

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Application for rate increase by Sebring
Gas System, Inc.

DOCKET NO. 040270-GU
ORDER NO. PSC-04-0860-PCO-GU
ISSUED: September 2, 2004

The following Commissioners participated in the disposition of this matter:

BRAULIO L. BAEZ, Chairman
J. TERRY DEASON
RUDOLPH "RUDY" BRADLEY
CHARLES M. DAVIDSON

ORDER SUSPENDING PROPOSED RATES AND GRANTING INTERIM RATES

BY THE COMMISSION:

I. BACKGROUND

This proceeding commenced on June 30, 2004, with the filing of a petition for a permanent rate increase by Sebring Gas System, Inc. (Sebring or the Company). Sebring requested an increase of \$234,641 in additional annual revenues. The Company based its request on a 13-month average rate base of \$1,132,523 for the projected test year ending December 31, 2005. The requested overall rate of return is 8.65% based on an 11.50% return on common equity.

The Company also requested an interim rate increase of \$110,957. The interim increase request was calculated using a 13-month average rate base of \$782,836, and an overall rate of return of 7.13% based on a return on equity of 10.00%. The interim test year is the period ended December 31, 2003.

This Commission set initial rates by Order No. PSC-92-0229-FOF-GU, issued April 20, 1992, in Docket No. 910873-GU, In Re: Petition for approval of initial rates to be established by Sebring Gas System, a division of Coker Fuels, Inc. In that Order, we found the Company's jurisdictional rate base to be \$1,055,175 for the projected year ended December 31, 1993. The allowed rate of return was found to be 10.86% for the test year using a 12.00% return on equity. However, by Order No. PSC-93-1774-FOF-GU, issued December 10, 1993, in Docket No. 931103-GU, In Re: Investigation into the appropriate equity return for SEBRING GAS SYSTEM, INC., we lowered the 12.00% to an 11.00% mid-point for its authorized rate of return with a range of plus or minus 100 basis points.

Pursuant to Section 366.06(4), Florida Statutes (F.S.), Sebring requested that we process its petition for rate relief using Proposed Agency Action (PAA) procedures. Under that section,

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FPSC-COMMISSION CLERK

we must enter our vote on the PAA within five months of the date on which a complete set of minimum filing requirements (MFRs) is filed. On June 30, 2004, the MFRs were filed and it was determined that the filing met all the requirements of Rule 25-7.039(1)(a), Florida Administrative Code (F.A.C.). Therefore, the commencement date was established as June 30, 2004, and the statutory five-month timeframe pursuant to Section 366.06(4), F.S., ends November 30, 2004. If we have not taken action by that date, or if our action is protested by a party other than the utility, Sebring may place its requested rates into effect under bond, escrow, or corporate undertaking subject to refund, upon notice to this Commission and upon filing the appropriate tariffs.

In its filing, Sebring requested both a permanent and an interim rate increase. Pursuant to Sections 366.06(3) and 366.071(2)(a), F.S., we must take action to suspend the permanent rates and act on the interim request within 60 days of the filing. We have jurisdiction over this request for a rate increase and an interim rate increase under Sections 366.06(2) and (4), and 366.071, F.S.

II. SUSPENSION OF PROPOSED RATE INCREASE

In its filing, the Company requested a permanent rate increase of \$234,641 which would produce an 8.65% overall return on its 13-month average adjusted rate base. This overall rate of return was calculated using an 11.50% return on equity. We find that it is reasonable and necessary to require further amplification and explanation regarding this data, and to require production of additional and/or corroborative data. This further examination will include on-site investigations by staff accountants/auditors and engineers. Based on the foregoing, and to allow our staff time to complete its review of the Company's MFRs, we find that the proposed rates shall be suspended.

III. INTERIM RATES

A. Rate Base

In its filing, Sebring proposed an interim rate base of \$782,836, which included a working capital allowance of \$20,553 calculated using the balance sheet method. We find that it is appropriate to use the balance sheet approach, and the utility's calculation of working capital and rate base is correct. Our calculation of rate base for interim purposes is shown on Attachment 1.

B. Net Operating Income

Sebring proposed an interim test year net operating income of a negative \$32,891. However, pursuant to the nine adjustments listed below, we find that the resulting interim net operating income is a negative \$30,098. Our calculation of the net operating income is shown on Attachment No. 2.

Adjustment 1: Purchased Gas Adjustment (PGA) – The Company did not remove the PGA Revenues, the PGA Gas Cost or the related Regulatory Assessment Fees (RAFs) from its interim test year net operating income. To correct this, Revenues, O&M Gas Expense and Taxes Other shall be decreased by \$392,547, \$390,584, and \$1,963, respectively.

