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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, APRIL 27, 2010

CLERK'S OFFICE  
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DOCUMENT CONTROL

APPLICATION OF  
VIRGINIA ELECTRIC COOPERATIVES  
For approval of Standby Service Compliance Plan

CASE NO. PUE-2010-00036

ORDER FOR NOTICE AND COMMENT

Virginia Code ("Code") § 56-235.1:1, enacted by the 2009 Session of the Virginia General Assembly,<sup>1</sup> directed the State Corporation Commission ("Commission") to adopt regulations for electric utility stand-by service provided by electric utilities to "customers that operate a cogeneration facility in the Commonwealth that generates renewable energy, as defined in § 56-576." The Code also required that such regulations must "allow the electric utility to recover all of the costs that are identified by the electric utility and determined by the Commission to be related to the provision of the stand-by service, including but not limited to the costs of transformers and other equipment required to provide stand-by service and the costs of capacity and generation, including but not limited to fuel costs."

Section 56-235.1:1 of the Code further required that within ninety (90) days of the effective date of such regulations, each public utility providing electric service in the Commonwealth must "submit a plan setting forth how the utility will comply with the regulations if it does not already have stand-by provisions approved by the Commission that comply with the regulations." Thereafter, the Commission is required, after notice and an opportunity for a hearing, to determine whether a utility's plan complies with the regulations.

<sup>1</sup> Chapter 745 of the 2009 Acts of Assembly.

By Order dated December 2, 2009, in Case No. PUE-2009-00080, the Commission adopted regulations entitled "Rates for Standby Service Furnished to Certain Renewable Cogeneration Facilities Pursuant to § 56-235.1:1 of the Code" ("Standby Service Rules").<sup>2</sup> Pursuant to the Standby Service Rules, each electric utility was required to submit to the Commission its plan for compliance with the Standby Service Rules on or before April 1, 2010.<sup>3</sup>

On March 31, 2010, A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative, Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative (collectively, the "Cooperatives" or "Virginia Cooperatives") filed with the Commission a Request for Waiver or, in the Alternative, Proposed Compliance Plan ("Application").

According to the Cooperatives, 20 VAC 5-317-50 permits the Commission to waive any or all parts of the Standby Service Rules for good cause shown. The Cooperatives argue that, because only three Cooperative customers use stand-by service, and one such customer is a renewable resource, the investment of time and money to develop a new plan is unjustified. Thus, the Cooperatives request that the Commission waive the Standby Service Rules for the Cooperatives and allow them to continue their current practice of negotiating standby service rates on a case-by-case basis. While the Standby Service Rules do permit the Commission to waive the regulations for good cause shown, the Commission is not empowered to waive the statutory mandate that all public utilities file a plan with the Commission setting forth how the

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<sup>2</sup> Chapter 317 (20 VAC 5-317-10 *et seq.*) of Title 20 of the Virginia Administrative Code.

<sup>3</sup> 20 VAC 5-317-40.

utility will provide standby service to renewable resources. We will, therefore, deny the Cooperatives' request for a waiver and will treat the Application as a request for a determination by the Commission that the Cooperatives' current practice of negotiating standby service rates on a case-by-case basis complies with the Code and the Standby Service Rules.

NOW THE COMMISSION, having considered the matter, is of the opinion that pursuant to § 56-235.1:1 of the Code and the Commission's Standby Service Rules, 20 VAC 5-317-10 *et seq.*, notice should be given to the public so that interested persons have an opportunity to comment or request a hearing on the Compliance Plan filed by the Cooperatives.

Accordingly, IT IS HEREBY ORDERED THAT:

- (1) The Application is docketed as Case No. PUE-2010-00036.
- (2) Pursuant to Code § 12.1-31 and the Commission's Rules of Practice and Procedure, 5 VAC 5-20-120, *Procedure before hearing examiners*, the Commission assigns a Hearing Examiner to rule on any discovery matter that may arise in this proceeding.
- (3) The Cooperatives' request for waiver of 20 VAC 5-317-40 is denied.
- (4) On or before May 24, 2010, the Cooperatives shall cause a copy of the following notice to be published as display advertising (not classified) on one occasion in newspapers of general circulation throughout the Cooperatives' respective service territories within Virginia:

NOTICE TO THE PUBLIC OF THE FILING BY THE  
VIRGINIA ELECTRIC COOPERATIVES OF A PLAN TO  
COMPLY WITH THE COMMISSION'S RULES CONCERNING  
RATES FOR STANDBY SERVICE FURNISHED TO CERTAIN  
RENEWABLE COGENERATION FACILITIES  
CASE NO. PUE-2010-00036

On March 31, 2010, A&N Electric Cooperative, BARC Electric Cooperative, Central Virginia Electric Cooperative, Community Electric Cooperative, Craig-Botetourt Electric Cooperative, Mecklenburg Electric Cooperative, Northern Neck Electric Cooperative, Northern Virginia Electric Cooperative,

Prince George Electric Cooperative, Rappahannock Electric Cooperative, Shenandoah Valley Electric Cooperative, and Southside Electric Cooperative (collectively, the "Cooperatives" or "Virginia Cooperatives") filed with the Commission a Request for Waiver or, in the Alternative, Proposed Compliance Plan ("Application"). The Virginia Code and the Commission's regulations require all Virginia utilities to provide a rate for stand-by service to customers that operate a cogeneration facility that generates renewable energy. The Cooperatives state that stand-by service for such customers is currently available under rates negotiated on a case-by-case basis and that these negotiated rates comply with the Commission's regulations.

