

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, DECEMBER 18, 2012

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APPLICATION OF

RAPPAHANNOCK ELECTRIC COOPERATIVE

CASE NO. PUE-2011-00091

For approval of prepaid electric service tariffs

ORDER ON APPLICATION

On August 11, 2011, Rappahannock Electric Cooperative ("Rappahannock" or "Cooperative") filed with the State Corporation Commission ("Commission") an application and exhibits ("Application") requesting that the Commission approve, pursuant to § 56-247.1 A 7 of the Code of Virginia ("Code"), proposed tariffs to allow the Cooperative to install and operate, upon a customer's request, the equipment and processes necessary to allow a customer to prepay for electric service and to allow the Cooperative to suspend service when a customer incurs charges equal to the customer's prepayments for that service.

On September 9, 2011, the Commission issued an Order for Notice and Hearing that, among other things, docketed this proceeding; directed Rappahannock to provide public notice of its Application; directed the Cooperative to file testimony in support of its Application; ordered the Commission's Staff ("Staff") to investigate and file a report addressing the Application; provided opportunities for interested persons to comment, intervene, and participate in this proceeding; scheduled an evidentiary hearing on the Application; and assigned a Hearing Examiner to conduct further proceedings in this matter on behalf of the Commission and to file a report.

A notice of intent to participate was filed by the Office of the Attorney General's Division of Consumer Counsel ("Consumer Counsel").¹

On October 14, 2011, Rappahannock filed the direct testimony and exhibits of its witnesses. On January 30, 2012, Staff filed the testimony and exhibits of its witness. On February 17, 2012, Rappahannock filed its rebuttal testimony.

On March 1, 2012, the evidentiary hearing on the Application was convened and evidence was received into the record.²

On April 18, 2012, Rappahannock, Consumer Counsel, and Staff filed post-hearing briefs. On April 25, 2012, Rappahannock filed a motion to strike portions of Consumer Counsel's brief. Consumer Counsel responded to Rappahannock's motion, and Rappahannock replied. By Hearing Examiner's Ruling entered May 30, 2012, the Hearing Examiner granted Rappahannock's motion to strike.

On July 19, 2012, the Report of Howard P. Anderson, Jr., Hearing Examiner ("Hearing Examiner's Report" or "Report") was filed. In his Report, the Hearing Examiner summarized the history and record in this case and recommended that the Commission enter an order that approves Rappahannock's prepaid service program as modified by findings identified in the Report. Specifically, the Hearing Examiner made the following findings:

1. The Cooperative's proposed prepaid electric service program, as modified during the process of this proceeding and subject to the provisions set forth below, is not contrary to the public interest and should be approved;

¹ A notice of participation in this proceeding was also filed, then subsequently withdrawn, by the Town of Stephens City, Virginia.

² During the hearing, the Hearing Examiner further directed the Cooperative, Consumer Counsel, and the Staff to meet to discuss potential reporting obligations for the prepaid metering program and directed the filing of an additional exhibit summarizing the result of such meetings, which was filed by the parties and Staff on April 23, 2012. *See* Ex. 13.

2. The Commission, and not the Cooperative's Board of Directors, has final authority over the tariff, which includes Appendix D, Terms and Conditions, of the proposed prepaid program;
3. Staff and the Cooperative should work together to formulate a consumer education process;
4. There should be no grace period or friendly credit extended to prepaid service customers prior to service termination. Service termination for insufficient funds should be immediate and automatic. However, the Cooperative should be directed to set forth in its terms and conditions that there will be no suspension of service prior to 7:00 a.m. or after 3:00 p.m.;
5. The Cooperative should be allowed up to three (3) hours to restore service once service is suspended;
6. The Cooperative should not be required to set a particular time of day to read meters;
7. The Cooperative should not be required to provide In-Home Devices ("IHD") to prepaid service customers;
8. The Cooperative should track and provide information to Commission Staff at the end of one year for Items 1 through 11 of Appendix A of this Report; and
9. For future rate determination, the prepaid program should be included in the normal course of preparing a cost of service study compiled in association with future rate filings.³

On August 9, 2012, Rappahannock and Consumer Counsel filed comments on the Hearing Examiner's Report.⁴

³ Report at 29-30.

⁴ Also on August 9, 2012, counsel for Staff filed a letter indicating that Staff would not file comments on the Hearing Examiner's Report.

On August 20, 2012, Rappahannock filed a motion to strike portions of Consumer Counsel's comments on the Hearing Examiner's Report, and Consumer Counsel filed a response thereto.⁵

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds as follows.

Section 56-247.1 A 7 of the Code expressly allows an electric cooperative such as Rappahannock to provide certain prepaid electric service that "immediately and automatically" terminates when the customer's charges equal the customer's prepayments. Specifically, the statute states as follows:

[The Cooperative] may install and operate, upon a customer's request and pursuant to an appropriate tariff for any type or classification of service, a prepaid metering equipment and system that is configured to terminate electric service immediately and automatically when the customer has incurred charges for electric service equal to the customer's prepayments for such service.⁶

This statute further mandates that "[s]uch tariffs shall be filed with the Commission for its review and determination that the tariff is not contrary to the public interest."⁷

We find that Rappahannock's tariffs for prepaid electric service, as modified throughout this case, are not contrary to the public interest only if (i) the Cooperative is subject to the requirements of, and (ii) such tariffs include the specific provisions directed by, this Order on Application. Absent such, we find that the Cooperative's prepaid electric service tariffs are

⁵ Having not relied upon the comments moved to be stricken in order to reach our findings herein, we deny Rappahannock's August 20, 2012 motion to strike as unnecessary.