Adjustment 2: Lobbying Expense – The Company incorrectly made an adjustment to increase O&M Expenses by \$100 for lobbying expenses. The Company intended to reduce O&M Expenses by \$100. To correct this error, O&M expense shall be reduced by \$200.

Adjustment 3: American Gas Association (AGA) and Florida Natural Gas Association (FNGA) Dues – The Company included \$2,950 in AGA dues and \$400 in FNGA dues in its 2003 O&M Expenses. Following discussions with the Company, we have determined that approximately 15% of each association's dues relates to lobbying activities. Therefore, we have reduced O&M Expenses by \$503.

Adjustment 4: Intangible Taxes - The Company included state intangible taxes of \$26 in its MFRs. It was determined that the intangible tax was paid by Sebring as agent for its stockholders. Consistent with our prior practice, we shall disallow the intangible taxes paid on behalf of stockholders, and, therefore, Taxes Other shall be reduced by \$26.

Adjustment 5: Property Taxes - The Company included property taxes of \$4,775 in its MFRs. It was determined that through an error in recording the monthly accrual, the property taxes were overstated by \$330. Property taxes for 2003 were \$4,445. To correct this error, Taxes Other shall be reduced by \$330.

Adjustment 6: Occupational Licenses - The Company included \$557 for Occupational Licenses in its MFRs. It was determined that this amount incorrectly included \$77 for a vehicle tag. To correct this error, Taxes Other shall be reduced by \$77.

Adjustment 7: Regulatory Assessment Fees - The Company included \$3,184 of RAFs in its MFRs. In Adjustment 1, we have decreased RAFs by \$1,963 for the RAFs related to the PGA Revenues, leaving a balance of RAFs related to Base Rate Revenue of \$1,221. Calculating RAFs on the Base Rate Revenues, excluding PGA Revenues, results in RAFs of \$1,357. Therefore, RAFs and Taxes Other shall be increased by \$136.

Adjustment 8: Tax Effect of Other Adjustments – Based on our other income and expense adjustments, we find that as a fallout adjustment, the Company's income tax expense must be increased by \$197.

Adjustment 9: Interest Reconciliation Adjustment – We have made an adjustment to decrease income tax expense by \$1,989. The Company included a positive \$187 interest reconciliation adjustment in its calculation of income tax expense. Based on the Company's capital structure, the interest reconciliation adjustment should have been \$97, a \$90 decrease. Additionally, the interest reconciliation adjustment has been decreased by \$1,899 to reflect the

appropriate amount of interest based on our approved interim capital structure. Therefore, the appropriate interest reconciliation adjustment to include in income tax expense is a negative \$1,802.

C. Cost of Capital

Pursuant to Order No. PSC-93-1774-FOF-GU, issued December 10, 1993, in Docket No. 931103-GU, In re: Investigation into the appropriate equity return for Sebring Gas System, Inc., Sebring's authorized return on equity and range is 11.00% plus or minus 100 basis points. For its interim request, Sebring correctly used the minimum of the range for its return on equity of 10.00%, as required by Subparagraph 366.071(5)(b)3., F.S.

In developing its capital structure for interim rates, Sebring reclassified an account payable to Coker Fuel, Inc. as common equity. The account payable represents funds received by Sebring from Coker Fuel, Inc. Sebring determined that, given its diminished equity position, the account payable should be reclassified as additional paid-in-capital. In May 2004, Sebring made this adjustment, retroactive to December 31, 2003.

Because the adjustment was made after the 2003 period upon which the interim rates are based, the adjustment is not appropriate for interim rates. The appropriate reversing adjustment on a 13-month average basis is a \$216,496 reduction to common equity. The resulting overall cost of capital for interim purposes is 6.08%. Our calculation of the cost of capital is shown on Attachment 3.

D. Revenue Expansion Factor

The Company's calculation of the appropriate revenue expansion is shown on Attachment 4. The utility's calculations are appropriate and the correct revenue expansion factor is 79.9234%, and the appropriate net operating income multiplier is 1.2512.

E. Interim Revenue Increase

The Company has requested \$110,957 in interim revenue relief for the historical base year ended December 31, 2003. Based on the Company's calculations and adjustments, this would have allowed the Company to earn an overall rate of return of 7.13%. Based on our above-noted adjustments, we have determined the interim rate base to be \$782,836, and the net operating income to be a negative \$30,098. Applying a 6.08% overall rate of return, the Company is entitled to \$97,211 in interim rate relief, as shown on Attachment 5.

