

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 5, 2020

2020 AUG -5 P 12: 07

APPLICATION OF

NORTHERN NECK ELECTRIC COOPERATIVE

CASE NO. PUR-2020-00083

For a general increase in electric rates

ORDER FOR NOTICE AND HEARING

On July 16, 2020, pursuant to §§ 56-231.33, 56-231.34, 56-236, 56-238, and 56-585.3 of the Code of Virginia ("Code"), Northern Neck Electric Cooperative ("NNEC" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") for approval of a general increase in electric rates.

In support of its Application, NNEC states that a rate increase is needed because the Cooperative recently has experienced low customer growth and increasing costs.¹ NNEC requests a 3.93% increase in its base rates, which will generate approximately \$1.5 million in additional revenue.² The Cooperative represents that an increase in jurisdictional sales revenues of \$1.5 million will allow it to pay expenses, service debt, fund capital additions, and meet the financial goals established by NNEC's Board of Directors.³ NNEC states that the proposed increase would produce total rate year⁴ jurisdictional margins of \$1.8 million and a 2.25x Times Interest Earned Ratio ("TIER").⁵

¹ Application at 3; Direct Testimony of Pamela M. Davis ("Davis Direct") at 2-3.

² Application at 8; Davis Direct at 3.

³ Application at 3.

⁴ NNEC states that the rate year is calendar year 2021 ("Rate Year"). *Id.*

⁵ *Id.* The Cooperative clarifies that it is not requesting that the Commission set a TIER of 2.25x and adjust its proposed rates to that TIER. NNEC requests that the Commission approve the rates as proposed, provided that the

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The Cooperative proposes a \$0.10 per kilowatt per month demand charge for its customers taking service under Schedule R-5, Schedule PE-3, Schedule C-8, Schedule T-5, and Schedule GS-5.⁶ NNEC states that by separating demand costs from consumption costs, the Cooperative's members will be able to control both types of costs, rather than just consumption costs.⁷ To update Schedule R-5 kilowatt hour sales for the Rate Year, NNEC proposes to use a five-year average of monthly consumption, rather than the test year⁸ average of monthly consumption.⁹

The Cooperative seeks to allocate the proposed \$1.5 million Rate Year revenue increase to the various rate classes in a manner that addresses parity deficiencies.¹⁰ To that end, NNEC proposes to allocate the increase primarily to Schedule R-5, Schedule PE-3, and Schedule GS-5, with smaller increases to Schedule GSD-1 and Schedule T-4.¹¹ NNEC is not proposing any substantive changes to its Terms and Conditions.¹²

The Cooperative requests that its proposed rates and charges be approved and that the Commission authorize such rates to be put into effect for bills rendered on and after

resulting TIER is within a reasonable rate that would normally be recommended for electric distribution cooperatives in Virginia. *Id.*

⁶ *Id.* at 4; Direct Testimony of Bradley H. Hicks at 5-6; Direct Testimony of Jack D. Gaines ("Gaines Direct") at 25.

⁷ Application at 4.

⁸ In its Application, NNEC uses calendar year 2019 as the test year. *Id.*

⁹ *Id.*

¹⁰ *Id.* at 8.

¹¹ *Id.*; Gaines Direct at 22-23.

¹² Application at 8.

January 1, 2021, as interim rates subject to refund, if necessary, as provided in Code § 56-238.¹³ Under the Cooperative's proposed increase, a typical residential customer using 1,000 kilowatt hours of electricity each month would experience a monthly bill increase of \$6.30, from \$143.97 to \$150.27.¹⁴

NOW THE COMMISSION, having considered this matter, is of the opinion and finds that NNEC should provide notice of its Application; a public hearing should be scheduled for the purpose of receiving testimony and evidence on the Cooperative's Application; a procedural schedule should be established to allow interested persons an opportunity to comment on the Cooperative's Application or to participate in this proceeding as a respondent; and the Commission's Staff ("Staff") should be directed to investigate the Application and file testimony and exhibits containing its findings and recommendations thereon. We also find that a Hearing Examiner should be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

The Commission further takes judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels.¹⁵ The Commission has taken certain actions, and may take

¹³ *Id.* at 9.

¹⁴ These figures assume a peak demand of 6.40 kilowatts and are based on annualized rates.

