

## PROFFERS

### PCA 2001-BR-028 ZION NEIGHBORHOODS, LLC

September 10, 2003

Pursuant to Section 15-2.2303A of the 1950 Code of Virginia, as amended, the undersigned applicant and owners, for themselves and their successors or assigns (hereinafter referred to as "Applicant"), hereby proffer the following conditions provided the Subject Property is rezoned as proffered herein. In the event that this application is approved, any previous proffers for the Application Property are hereby deemed null and void and superceded by the proffers set forth herein.

1. **Conceptual/Final Development Plan.** Development of the property shall be in conformance with the plan entitled "New London Park ("CDP/FDP")," consisting of eight (8) sheets prepared by Charles P. Johnson & Associates, Inc., revised as of August 1, 2003. The CDP portion of the CDP/FDP shall constitute the entire plan relative to the points of access, the total number of units, type of units and general location of residential lots and common open space areas and buffering. The existing dwellings on proposed Lots 8, 10 and 11 may be retained or replaced at the owner's discretion.
2. **Minor Deviations.** Pursuant to Paragraph 4 of Section 16-403 of the Zoning Ordinance, minor modifications from the FDP may be permitted where it is determined by the Zoning Administrator that such are in substantial conformance with the approved FDP. The Applicant shall have the right to make minor adjustments to the lot lines of the proposed lots at the time of subdivision plan submission based upon final house locations and building footprints, provided such changes are in substantial conformance with the FDP and do not increase the number of units or decrease the amount of open space, peripheral setbacks, access or parking spaces, without requiring approval of an amended FDP. The Applicant shall have the option to request Final Development Plan Amendments ("FDPAs") from the Planning Commission for portions of the Plan in accordance with the provisions set forth in Section 16-402 of the Zoning Ordinance.
3. **Tree Preservation.**
  - a. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the first subdivision plan submittal. The plan shall be reviewed and approved by the Urban Forestry Division. The certified arborist responsible for preparation of the tree preservation plan shall be referred to as the Project Arborist. The tree preservation plan shall consist of a tree inventory which includes the location, species, size, crown spread and condition rating percent of all trees twelve (12) inches or greater in diameter, measured four and one-half (4½) feet from the ground, within twenty (20) feet on either side of the limits of clearing and grading. The condition analysis shall be prepared using methods outlined in the

eighth (8<sup>th</sup>) edition of *The Guide for Plant Appraisal*. Specific tree preservation activities designed to maximize the survivability of trees designated for preservation shall be incorporated into the tree preservation plan. Activities should include, but are not limited to, crown pruning, root pruning, mulching and fertilization.

- b. All trees shown to be preserved on the tree preservation plan shall be protected by fencing during construction. Tree protection fencing shall be erected at the limits of clearing and grading as shown on the tree preservation plan. Materials and installation of tree protection fencing shall conform to one of the two following standards:
  - (1) Four (4) foot high, fourteen (14) gauge wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart; or
  - (2) Four (4) foot high, orange plastic fence attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than six (6) feet apart.

The tree protection fencing shall be made clearly visible to all construction personnel. The fencing shall be installed prior to the performance of any clearing and grading activities on the site, including the demolition of any existing structures. All tree preservation activities, including installation of tree protection fencing, shall be performed under the supervision of the Project Arborist. Prior to the commencement of any clearing, grading or demolition activities on the site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.

- c. The demolition of existing features and structures shall be conducted in such a manner as to minimize the impact on individual trees and groups of trees to be preserved. These methods are to be included in the tree preservation plan.
- d. Clearing, grading and construction shall conform to the limits of clearing and grading as shown on the CDP/FDP, subject to installation of the necessary utility lines, stormwater management facilities and other required site improvements, all of which shall be installed in the least disruptive manner possible, as determined by the Department of Public Works and Environmental Services ("DPWES"). The Applicant shall have the limits of clearing and grading marked with a continuous line of flagging prior to the pre-construction meeting. Before or during the pre-construction meeting, the Applicant shall walk the limits of clearing and grading with an Urban Forestry Division representative and the Project Arborist to determine where minor adjustments to the clearing limits can be made to increase the survivability of trees at the edge of the limits of clearing and grading. Trees that are not likely to survive construction due to their proximity to disturbance will also be identified at this time and the Applicant may be given the option of removing