F. Interim Rate Structure

As shown on Attachments 6A and 6B, we have determined the cents-per-therm increases to be applied to each rate class based on the approved interim increase of \$97,211. The increases were calculated using the methodology contained in Rule 25-7.040, F.A.C., which requires that

any increase be applied evenly across the board to all rate classes based on their base rate revenues.

The interim rates shall be effective for all meter readings made on or after thirty days from the date of our vote approving this interim increase. Sebring shall file revised tariff sheets reflecting the interim rates prior to sending the first bill that reflects the increase, and shall provide appropriate notice to customers commencing with the first bill for service that reflects the approved interim increase that explains the nature, purpose, and effect of the increase. A copy of the notice shall be submitted to the Division of Economic Regulation for approval prior to its use.

G. Appropriate Security

Pursuant to subparagraphs 366.071(2)(b) and (c), F.S., revenues collected under interim rates are subject to refund with interest and shall be secured under bond or corporate undertaking pending final resolution of the rate case. As discussed above, the approved annual interim increase is \$97,211. For corporate undertaking analysis purposes, we have used \$48,970, which represents six months of the interim revenue increase plus a small allowance for interest.

To determine whether Sebring qualified for a corporate undertaking, our staff analyzed Sebring's Annual Reports for 2001, 2002, and 2003. Based on this analysis, we find that Sebring has inadequate liquidity, negative equity, and negative net income to support a corporate undertaking.

Therefore, the Company shall secure its interim increase with an irrevocable letter of credit, a surety bond, or an escrow agreement. If Sebring uses an irrevocable letter of credit or surety bond, the amount of the instrument shall be \$48,970, the named beneficiary shall be the Florida Public Service Commission on behalf of the customers of Sebring Gas System, Inc., and the instrument shall remain in effect until a final Commission order is issued in the rate case.

Alternatively, the Company may establish an escrow agreement with an independent financial institution. If Sebring uses an escrow agreement, the following conditions shall be part of the agreement:

- 1) No refunds in the escrow account may be withdrawn by the Company without the approval of the Commission.
- 2) The escrow account shall be in an interest bearing account.
- 3) If a refund to the customers is required, the refund should be with interest and undertaken according to Rule 25-7.040(3), F.A.C.
- 4) If a refund to the customers is not required, the interest earned by the escrow account shall revert to the Company.

- 5) All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
- 6) The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
- 7) This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to Cosentino v. Elson, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
- 8) The Director of the Division of the Commission Clerk and Administrative Services must be a signatory to the escrow agreement.

If the Company does choose an escrow account, it shall deposit 27% of gas revenues collected into the escrow account each month as security for a possible refund. In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of the Company.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the permanent rate increase requested by Sebring Gas System, Inc. is suspended. It is further

ORDERED that Sebring Gas System, Inc. is granted an interim rate increase subject to refund with interest of \$97,211 as set forth in the body of this Order. It is further

ORDERED that the interim rate increase shall be applied evenly across the board to all rate classes based on their base rate revenues, and shall be collected on a cents-per-therm basis. It is further

ORDERED that the interim rates shall be made effective for all meter readings made on or after 30 days from August 17, 2004. It is further

ORDERED that Sebring Gas System, Inc. shall file revised tariff sheets reflecting the interim rates prior to sending the first bill that reflects the increase. It is further

ORDERED that Sebring Gas System, Inc. shall give notice to customers commencing with the first bill for service which reflects the increase authorized herein, explaining the nature, purpose, and effect of the increase. A copy of the notice shall be submitted to the Division of Economic Regulation for approval prior to its use. It is further

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ORDERED that Sebring Gas System, Inc. shall secure the interim refund with either an irrevocable letter of credit, a surety bond, or an escrow agreement. It is further

ORDERED that if Sebring Gas System, Inc. uses an irrevocable letter of credit or surety bond, the amount of the instrument shall be \$48,970. If Sebring Gas System, Inc. uses an escrow agreement, it shall deposit 27% of gas revenues collected into the escrow account each month as security for a possible refund. It is further

ORDERED that Sebring Gas System, Inc. shall pursue the least expensive method, and if refunds are found to be necessary, they shall be with interest and undertaken according to Rule 25-7.040(3), Florida Administrative Code. It is further

ORDERED that this docket shall remain open pending final resolution of the company's requested rate increase.