⁶ Va. Code § 56-247.1 A 7.

⁷ *Id.*

contrary to the public interest and, thus, that the prepaid electric service program does not satisfy the requirements of § 56-247.1 A 7 of the Code.

In this regard: (1) the tariffs shall provide that there will be no termination of service prior to 7 a.m. or after 3 p.m.;⁸ (2) the tariffs shall provide that the prepaid electric service program is not available to households receiving service subject to a Serious Medical Condition Certification;⁹ (3) the tariffs shall provide that the Cooperative is allowed up to three hours to restore service once prepaid service is terminated; (4) the Cooperative shall track, and file in this docket, on an annual basis (from the date on which the prepaid program is first available to customers) the information included in Items 1 through 11 of Appendix A of the Hearing Examiner's Report; (5) for future rate determinations, the prepaid program shall be included in the normal course of preparing a cost of service study compiled in association with future rate filings; (6) the Cooperative is not required to set a particular time of day to read meters, and paper bills shall not be a part of the prepaid service program; and (7) Staff and the Cooperative shall work together to formulate a consumer education process prior to offering the prepaid service program to customers.

Further, the tariffs shall require Rappahannock to provide customers with direct notification of low balance conditions prior to termination of service as follows:¹⁰

⁸ The terms "termination" and "suspension" (and variations thereof) appear to have been used somewhat interchangeably in the record. This Order on Application uses "termination" and "terminated" consistent with the use of "terminate" in § 56-247.1 A 7 of the Code, and not to refer to a permanent service disconnection. *See, e.g.*, Ex. 14 (Faulconer Rebuttal) at 9.

⁹ *See, e.g.*, Hearing Examiner's Report at 17; Ex. 14 (Faulconer Rebuttal) at 15-16.

¹⁰ *See, e.g.*, Ex. 7 (Schoonover Direct) at 9; Ex. 10 (Grant Direct) at 15; Ex. 14 (Faulconer Rebuttal) at 11; Hearing Examiner's Report at 8, 15.

- (a) Rappahannock shall provide direct notice to a customer when the customer's prepayment balance represents approximately five days of estimated normal usage;
- (b) Daily notifications shall continue to be made to the customer until the prepayment balance exceeds the predetermined notification level in (a), above, or reaches zero;
- (c) If the Cooperative does not have sufficient historic usage information for a customer or premise, the predetermined notification level for (a), above, shall initially be set at \$25 (*i.e.*, the amount of the Minimum Initial Prepayment Balance), until the Cooperative obtains sufficient usage information to establish a reasonable approximation for five days of normal usage;
- (d) Such notifications shall be provided by the Cooperative using one of the following means, as selected by the customer: telephone call; electronic mail; or text message; and
- (e) The Cooperative shall offer to provide, in addition to the notifications required herein, contemporaneous notifications to a third-party designated by the customer.

Finally, Consumer Counsel requested use of IHDs, while Rappahannock objected thereto.¹¹ Rappahannock has asserted that its prepaid program was "modeled on" the prepaid program offered by Brunswick Electric Membership Corporation ("BEMC") in North Carolina, and the Cooperative also cited the prepaid program offered by Jackson Electric Cooperative ("JEC") in Kentucky in support of its Application.¹² Consumer Counsel has noted that both BEMC and JEC provide such IHDs as part of their prepaid programs.¹³ In this regard, we find

¹¹ *See, e.g.*, Comments of Division of Consumer Counsel, Office of Attorney General at 7-10; Rappahannock's Response to Hearing Examiner's Report at 5-6.

¹² *See, e.g.*, Ex. 3 (Faulconer Direct) at 17-18; Tr. 71.

¹³ *See, e.g.*, Comments of Division of Consumer Counsel, Office of Attorney General at 7-8; Tr. 72.

that: (1) the tariffs shall require Rappahannock to offer all customers under this program an IHD unit;¹⁴ and (2) such requirement shall be suspended at this time pending further order of the Commission after receipt of one or more of the annual reports required above. Thus, before requiring implementation of IHDs, we find that Rappahannock shall prepare and file the annual report(s) required herein on the actual implementation of this new prepaid service program, which will assist in assessing whether IHDs are necessary to provide effective notification to customers prior to terminating service and to reduce unintentional service terminations.

Accordingly, IT IS HEREBY ORDERED THAT:

(1) The Application is granted subject to the requirements ordered herein; otherwise, the prepaid electric service program does not satisfy § 56-247.1 A 7 of the Code, and the Application is denied.

(2) If Rappahannock elects to operate a prepaid service program pursuant to the requirements ordered herein, the Cooperative shall file revised prepaid tariffs, in conformance with this Order on Application, with the Clerk of the Commission no less than thirty (30) days prior to offering prepaid electric service to customers. The Clerk of the Commission shall retain such filing for public inspection in person and on the Commission's website:

<http://www.scc.virginia.gov/case>.

(3) This matter is continued pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: John A. Pirko, Esquire, and James P. Guy, III, Esquire, LeClair Ryan P.C., 4201 Dominion Boulevard,

¹⁴ The IHD provides (i) a constant visual reminder showing how much energy credit remains in the customer's account, and (ii) an audible alarm and visual alert when the amount of energy credit has declined to five or less days of estimated usage. *See, e.g.*, Ex. 4 (Order from the Kentucky Public Service Commission, dated November 30, 2010) at 2; Ex. 12 (Brunswick program material); Tr. 66-67.

Suite 200, Glen Allen, Virginia 23060; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219. A copy shall also be sent to the Commission's Office of General Counsel and Divisions of Utility Accounting and Finance and Energy Regulation.

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