The Commission entered an Order for Notice and Comment that, among other things, directed the Cooperatives to provide notice to the public and provided interested persons an opportunity to comment and/or request a hearing on the Cooperatives' Application.

A copy of the Application may be obtained, at no charge, by requesting it in writing from the Cooperatives' counsel, Samuel R. Brumberg, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Copies of the Application and related documents are also available for review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: [www.scc.virginia.gov/case](http://www.scc.virginia.gov/case).

On or before June 22, 2010, interested persons may file written comments concerning the issues in this case with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so on or before June 22, 2010, by following the instructions found on the Commission's website : [www.scc.virginia.gov/case](http://www.scc.virginia.gov/case). Comments shall refer to Case No. PUE-2010-00036.

On or before June 22, 2010, interested persons may request that the Commission convene a hearing on the Cooperatives' Application by filing a request for a hearing at the address set forth above. Requests for hearing must include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a

statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter.

Any interested person may participate as a respondent in this proceeding by filing on or before June 22, 2010, an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth above and shall simultaneously serve a copy of the notice of participation on counsel to the Cooperatives at the address set forth above. Pursuant to 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all filed papers to Case No. PUE-2010-00036.

#### VIRGINIA ELECTRIC COOPERATIVES

(5) On or before May 24, 2010, the Cooperatives shall serve a copy of this Order for Notice and Comment on the chairman of the board of supervisors and county attorney of each county and upon the mayor or manager (or upon equivalent official) of every city and town in which any of the Cooperatives provide service in the Commonwealth of Virginia. Service shall be made by first class mail to the customary place of business or residence of the person served.

(6) The Cooperatives shall promptly make a copy of its Application and this Order available to the public, who may obtain a copy of the Application, at no charge, by requesting it in writing from the Cooperatives' counsel, Samuel R. Brumberg, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060. Copies of the Application and related documents also shall be available for interested persons to review in the Commission's Document Control Center, located on the first floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia, between the hours of 8:15 a.m. and 5:00 p.m., Monday through Friday, excluding holidays. Interested persons may also download unofficial copies from the Commission's website: [www.scc.virginia.gov/case](http://www.scc.virginia.gov/case).

(7) On or before June 22, 2010, interested persons may file written comments concerning the issues in this case with Joel H. Peck, Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Interested persons desiring to submit comments electronically may do so, on or before June 22, 2010, by following the instructions found on the Commission's website: [www.scc.virginia.gov/case](http://www.scc.virginia.gov/case). Comments shall refer to Case No. PUE-2010-00036.

(8) On or before June 22, 2010, interested persons may request that the Commission convene a hearing concerning the issues in this case by filing a request for a hearing with the Clerk of the Commission at the address set forth above. Requests for hearing must refer to Case No. PUE-2010-00036 and include: (i) a precise statement of the filing party's interest in the proceeding; (ii) a statement of the specific action sought to the extent then known; (iii) a statement of the legal basis for such action; and (iv) a precise statement why a hearing should be conducted in this matter.

(9) Any interested person may participate as a respondent in this proceeding by filing on or before June 22, 2010, an original and fifteen (15) copies of a notice of participation with the Clerk of the Commission at the address set forth above and shall simultaneously serve a copy of the notice of participation on counsel to the Cooperatives at the address set forth above. Pursuant to 5 VAC 5-20-80 of the Commission's Rules of Practice and Procedure, any notice of participation shall set forth: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Interested persons shall refer in all filed papers to Case No. PUE-2010-00036.

(10) On or before June 22, 2010, the Cooperatives shall provide the Commission with the proof of notice required by Ordering Paragraph (4) and proof of service required by Ordering Paragraph (5).

(11) On or before July 7, 2010, Commission Staff may file with the Commission any comments concerning the Application.

(12) On or before July 21, 2010, the Cooperatives may file with the Clerk of the Commission a response to any written comments and requests for hearing filed in this proceeding.

(13) This matter is continued for further orders of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:

Samuel R. Brumberg, Esquire, LeClairRyan, 4201 Dominion Boulevard, Suite 200, Glen Allen, Virginia 23060; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, 2nd Floor, Richmond, Virginia 23219; and a copy shall be delivered to the Commission's Office of General Counsel and the Divisions of Energy Regulation and Economics and Finance.