By ORDER of the Florida Public Service Commission this 2nd day of September, 2004.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: 
Kay Flynn, Chief
Bureau of Records

(S E A L)

RRJ

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by this order, which is non-final in nature, may request (1) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Citizens of the State of Florida v. Mayo, 316 So.2d 262 (Fla. 1975), states that an order on interim rates is not final or reviewable until a final order is issued. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

COMPARATIVE AVERAGE RATE BASES

ATTACHMENT 1

SEBRING GAS SYSTEM, INC
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 INTERIM TYE 12/31/03

	TOTAL PER BOOKS	COMPANY		COMMISSION	
		COMPANY ADJS.	COMPANY ADJUSTED	COMM. ADJS.	COMM. ADJUSTED
UTILITY PLANT IN SERVICE	2,079,948				
COMMON PLANT ALLOCATED	0				
ACQUISITION ADJUSTMENT	0				
PLANT HELD FOR FUTURE USE	0				
CONSTRUCTION WORK IN PROGRESS	0				
TOTAL PLANT	2,079,948	0	2,079,948	0	2,079,948
DEDUCTIONS					
ACCUM. DEPR. - PLANT IN SERVICE	(1,302,880)				
CUSTOMER ADV. FOR CONSTRUCTION	(14,785)				
TOTAL DEDUCTIONS	(1,317,665)	0	(1,317,665)	0	(1,317,665)
NET UTILITY PLANT	762,283	0	762,283	0	762,283
WORKING CAPITAL ALLOWANCE	(226,553)	247,106	20,553	0	20,553
TOTAL RATE BASE	\$535,730	\$247,106	\$782,836	\$0	\$782,836

SEBRING GAS SYSTEM, INC
DOCKET NO. 040270-GU
INTERIM TYE 12/31/03

COMPARATIVE NOIs

ATTACHMENT 2

ADJ. NO.		COMPANY		COMMISSION		
		TOTAL PER BOOKS	COMPANY ADJS.	COMPANY ADJUSTED	COMM. ADJS.	COMM. ADJUSTED
	OPERATING REVENUES	663,875				
1	Remove PGA Revenue				(392,547)	
	TOTAL REVENUES	663,875	0	663,875	(392,547)	271,328
	OPERATING EXPENSES:					
	O&M GAS EXPENSE	390,584				
1	Remove Cost of Gas				(390,584)	
	OPERATION & MAINTENANCE EXPENSE	252,632				
	Remove FNG-PAC Contribution		100			
2	Correct Co. Adjustment - FNG-PAC				(200)	
3	Remove 15% of AGA & FNGA dues				(503)	
	TOTAL O & M EXPENSE	643,216	100	643,316	(391,287)	252,029
	DEPRECIATION & AMORTIZATION	59,627				
	TOTAL DEPRECIATION & AMORT.	59,627	0	59,627	0	59,627
	TAXES OTHER THAN INCOME	8,542				
1	Reduce RAFs for PGA Revenue				(1,963)	
4	Disallow Intangible Tax				(26)	
5	Correct Overaccrual of Property Taxes				(330)	
6	Correct Error in Occupational Licenses				(77)	
7	Increase RAFs to Calculated Amount				136	
	TOTAL TAXES OTHER THAN INCOME	8,542	0	8,542	(2,260)	6,282
	INCOME TAX EXPENSE		(14,906)			
8	Increase Income Tax Expense for NOI Adjustments				197	(14,709)
9	Interest Synch/Rec. Adj		187		(1,989)	(1,802)
	TOTAL INCOME TAXES	0	(14,719)	(14,719)	(1,793)	(16,512)
	TOTAL OPERATING EXPENSES	711,385	(14,619)	696,766	(395,340)	301,426
	NET OPERATING INCOME	(\$47,510)	\$14,619	(\$32,891)	\$2,793	(\$30,098)

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CAPITAL STRUCTURE

ATTACHMENT 3

SEBRING GAS SYSTEM, INC.
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INTERIM TEST YEAR 12/31/03

	COMPANY ADJUSTMENTS			COMMISSION ADJUSTMENTS							
	PER BOOKS	SPECIFIC	PRO RATA	ADJUSTED PER BOOKS	PER BOOKS	SPECIFIC	PRO RATA	COMM. ADJUSTED	RATIO	COST RATE	WEIGHTED COST
COMMON EQUITY	293,330		(11,929)	281,401	293,330	(216,496)	25,685	102,519	13.10%	10.00%	1.31%
LONG TERM DEBT	471,510	0	(19,176)	452,334	471,510		157,624	629,134	80.37%	5.38%	4.32%
SHORT TERM DEBT	0		0	0	0		0	0	0.00%	0.00%	0.00%
CUSTOMER DEPOSITS	51,183	0	(2,082)	49,101	51,183		0	51,183	6.54%	6.76%	0.44%
INVESTMENT TAX CREDITS	0			0	0			0	0.00%	0.00%	0.00%
DEFERRED INCOME TAX	0			0	0			0	0.00%	0.00%	0.00%
	\$816,023	0	(\$33,187)	\$782,836	\$816,023	(\$216,496)	\$183,309	\$782,836	100%		<u>6.08%</u>
	38.35%			38.35%	38.35%			14.01%			



