

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DOWNEY TRENCHING, INC.	)	
	)	
COMPLAINANT	)	
	)	
v.	)	CASE NO. 99-308
	)	
SALT RIVER ELECTRIC COOPERATIVE	)	
CORPORATION	)	
	)	
DEFENDANT	)	

O R D E R

Downey Trenching, Inc. has brought a formal complaint against Salt River Electric Cooperative Corporation ("Salt River ECC") in which it requests changes in the electric cooperative's current rules regarding the installation of underground electric services. Its complaint presents the following issue: Is Salt River ECC's prohibition of customer installation and ownership of underground electric services unreasonable? Finding that Salt River ECC's rule is not unreasonable, we deny the complaint.

PROCEDURE

On July 19, 1999, Downey Trenching, C & J Electric, Inc., Corrigan Electric Co., Inc., and Robards Electric, Inc.<sup>1</sup> filed a complaint in which they alleged that Salt River ECC unreasonably amended its rules regarding underground service by deleting provisions that permitted customer installation and ownership of underground electric

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<sup>1</sup> The Complainants listed in the body of the Complaint include Craig Electric, Beacon Electric and Elite Electric. However, no further reference to these entities is found in the record of this proceeding.

services. The Complainants requested that the deleted provisions be reinstated. On August 12, 1999, Salt River ECC answered the Complaint and denied that its revisions were unreasonable. C & J Electric, Inc., Corrigan Electric Co., Inc., and Robards Electric, Inc. withdrew as complainants but remained as limited intervenors in this proceeding.

After the parties had conducted discovery, the Commission on February 29, 2000 held a hearing in this matter. Downey Trenching and Salt River appeared and were represented by counsel.<sup>2</sup> With the parties' submission of written briefs on April 6, 2000, this matter stood submitted for decision.

#### STATEMENT OF THE CASE

Salt River ECC, a rural electric cooperative organized pursuant to KRS Chapter 279, owns and operates facilities used for the transmission and distribution of electricity to the public for compensation. It serves approximately 32,614 customers in Nelson, Spencer, Bullitt, Washington, Marion, Mercer, Shelby, Anderson and Larue counties, Kentucky.<sup>3</sup> Its principal offices are located in Bardstown.

Downey Trenching, a Kentucky corporation, is primarily engaged in the business of digging trenches and ditches for the installation of underground plumbing and electrical lines. Mark Downey is its sole shareholder and officer. Downey Trenching's

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<sup>2</sup> At the hearing, the following persons testified: Mark Downey, Downey Trenching's owner; Joseph Larry Hicks, Salt River ECC's General Manager; Tim Sharp, Salt River ECC's Director of Engineering and Operations; and Albert Cahoe, Salt River ECC's Director of Operations for Bullitt County, Kentucky. Thomas Corrigan, owner of Corrigan Electric Company, Inc., appeared for the limited purpose of making a statement.

<sup>3</sup> Annual report of Salt River Electric Cooperative Corporation to the Public Service Commission of Kentucky for the year ended December 31, 1998.

offices are located in Louisville, Kentucky. It provides trenching services over a wide area that includes Salt River ECC's certified service territory.

Most Salt River ECC customers are connected to the electric cooperative's distribution facilities by overhead wires running from the customer's meter to the nearest connection point. Approximately 7,000 customers are connected through underground services.<sup>4</sup>

Beginning in January 1992, Salt River ECC offered prospective customers two options for obtaining underground service. Under the first option, the cooperative furnished and installed the appropriate underground wire. It required a prospective customer to open a ditch from the meter socket near the building to the nearest point of connection to the cooperative's distribution facilities, to lay a conduit in the ditch, and to equip the conduit with a pull wire to pull the wire being installed through the conduit. Salt River ECC generally contracted with a third party to perform this installation. For this service the cooperative charged a fee of \$175.00 for the first 150 feet, and \$1.45 per foot for any additional wire required. The wire was the electric cooperative's property. The electric cooperative assumed responsibility for the wire's maintenance, repair and replacement.

Under the second option, the customer also installed the wire. This option ("Option No. 2") did not require the customer to install the wire in conduit and therefore was less costly than the first option. The wire, however, remained the customer's property and the customer assumed responsibility for the maintenance, repair and replacement of such wire. The electric cooperative agreed to make its personnel

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<sup>4</sup> Transcript of 2/29/2000 Hearing at 83.

available to “assist in the location and/or repair of any problems relative to any conductor which is owned by the customer . . . [but a]ll costs associated with this work . . . [would] be billed by the Cooperative on a cost plus basis.”<sup>5</sup>

For any underground service installed under Option No. 2 requiring repair or replacement, Salt River ECC installs a temporary line to permit continued electric service to the customer until the underground service is repaired or replaced. This temporary line normally runs along the ground from Salt River ECC’s distribution lines to the customer’s premises. Although the temporary line is heavily insulated, Salt River ECC still considers it a safety hazard. To reduce the perceived danger, the electric cooperative limits the use of the temporary line to 10 days.