them as part of the clearing operation. Any tree designated for removal at the edge of the limits of clearing and grading and within the tree preservation area shall be removed using chain saws. The stump shall be cut as close to ground level as practical. If a stump must be removed, this shall be done using a stump grinding machine in a manner causing as little disturbance as possible to the tree preservation area.

- e. Prior to subdivision plat approval, a replacement value shall be assigned by the Urban Forestry Division to all healthy trees measuring eight (8) inches or larger in diameter which are either individually designated as required under this proffer or are located within the limits of clearing and grading as shown on the CDP/FDP. At the time of subdivision plat approval, the Applicant will post a cash bond or a letter of credit payable to the County of Fairfax in such an amount assigned as replacement value by the Urban Forestry Division to ensure preservation and/or replacement of the designated trees. The calculated replacement values shall be renewed and approved by the Urban Forestry Division prior to posting the cash bond or letter of credit. The terms of the letter of credit shall be subject to approval by the County Attorney. The replacement value of each designated tree shall be determined according to the methods contained in the latest edition of the *Valuation of Landscape Trees, Shrubs and Other Plants* published by the International Society of Arboriculture and the total amount of the cash bond or letter of credit will not exceed the sum of such assigned values. From time to time, funds, or a portion thereof, may be drawn on the cash bond or letter of credit and expended for the purposes of this proffer. Replacement of trees by the County shall be in accordance with the guidelines of the Fairfax County Public Facilities Manual. The letter of credit or cash bond will be released when the conservation deposit for the subdivision is released.
4. **Off-Site Trail.** Subject to receiving the necessary easements from the adjoining property owner (Tax Map 68-4 ((1)) Parcel 47) and provided the necessary right-of-way/easements are available at no cost to the Applicant, the Applicant shall construct a four (4) foot wide asphalt path extending to the east off-site along the frontage of Zion Road from the edge of the Subject Property to the existing roadway entrance to Sideburn Civic Association Park. Said path may meander to minimize grading, as determined appropriate by DPWES.
  5. **Homeowners' Association.** A Homeowners' Association ("HOA") shall be established to own and maintain the common areas and to maintain the Rain Garden shown on the CDP/FDP. Maintenance of the Rain Garden shall be accomplished consistent with the standards set forth in Attachment A. Prior to entering into a contract for sale, prospective purchasers shall be advised of the HOA membership requirement and associated obligations and responsibilities (including maintenance of the common areas, the Rain Garden and the existing cemetery; see Paragraph 6 below). In addition, the HOA documents shall include a provision that clearly sets out such obligations and responsibilities as well as the specific maintenance requirements of the Rain Garden as set forth in Attachment A, or other equivalent document as may be approved by DPWES. At the time of final subdivision plan approval, if the Rain Garden is approved by DPWES, the

Applicant shall establish an escrow fund of \$2,000 for initial maintenance of the Rain Garden by the HOA.