NET OPERATING INCOME MULTIPLIER

SEBRING GAS SYSTEM, INC.
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INTERIM TYE 12/31/03

ATTACHMENT 4

<u>DESCRIPTION</u>	<u>COMPANY PER FILING</u>	<u>COMMISSION</u>
REVENUE REQUIREMENT	100.0000%	100.0000%
GROSS RECEIPTS TAX RATE	0.0000%	0.0000%
REGULATORY ASSESSMENT RATE	0.5000%	0.5000%
BAD DEBT RATE	0.0000%	0.0000%
NET BEFORE INCOME TAXES	<u>99.5000%</u>	<u>99.5000%</u>
STATE INCOME TAX RATE	5.5000%	5.5000%
STATE INCOME TAX	5.4725%	5.4725%
NET BEFORE FEDERAL INCOME TAXES	<u>94.0275%</u>	<u>94.0275%</u>
FEDERAL INCOME TAX RATE	15.0000%	15.0000%
FEDERAL INCOME TAX	14.1041%	14.1041%
REVENUE EXPANSION FACTOR	<u>79.9234%</u>	<u>79.9234%</u>
NET OPERATING INCOME MULTIPLIER	<u>1.2512</u>	<u>1.2512</u>

COMPARATIVE REVENUE DEFICIENCY CALCULATIONS

SEBRING GAS SYSTEM, INC.
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ATTACHMENT 5

	<u>COMPANY ADJUSTED</u>	<u>COMMISSION</u>
RATE BASE (AVERAGE)	\$782,836	\$782,836
RATE OF RETURN	X <u>7.13%</u>	X <u>6.08%</u>
REQUIRED NOI	<u>\$55,789</u>	<u>\$47,596</u>
Operating Revenues	<u>663,875</u>	<u>271,328</u>
Operating Expenses:		
Operation & Maintenance	643,316	252,029
Depreciation & Amortization	59,627	59,627
Amortization of Environ. Costs	0	0
Taxes Other than Income Taxes	8,542	6,282
Income Taxes	<u>(14,719)</u>	<u>(16,512)</u>
Total Operating Expenses	696,766	301,426
ACHIEVED NOI	<u>(32,891)</u>	<u>(30,098)</u>
NET REVENUE DEFICIENCY	88,680	77,694
Revenue Tax Factor	1.2512	1.2512
TOTAL REVENUE DEFICIENCY	<u>\$110,957</u>	<u>\$97,211</u>

SEBRING GAS SYSTEM, INC.
 ALLOCATION OF COMMISSION APPROVED INTERIM INCREASE
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ATTACHMENT 6A

RATE CODE	(1) RATE SCHEDULE	PRESENT BASE RATE REVENUE		INTERIM INCREASE					
		(2) BILLS	(3) THERM SALES	(4) CUSTOMER CHARGE REVENUE	(5) ENERGY CHARGE REVENUE	(6) (4)+(5) TOTAL REVENUE	(7) (6)X(8) REVENUE INCREASE	(8) (7)/(6) % INCREASE	(9) (7)/(3) INCREASE IN CENTS PER THERM
RS	RESIDENTIAL TRANSPORTATION SERVICE	5,658	73,372	\$39,606	\$26,047	\$65,653	\$24,250	36.9%	33.051
GS	GENERAL TRANSPORTATION SERVICE	1,136	672,525	\$19,312	\$178,219	\$197,531	\$72,961	36.9%	10.849
TOTAL		<u>6,794</u>	<u>745,897</u>	<u>\$58,918</u>	<u>\$204,266</u>	<u>\$263,184</u>	<u>\$97,211</u>	<u>36.9%</u>	

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**SEBRING GAS SYSTEM, INC.
 COMMISSION APPROVED INTERIM RATES
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ATTACHMENT 6B

RATE SCHEDULE	PRESENT RATE	COMMISSION APPROVED INTERIM INCREASE	COMMISSION APPROVED INTERIM RATE
<u>RESIDENTIAL TRANSPORTATION SERVICE</u>			
CUSTOMER CHARGE	\$7.00	N/A	\$7.00
TRANSPORTATION CHARGE (cents/therm)	35.500	33.051	68.551
<u>GENERAL TRANSPORTATION SERVICE</u>			
CUSTOMER CHARGE	\$17.00	N/A	\$17.00
TRANSPORTATION CHARGE (cents/therm)	26.500	10.849	37.349