While Option No. 2 was in effect, most prospective customers seeking underground service selected the first option. Several customers, primarily builders and real estate developers, however, chose the second option. Salt River ECC witnesses testified that use of Option No. 2 increased significantly in 1997 and 1998. Nevertheless, the number of customers who chose Option No. 2 remained only a small fraction of the total number of customers with underground service.

In 1998 Salt River ECC employees noted an increase in the number of underground service failures. These failures occurred predominately among services that were installed under Option No. 2. After studying the problem, Salt River ECC’s management determined that Option No. 2 should be removed from its rules and that the electric cooperative should install and own all underground services. On February

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<sup>5</sup> Salt River Electric Cooperative Corporation, PSC No. 10, Original Sheet No. 54 (issued September 1, 1992).

1, 1999, Salt River ECC filed with the Commission revisions that deleted Option No. 2 from its rules.<sup>6</sup> These revisions became effective on March 1, 1999.

### DISCUSSION

KRS 278.260(1) grants the Commission jurisdiction over complaints regarding a utility's practices, acts or regulations that affect or relate to utility service. If the Commission finds that a utility's rules, regulations, or practices are "unjust, unreasonable, unsafe, improper, inadequate or insufficient," it shall determine "the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices . . . or methods to be observed, furnished, constructed, enforced or employed, and shall fix the same by its order." KRS 278.280(1).

Downey Trenching alleges that Salt River ECC's rules are unreasonable in two respects. First, they impose excessive requirements upon an applicant for underground service. For example, Salt River ECC requires that all underground services be placed in conduit. This requirement exceeds the National Electrical Code, which requires such placement only in limited circumstances, and therefore unnecessarily increases the cost of such installations. Second, the rules prevent applicants from supplying, installing, and owning the underground wire and thus prohibit customer choice and competition. With customer choice and competition, Downey Trenching argues, applicants for service can reduce their costs for underground services.

Salt River ECC argues that rules are necessary for several grounds. First, utility ownership of the service avoids customer confusion and adverse utility-customer

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<sup>6</sup> Salt River Electric Cooperative Corporation, PSC No. 10, 1st Revision Sheet No. 56, Cancelling P.S.C. No. 10, Original Sheet No. 54 (issued February 1, 1999).

relations. Many customers who currently own their underground services are unaware of their ownership and their responsibility to maintain or repair the service. When problems occur, they expect the utility to perform the repair work. Customers are usually upset and offended when the utility advises them that they are responsible for the repairs.

Second, utility ownership enhances safety. If problems develop with utility-owned services, repairs can be immediately made. With customer-owned facilities, delays may occur as customers obtain independent contractors to perform the work. In the interim, temporary installations are installed. Salt River ECC questions the safety of such installations.

Third, utility ownership ensures the quality of the service. The utility can confirm that the proper materials are being used and that the installation is consistent with acceptable standards.

Based upon the evidence and arguments presented, the Commission finds that Downey Trenching has failed to show that Salt River ECC's rules are unreasonable. While the National Electrical Code does not require that all underground services be placed in conduit, many electric utilities and contractors follow that practice. Most electric utilities subject to Commission regulation impose such a requirement. Commission regulations, while declaring the National Electrical Code to be a standard of acceptable practice, do not prohibit an electric utility from adopting a more stringent standard.<sup>7</sup> Similarly, most electric utilities subject to our jurisdiction impose the same restrictions that are at issue in this case.

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<sup>7</sup> 807 KAR 5:041, Section 3.

We find that Salt River ECC's rules bear a rational relationship to valid objective. They arguably promote the public safety, enhance service reliability, increase operational efficiency, and improve customer relations. We find little evidence in the record to suggest that significant cost savings to prospective customers would result from elimination of the requirement of utility ownership. To the extent that such savings may result, Downey Trenching has failed to demonstrate that such savings outweigh the benefits derived from the ownership restrictions so as to render the restrictions unreasonable.

IT IS THEREFORE ORDERED that Downey Trenching's complaint is denied.

Done at Frankfort, Kentucky, this 18<sup>th</sup> day of May, 2000.

By the Commission

ATTEST:

Deputy W. H. Bowen  
Executive Director