6. **Cemetery Preservation.** The HOA shall also be responsible for maintaining the existing cemetery on the property, designated as Parcel "B" on the CDP/FDP. This maintenance obligation shall be included in the HOA documents. The Applicant shall construct a wrought iron fence (with a gate) around the perimeter of the cemetery as shown on the CDP/FDP and shall provide a public access easement onto Parcel B to the gated entrance.
7. **Drainage.**
  - a. The proposed development of the Subject Property will be designed to reduce stormwater runoff flowing in the direction of the Woodlynne Community, subject to DPWES approval. This will be done by reducing the area that drains to the rear of the Woodlynne Community (with VDOT and DPWES permission) by diverting a portion of the drainage from the Subject Property that currently drains towards the Woodlynne Community and grading the new lots so that this drainage is directed to the north into the proposed stormwater management pond that is to be located on the property governed by the proffers in RZ 2002-BR-017. The Applicant will also revise the storm drainage on the site to direct the flow from the proposed new cul-de-sac, and from other areas draining into this cul-de-sac, through the site to the proposed pond.
  - b. Subject to receiving permission and the necessary easements from the Woodlynne Community Association and approval by DPWES, the Applicant shall reconstruct the existing inlet straddling the perimeter property line between the Woodlynne Community Association and the Subject Property, at the rear of Lots 188 and 192 of the Woodlynne Community, and new Lots 8 and 10 on the Subject Property, to provide additional throat openings in order to alleviate the ponding problem caused by the blockage occurring on Lots 188 and 192 of the Woodlynne Community. The Applicant shall also grant an easement across existing Lot 3 (future Lot 10) and install a private PVC storm drain or French drain. This private PVC storm drain or French drain will be designed to divert flow away from the open space in the rear of Lots 182 through 187 of the Woodlynne Community, where ponding is created by runoff from these lots, and to divert this flow into the stormwater management system proposed on the Subject Property. Installation of this storm drain shall be contingent upon the execution of an agreement with the Woodlynne Community wherein the Woodlynne Community agrees to maintain said storm drain. Such agreement shall be executed prior to final subdivision plan approval, or the Applicant shall demonstrate to DPWES that the Woodlynne Community is unwilling to make such an agreement.
8. **Stormwater Management/BMPs.** Stormwater management/BMPs shall be provided off-site in a stormwater detention facility to be constructed on the property which was the subject of RZ 2002-BR-017. In the event that the Applicant commences construction on the Subject Property prior to completion of this off-site facility, the Applicant shall provide

temporary stormwater management detention until the off-site facility is completed. The Applicant shall obtain written permission from the owner of the property to use the off-site facility for detention, and ensure that the off-site stormwater management facility is designed to accommodate this site.

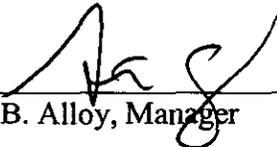
9. **Recreation.** At the time of subdivision plan approval, pursuant to Section 6-110 of the Zoning Ordinance, the Applicant shall contribute the sum of \$955 per approved dwelling unit for the total number of new dwelling units on the record plat, to the Fairfax County Park Authority ("Park Authority") to be utilized for recreational facilities at Royal Lake Park or Woodglen Lake Park, subject, however, to a credit for expenditures for the gazebo, trails, sidewalks (excluding sidewalks required by the Public Facilities Manual or shown on the Comprehensive Plan Trails Map) and benches, as depicted on the CDP/FDP.
10. **Road Dedication/Construction.** At the time of subdivision plan approval, or upon demand by Fairfax County, whichever occurs first, right-of-way along the Zion Road frontage of the site, necessary for public street purposes and as shown on the CDP/FDP, shall be dedicated and conveyed to the Board of Supervisors ("Board") in fee simple. The Applicant shall also construct road widening with curb gutter and a trail along the Zion Road frontage of the Subject Property as shown on the CDP/FDP. Subject to VDOT approval of design plans utilizing a K factor of 29, the Applicant shall lower the vertical elevation of Zion Drive and locate the curb line elevations, spine street grades and roadway widenings consistent with the proposed change in grade set forth in a plan prepared by Charles P. Johnson & Associates, Inc., dated December 19, 2002, Sheet 7 of 8 of the CDP/FDP and entitled "Zion Drive Profile."
11. **Density Credit.** All density and intensity of use attributable to land areas dedicated and conveyed to the Board pursuant to these proffers shall be subject to the provisions of Paragraph 4 of Section 2-308 of the Zoning Ordinance and density hereby reserved to be applied to the residue of the Subject Property.
12. **Rear/Side Yards.** Rear yards located on the proposed common property line with Goins Manor shall have a minimum twenty-five (25) foot setback/building restriction line. All dwellings (except for the dwelling on Lot 9) shall be located on the lots so as to maintain minimum side yards of eight (8) feet. These minimum side yards may be less than eight (8) feet at any location where a bay window or fireplace is installed. However, the main walls of these dwellings (except for Lot 9) shall be located so as to maintain the eight (8) foot minimum side yard.
13. **Architectural Elevations.** Units adjacent to Zion Drive shall provide side elevations to the road and shall not front or have the rear of the units fronting on Zion Drive. The side elevation adjacent to Zion Drive shall include architectural features such as, but not limited to, shutters or other ornamental or architectural features on that elevation which is visible from Zion Drive.
14. **Public Access Easement.** At the time of recordation of the subdivision plat for the Subject Property, the Applicant shall record a public access easement for the sidewalk between the two (2) cul-de-sacs.