¹⁵ *See, e.g.*, Executive Order No. 51, Declaration of a State of Emergency Due to Novel Coronavirus, COVID-19, issued March 12, 2020, by Governor Ralph S. Northam. *See also* Executive Order No. 53, Temporary Restrictions on Restaurants, Recreational, Entertainment, Gatherings, Non-Essential Retail Businesses, and Closure of K-12 Schools Due to Novel Coronavirus (COVID-19), issued March 23, 2020, by Governor Ralph S. Northam, and Executive Order No. 55, Temporary Stay at Home Order Due to Novel Coronavirus (COVID-19), issued March 30, 2020, by Governor Ralph S. Northam. These and subsequent Executive Orders related to COVID-19 may be found at: <https://www.governor.virginia.gov/executive-actions/>.

additional actions going forward, that could impact the procedures in this proceeding.¹⁶

Consistent with these actions, in regard to the terms of the procedural framework established below, the Commission will, among other things, direct the electronic filing of testimony and pleadings unless they contain confidential information and will require electronic service on parties to this proceeding.

Also in light of the current COVID-19 public health crisis that has caused devastating economic effects that impact all utility customers, we will suspend the Cooperative's proposed rates to the furthest extent allowed by law¹⁷ and allow, but not require, NNEC, as requested, to implement its proposed rates for bills rendered on and after January 1, 2021, on an interim basis and subject to refund with interest. Additionally, we have responded to this economic emergency by, among other actions, temporarily suspending customer service disconnections for customers of Virginia utilities during the pandemic emergency.¹⁸

Accordingly, IT IS ORDERED THAT:

- (1) This matter is docketed and assigned Case No. PUR-2020-00083.

¹⁶ See, e.g., *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic Service of Commission Orders*, Case No. CLK-2020-00004, Doc. Con. Cen. No. 200330035, Order Concerning Electronic Service of Commission Orders (Mar. 19, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency*, Case No. CLK-2020-00005, Doc. Con. Cen. No. 200330042, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (Mar. 19, 2020); *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Electronic service among parties during COVID-19 emergency*, Case No. CLK-2020-00007, Doc. Con. Cen. No. 200410009, Order Requiring Electronic Service (Apr. 1, 2020); *Commonwealth of Virginia, ex rel., State Corporation Commission, Ex Parte: Revised Operating Procedures During COVID-19 Emergency Extension of Prior Orders*, Case Nos. CLK-2020-00004 and CLK-2020-00005, Doc. Con. Cen. No. 200520101, Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency (May 11, 2020).

¹⁷ See Code § 56-238.

¹⁸ See *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: Temporary Suspension of Tariff Requirements*, Case No. PUR-2020-00048, Doc. Con. Cen. No. 200320175, Order Suspending Disconnection of Service and Suspending Tariff Provisions Regarding Utility Disconnections of Service (Mar. 16, 2020), *extended by* Doc. Con. Cen. No. 200410196, Order Extending Suspension of Service Disconnections (Apr. 9, 2020), *and* Doc. Con. Cen. No. 200630135, Order on Suspension of Service Disconnections (June 12, 2020).

(2) As provided by Code § 12.1-31 and 5 VAC 5-20-120, *Procedures before hearing examiners*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"),¹⁹ a Hearing Examiner is appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

(3) NNEC may, but is not obligated to, implement its proposed rates for bills rendered on and after January 1, 2021, on an interim basis and subject to refund with interest.

(4) All pleadings in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice. Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.²⁰

(5) Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission directs that service on parties and the Staff in this matter shall be accomplished by electronic means. Concerning Confidential or Extraordinarily Sensitive Information, parties and the Staff are instructed to work together to agree upon the manner in which documents containing such information shall be served upon one another, to the extent

¹⁹ 5 VAC 5-20-10 *et seq.*

²⁰ As noted in the Commission's March 19, 2020 Order Regarding the State Corporation Commission's Revised Operating Procedures During COVID-19 Emergency in Case No. CLK-2020-00005, submissions to the Commission's Clerk's Office via U.S. mail or commercial mail equivalents may not be processed for an indefinite period of time due to the COVID-19 emergency. *See supra* note 16

practicable, in an electronically protected manner, even if such information is unable to be filed in the Office of the Clerk, so that no party or the Staff is impeded from preparing its case.

