Investment	Note (a)	\$509,438,407
2	Factor to reflect elec ADIT	Sch. 8, L11	88.31%
3	Gross pole investment net of ADIT	L1 x L2	\$449,885,057
4	Factor to eliminate cross-arms, etc.	Note (b)	0.85

5	Net cost for determining bare pole investment per pole	L3 x L4	\$382,402,299

6	Number of poles at year end	Note (c)	1,582,752

7	Bare pole investment	L5 / L6	\$241.61

Schedule 3 - Depreciation expense:

8	Distribution depreciation rate	Note (d)	3.40%

9	Account 364 - Gross Pole Investment	L1	\$509,438,407

10	Gross pole investment net of ADIT	L3	\$449,885,057

11	Distribution Depreciation Expense component	L8 x L9 / L10	3.85%

Notes:

- (a) Per Form 1, page 207, Line 59, Column (g).
- (b) Report and Order at 4390.
- (c) Per Plant Accounting.
- (d) Form 1, page 337, Line 22, Column (e).

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

EXHIBIT D

Duke Power Company
Pole Attachment Rate for Cable TV Companies

1989*

Schedule 4 - Administrative Expense:

1	Total Electric A & G expense	Note (a)	\$211,369,386

2	Gross electric plant	Note (b)	9,594,051,569
3	Factor to reflect elec ADIT	Sch. 8, L11	88.31%
4	Gross electric plant net of ADIT	L2 x L3	8,472,506,941

5	Administrative expense component	L1 / L4	2.49%

Schedule 5 - Maintenance Expense:

6	Account 593, Maint of OH lines (elec)	Note (c)	48,985,761
7	Account 407.3, Storm damage amort (elec)	Note (d)	1,743,584

8	Total maintenance expense	L6 + L7	50,729,345

	Investment in account:		
9	364, Poles, towers, fixtures	Note (e)	509,438,407
10	365, Overhead conductors & devices	Note (f)	405,391,425
11	369, Services	Note (g)	251,139,791

12	Total of accounts 364, 365, and 369	L8 + L10 + L11	1,165,969,623
13	Factor to reflect electric ADIT	Sch. 8, L11	88.31%

14	Investment in accounts 364, 365 and 369 net of ADIT	L12 x L13	1,029,667,774

15	Maintenance Expense component	L8 / L14	4.93%

Notes:

- (a) Per Form 1, page 323, Line 167, Column (b).
 (b) Per Form 1, page 200, Line 8, Column (c).
 (c) Per Form 1, page 322, Line 118, Column (b).
 (d) Per Form 1, page 230, Line 2, Column (e).
 (e) Per Form 1, page 207, Line 59, Column (g).
 (f) Per Form 1, page 207, Line 60, Column (g).
 (g) Per Form 1, page 207, Line 64, Column (g).

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

EXHIBIT E

Duke Power Company
Pole Attachment Rate for Cable TV Companies

1989*

Schedule 6 - Normalized Electric Taxes:

1	Taxes other than income taxes (408.1)	Note (a)	184,134,381
2	Income taxes - Federal (409.1)	"	203,898,721
3	Income taxes - Other (409.1)	"	44,784,230
4	Provision for Deferred Inc. Taxes (410.1)	"	196,365,250
5	(Less) Prov. for Def. Inc. Taxes - Cr. (411.1)	"	(130,553,992)
6	Investment Tax Credit Adj. - Net (411.4)	"	(6,915,512)

7	Total electric taxes	L1 thru L6	491,713,078

8	Gross electric plant net of ADIT	Sch. 4, L4	8,472,508,841

9	Tax Expense component	L7 / L8	5.80%

Note:

(a) Per Form 1, page 115, Column (e).

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

EXHIBIT F

Duke Power Company
 Pole Attachment Rate for Cable TV Companies

			1989*

Schedule 7 - Adjustment to Rate of Return:			
		Note (a)	
1	S.C. retail allowed rate of return	Note (b)	13.00%
2	Total distribution plant, gross	Note (c)	\$2,773,018,286
3	Total accumulated depreciation, distribution plant	Note (d)	826,188,384
4	Total distribution plant, net of accumulated depreciation	L2 - L3	1,946,829,902
5	Factor to reflect electric ADIT	Sch. 8, L11	88.31%
6	Total distribution plant net of ADIT	L2 x L5	2,448,852,448
7	ROR restated to gross basis - dist	L1 x L4/L6	----- 10.33% -----

Notes:

- (a) This method was adopted by the Commission in Teleprompter.
- (b) SCPSC allowed rate of return on common equity.
 Docket No. 86-188-E implemented Nov. '86 - 13%.
- (c) Per Form 1, page 207, Line 69, Column (g).
- (d) Per Form 1, page 219, Line 24, Column (b).