15. **Housing Trust Fund.** At the time of first building permit issuance, the Applicant shall contribute to the Fairfax County Housing Trust Fund a sum equal to one half of one percent (.5%) of the projected sales price of the new homes to be built on-site, as determined by the Department of Housing and Community Development and DPWES in consultation with the Applicant to assist the County in its goal to provide affordable dwelling elsewhere in the County.
16. **Energy Efficiency.** All homes constructed on the property shall meet the thermal standards of the CABO Model Energy Program for energy efficient homes, or its equivalent, as determined by DPWES for either electric or gas energy homes, as applicable.
17. **Garages.** The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose which precludes motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA document shall expressly state this use restriction.
18. **Signs.** No temporary signs (including "popsicle" style paper or cardboard signs) which are prohibited by Article 12 of the Zoning Ordinance, and no signs which are prohibited by Chapter 7 of Title 33.1 or Chapter 8 of Title 46.2 of the Code of Virginia shall be placed on- or off-site by the Applicant or at the Applicant's direction to assist in the initial sale of homes on the property. Furthermore, the Applicant shall direct its agents and employees involved in marketing and sale of residential units on the property to adhere to this proffer.
19. **School Contribution.** Prior to the issuance of the first building permit, the Applicant shall provide documentation to DPWES that the Applicant has donated the sum of \$3,550 to Robinson High School. These funds are to be applied towards the purchase of computer banks in support of Robinson's technology projects. At the time the funds are received, more advanced technologies may be substituted, at the discretion of the principal, for the actual purchases that will be made and installed through the Fairfax County Public School System.
20. **Counterparts.** These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original, and all of which taken together shall constitute but one and the same instrument.

*[SIGNATURES ON THE FOLLOWING PAGES]*

**APPLICANT/CONTRACT PURCHASER OF TAX MAP 68-4 ((4)) PARCEL D AND TAX MAP 77-2 ((26)) PARCELS 1 AND 3; OWNER OF TAX MAP 68-4 ((1)) PARCELS 48, 49 AND 50A; TAX MAP 68-4 ((4)) PARCELS A1, C; AND 1 AND TAX MAP 77-2 ((26)) PARCEL 2**

**ZION NEIGHBORHOODS, LLC**

By:   
Steven B. Alloy, Manager

**OWNERS OF TAX MAP 68-4 ((4)) PARCEL D**

By: \_\_\_\_\_  
Joyce Folks Weaver, Attorney-in-Fact/Agent for  
Bernard Green, Ernest J. Green, Patricia A.F.  
McPhail, John W. Folks, Jr., George R. Morton, III,  
Curtis M. Morton and Monique P. Morton

**OWNERS OF TAX MAP 77-2 ((26)) PARCEL 1**

\_\_\_\_\_  
Andrew S. Kim

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Haekyung Kim

**OWNERS OF TAX MAP 77-2 ((26)) PARCEL 3**

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Sami S. Alamiri

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Luma J. Khalaf

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**ZION NEIGHBORHOODS, LLC**

By: \_\_\_\_\_  
Steven B. Alloy, Manager

**OWNERS OF TAX MAP 68-4 ((4)) PARCEL D**

By: \_\_\_\_\_  
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**ZION NEIGHBORHOODS, LLC**