(6) A public hearing on the Application shall be convened on March 2, 2021, at 10 a.m., to receive the testimony of public witnesses and the evidence of the Cooperative, any respondents, and Staff. Further details on the hearing will be provided by subsequent Commission Order or Hearing Examiner's Ruling.

(7) An electronic copy of the Cooperative's Application may be obtained by submitting a written request to counsel for NNEC, Garland S. Carr, Esquire, Williams Mullen, 200 South 10th Street, Suite 1600, Richmond, Virginia 23219, or gcarr@williamsmullen.com. Interested persons also may download unofficial copies from the Commission's website:

<https://scc.virginia.gov/pages/Case-Information>.

(8) On or before October 8, 2020, NNEC shall cause the following notice to be published *Cooperative Living* magazine:

NOTICE TO THE PUBLIC OF AN APPLICATION BY
NORTHERN NECK ELECTRIC COOPERATIVE
FOR A GENERAL INCREASE IN ELECTRIC RATES
CASE NO. PUR-2020-00083

On July 16, 2020, pursuant to §§ 56-231.33, 56-231.34, 56-236, 56-238, and 56-585.3 of the Code of Virginia, Northern Neck Electric Cooperative ("NNEC" or "Cooperative") filed an application ("Application") with the State Corporation Commission ("Commission") for approval of a general increase in electric rates.

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The Commission's Order for Notice and Hearing scheduled a public hearing at 10 a.m. on March 2, 2021, to receive the testimony of public witnesses and the evidence of the Cooperative, any respondents, and the Commission's Staff. Further details on the hearing will be provided by subsequent Commission Order or Hearing Examiner's ruling.

The Commission has taken judicial notice of the ongoing public health emergency related to the spread of the coronavirus, or COVID-19, and the declarations of emergency issued at both the state and federal levels. In accordance therewith, all pleadings, briefs, or other documents required to be served in this matter should be submitted electronically to the extent authorized by 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice and Procedure ("Rules of Practice"). Confidential and Extraordinarily Sensitive information shall not be submitted electronically and should comply with 5 VAC 5-20-170, *Confidential information*, of the Rules of Practice. For the duration of the COVID-19 emergency, any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

Pursuant to 5 VAC 5-20-140, *Filing and service*, of the Commission's Rules of Practice, the Commission has directed that service on parties and the Commission's Staff in this matter shall be accomplished by electronic means. Please refer to the Commission's Order for Notice and Hearing for further instructions concerning Confidential or Extraordinarily Sensitive Information.

An electronic copy of the NNEC's Application may be obtained by submitting a written request to counsel for the Cooperative, Garland S. Carr, Esquire, Williams Mullen, 200 South 10th Street, Suite 1600, Richmond, Virginia 23219, or gcarr@williamsmullen.com. Interested persons also may download unofficial copies from the Commission's website: <https://scc.virginia.gov/pages/Case-Information>.

On or before February 23, 2021, any interested person may file comments on the Application by following the instructions on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All comments shall refer to Case No. PUR-2020-00083.

On or before November 5, 2020, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Cooperative. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, 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. Any organization, corporation, or government body participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00083.

On or before December 18, 2020, each respondent may file with the Clerk of the Commission and serve on the Commission's Staff, the Cooperative, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, including 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2020-00083.

Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, except as modified by the Commission's Order for Notice and Hearing, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

The Cooperative's Application, the Commission's Rules of Practice and the Commission's Order for Notice and Hearing may be viewed at: <https://scc.virginia.gov/pages/Case-Information>.

NORTHERN NECK ELECTRIC COOPERATIVE

(9) On or before October 8, 2020, NNEC shall serve a copy of its Application and this Order for Notice and Hearing on the following local officials, to the extent the position exists, in each county, city, and town in which the Cooperative provides service in the Commonwealth of Virginia: the chairman of the board of supervisors of each county; the mayor or manager (or

equivalent official) of every city and town; and the county, city, or town attorney. Service shall be made electronically where possible; if electronic service is not possible, service shall be made by either personal delivery or first class mail to the customary place of business or residence of the person served.²¹

(10) On or before November 5, 2020, NNEC shall file proof of the notice and service required by Ordering Paragraphs (8) and (9), including the name, title, address, and electronic mail address (if applicable) of each official served, with the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118, or by filing electronically at <https://scc.virginia.gov/clk/efiling/>.