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

EXHIBIT G

Duke Power Company
Pole Attachment Rate for Cable TV Companies

1989*

**Schedule 8 - Calculation of Accumulated
Deferred Income Taxes Factor (ADIT Factor):**

1	Account 190 - electric	Note (a)	(\$13,367,121)
2	Account 281 - electric	Note (b)	8,045,456
3	Account 282 - electric (depr)	Note (c)	938,055,170
4	Account 282 - electric (other)	Note (d)	257,318,144
5	Account 283 - electric	Note (e)	7,353,817

6	Total electric ADIT	L1 thru L5 Note (f)	1,197,405,466

7	Gross electric plant	Sch. 4, L2	9,594,051,569
8	Nuclear fuel	Note (g)	651,573,742

9	Total plant investment	L7 + L8	10,245,625,311

10	ADIT as a percent of elect plant investment	L6 / L9	11.69%

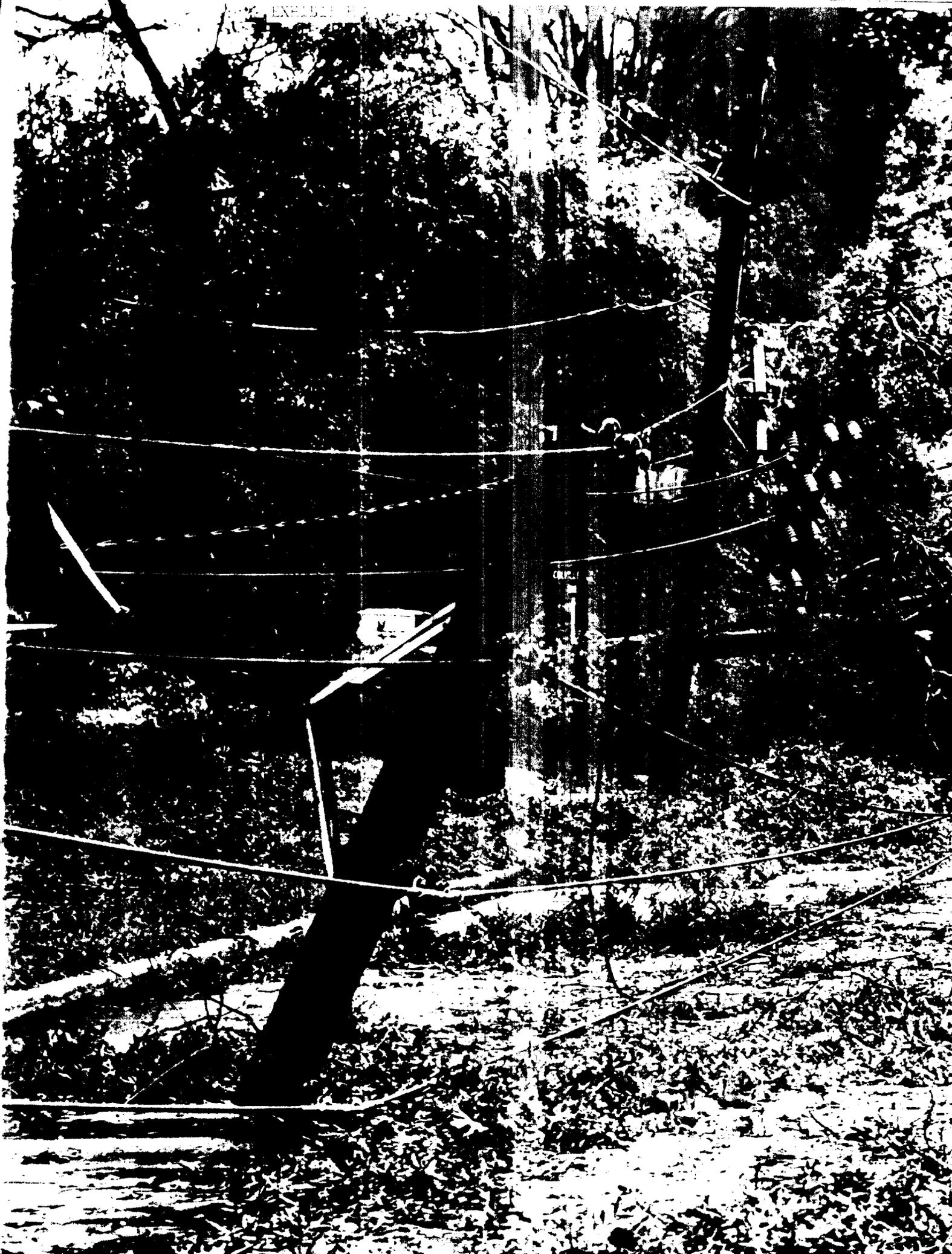
11	Factor to reflect electric ADIT	1.0 - L10	88.31%

Notes:

- (a) Per Form 1, page 234, Line 8, Column (c). See also Form 1, page 111, Line 64 (identifying Account 190 as ADIT).
- (b) Per Form 1, page 273, Line 8., Column (k).
- (c) Per Form 1, page 275, Line 2, Column (k).
- (d) Per Form 1, page 275, Line 4, Column (k).
- (e) Per Form 1, page 277, Line 8, Column (k).
- (f) The sum of lines 1-5 include all of the electric plant ADIT accounts of Duke.
- (g) Per Form 1, page 203, Line 10, Column (f). Nuclear fuel is included in electric plant investment because a part of the ADIT in Account 282 relates to nuclear fuel.

* The figures used in these calculations are taken from Duke's FERC Form 1 containing calendar year 1989 data.

EXHIBIT



CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of February 1991, served, by hand or by first class U.S. mail, postage prepaid, a copy of the foregoing Answer upon the following persons:

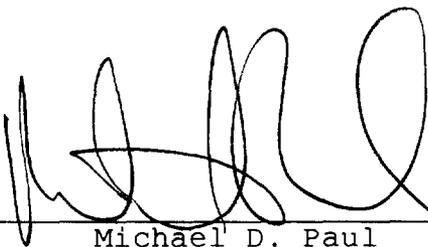
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