By: \_\_\_\_\_  
Steven B. Alloy, Manager

**OWNERS OF TAX MAP 68-4 ((4)) PARCEL D**

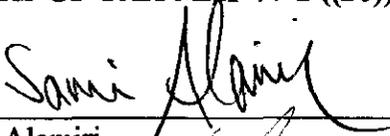
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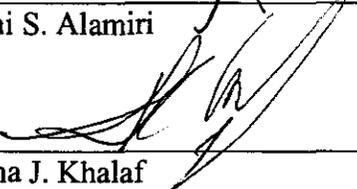
**OWNERS OF TAX MAP 77-2 ((26)) PARCEL 1**

\_\_\_\_\_  
Andrew S. Kim

\_\_\_\_\_  
Haekyung Kim

**OWNERS OF TAX MAP 77-2 ((26)) PARCEL 3**

  
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Sami S. Alamiri

  
\_\_\_\_\_  
Luma J. Khalaf

**OWNERS OF TAX MAP 68-4 ((4)) PARCEL D**

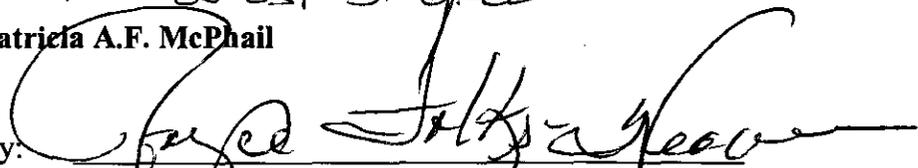
**Bernard Green**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Bernard Green JOYCE FOLKS-WEAVER,  
AGENT AND ATTORNEY-IN-FACT  
FOR BERNARD GREEN

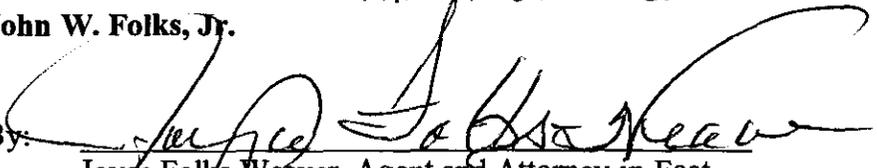
**Ernest J. Green**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Ernest J. Green JOYCE FOLKS-WEAVER,  
AGENT AND ATTORNEY-IN-FACT  
FOR ERNEST J. GREEN

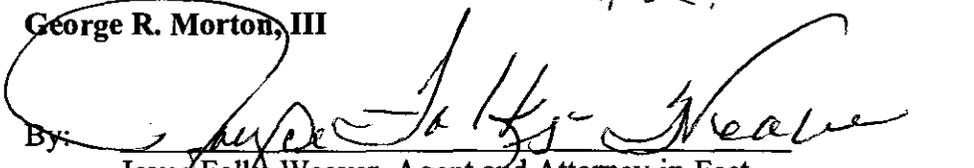
**Patricia A.F. McPhail**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Patricia A.F. McPhail JOYCE FOLKS-WEAVER  
AGENT AND ATTORNEY-IN-FACT  
FOR PATRICIA A.F. MCPHAIL

**John W. Folks, Jr.**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for John W. Folks, Jr. JOYCE FOLKS-WEAVER  
AGENT AND ATTORNEY-IN-FACT  
FOR JOHN W. FOLKS, JR.