(11) On or before February 23, 2021, any interested person may file comments on the Application by following the instructions found on the Commission's website: <https://scc.virginia.gov/casecomments/Submit-Public-Comments>. All comments shall refer to Case No. PUR-2020-00083.

(12) On or before November 5, 2020, any person or entity wishing to participate as a respondent in this proceeding may do so by filing a notice of participation. Such notice of participation shall include the email addresses of such parties or their counsel. The respondent simultaneously shall serve a copy of the notice of participation on counsel to the Cooperative. Pursuant to 5 VAC 5-20-80 B, *Participation as a respondent*, of the Commission's Rules of Practice, 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. Any organization, corporation, or government body

²¹ See the Commission's April 1, 2020 Order in Case No. CLK-2020-00007. *See supra* note 16.



participating as a respondent must be represented by counsel as required by 5 VAC 5-20-30, *Counsel*, of the Rules of Practice. All filings shall refer to Case No. PUR-2020-00083.

(13) Within five (5) business days of receipt of a notice of participation as a respondent, the Cooperative shall serve upon each respondent a copy of this Order for Notice and Hearing, a copy of the public version of the Application, and a copy of the public version of all materials filed by the Cooperative with the Commission, unless these materials already have been provided to the respondent.

(14) On or before December 18, 2020, each respondent may file with the Clerk of the Commission and serve on the Staff, the Cooperative, and all other respondents, any testimony and exhibits by which the respondent expects to establish its case, and each witness's testimony shall include a summary not to exceed one page. In all filings, respondents shall comply with the Commission's Rules of Practice, as modified herein, including, but not limited to: 5 VAC 5-20-140, *Filing and service*, and 5 VAC 5-20-240, *Prepared testimony and exhibits*. All filings shall refer to Case No. PUR-2020-00083.

(15) On or before January 15, 2021, the Staff shall investigate the Application and file with the Clerk of the Commission its testimony and exhibits concerning the Application, and each Staff witness's testimony shall include a summary not to exceed one page. A copy thereof shall be served on counsel to the Cooperative and all respondents.

(16) On or before February 5, 2021, NNEC shall file with the Clerk of the Commission any rebuttal testimony and exhibits that it expects to offer, and each rebuttal witness's testimony shall include a summary not to exceed one page. The Cooperative shall serve a copy of its rebuttal testimony and exhibits on the Staff and all respondents.

(17) Any documents filed in paper form with the Office of the Clerk of the Commission in this docket may use both sides of the paper. In all other respects, all filings shall comply fully with the requirements of 5 VAC 5-20-150, *Copies and format*, of the Commission's Rules of Practice.

(18) The Commission's Rule of Practice 5 VAC 5-20-260, *Interrogatories or requests for production of documents and things*, shall be modified for this proceeding as follows: responses and objections to written interrogatories and requests for production of documents shall be served within seven (7) calendar days after receipt of the same. In addition to the service requirements of 5 VAC 5-20-260 of the Rules of Practice, on the day that copies are filed with the Clerk of the Commission, a copy of the interrogatory or request for production shall be served electronically on the party to whom the interrogatory or request for production is directed or the assigned Staff attorney, if the interrogatory or request for production is directed to the Staff.²² Except as modified herein, discovery shall be in accordance with Part IV of the Commission's Rules of Practice, 5 VAC 5-20-240 *et seq.*

(19) This matter is continued.

A COPY hereof shall be sent electronically by the Clerk of the Commission to: Garland S. Carr, Esquire, Williams Mullen, 200 South 10th Street, Suite 1600, Richmond, Virginia 23219, gcarr@williamsmullen.com; and C. Meade Browder, Jr., Senior Assistant Attorney General, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424, mbrowder@oag.state.va.us.

²² The assigned Staff attorney is identified on the Commission's website, <https://scc.virginia.gov/pages/Case-Information>, by clicking "Docket Search," then clicking "Search by Case Information," and entering the case number, PUR-2020-00083 in the appropriate box.