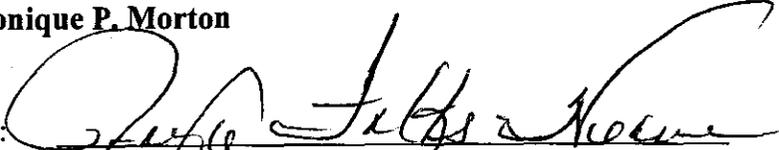
**George R. Morton, III**

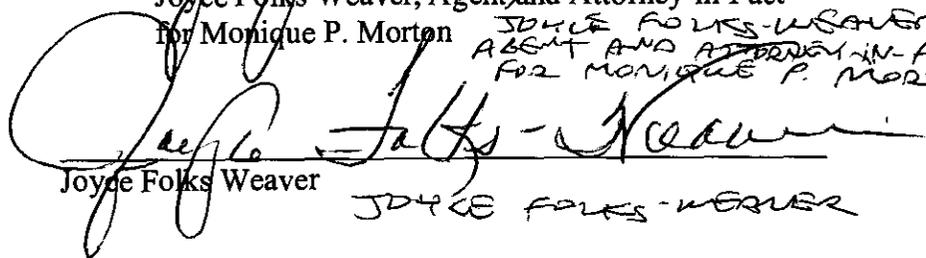
By:   
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for George R. Morton, III JOYCE FOLKS-WEAVER  
AGENT AND ATTORNEY-IN-FACT  
FOR GEORGE R. MORTON, III

**Curtis M. Morton**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Curtis M. Morton JOYCE FOLKS-WEAVER  
AGENT AND ATTORNEY-IN-FACT  
FOR CURTIS M. MORTON

**Monique P. Morton**

By:   
Joyce Folks Weaver, Agent and Attorney-in-Fact  
for Monique P. Morton JOYCE FOLKS-WEAVER  
AGENT AND ATTORNEY-IN-FACT  
FOR MONIQUE P. MORTON

  
Joyce Folks Weaver JOYCE FOLKS-WEAVER

# ATTACHMENT A

## Specifications for Maintenance of Rain Gardens

Description	Method	Frequency	Time of the year
<b>SOIL</b>			
Inspect and Repair Erosion	Visual	Monthly	Monthly
<b>ORGANIC LAYER</b>			
Remulch any void areas	By hand	Whenever needed	Whenever needed
Remove previous mulch layer before applying new layer (optional)	By hand	Once every two to three years	Spring
Any additional mulch added (optional)	By hand	Once a year	Spring
<b>PLANTS</b>			
Removal and replacement of all dead and diseased vegetation considered beyond treatment	See planting specifications	Twice a year	3/15 to 4/30 and 10/1 to 11/30
Treat all diseased trees and shrubs	Mechanical or by hand	N/A	Varies, depends on insect or disease infestation
Watering of plant material shall take place at the end of each day for fourteen consecutive days after planting has been completed	By hand	Immediately after completion of project	N/A
Replace stakes after one year.	By hand	Once a year	Only remove stakes in the spring
Replace any deficient stakes or wires	By hand	N/A	Whenever needed
Check for accumulated sediments	Visual	Monthly	Monthly

## **FINAL DEVELOPMENT PLAN AMENDMENT CONDITIONS**

### **FDPA 2001-BR-028**

November 26, 2003

If it is the intent of the Planning Commission to approve Final Development Plan Amendment Application FDPA 2001-BR-028 for residential development located at Tax Maps 68-4 ((1)) 48, 49 50A; 68-4 ((4)) A1, C, D and 1; 77-2 ((26)) 1, 2 and 3, staff recommends that the Planning Commission condition the approval by requiring conformance with the following development conditions.

1. Development of the subject property shall be in substantial conformance, as defined by Section 16-403 of the Zoning Ordinance, with the Final Development Plan Amendment entitled "New London Park", consisting of eight sheets prepared by: Charles P. Johnson & Associates, Inc., and dated February 24, 2003, as revised through August 1, 2003.
2. If stormwater management (SWM) and/or BMPs are not waived by DPWES to permit SWM and/or BMPs off-site, SWM and/or BMPs shall be provided in accordance with the Public Facilities Manual and in substantial conformance with the CDPA/FDPA and a Proffer Condition Amendment may be required.
3. Irrespective of the note of Sheet 6 ("For illustrative purposes only") the amenities shall be in substantial conformance with that shown.

The proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by that Commission.