

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION INTO GRAYSON RURAL	)	
ELECTRIC COOPERATIVE CORPORATION'S	)	CASE NO. 2005-00280
PROVISION OF ELECTRIC SERVICE TO WALTER	)	
AND GOLDIE CALLIHAN	)	

ORDER

This case involves an investigation into allegations that Grayson Rural Electric Cooperative Corporation ("Grayson RECC") wrongfully discontinued electric service to Walter and Goldie Callihan ("the Callihans") and imposed unpublished conditions of service for the restoration of the Callihans' electric service. After an extensive investigation of these allegations, we find no evidence that Grayson RECC violated any provision of KRS Chapter 278 or of the Commission's administrative regulations with regard to its provision of electric service to the Callihans.

PROCEDURE

On July 7, 2005, the Callihans filed with the Commission a complaint against Grayson RECC and several officials of that utility and several present and former employees of this Commission. They alleged, *inter alia*, that the named defendants<sup>1</sup> conspired to deprive them of their civil rights, to violate the Sherman Anti-Trust Act<sup>2</sup> and

---

<sup>1</sup> The named defendants were: Carol Ann Fraley, Grayson RECC's President and Chief Executive Officer; Ken Arrington, Donnie Crum, Harold DuPuy, Ralph Hall, Bill Rice, James Simmons, Roger Trent, and Eddie Martin, members of Grayson RECC's Board of Directors; Mark David Goss, Gary Gillis, and Martin J. Huelsman, current or former members of the Kentucky Public Service Commission; and Thomas M. Dorman, Deborah T. Eversole, and John E.B. Pinney, current or former employees of the Kentucky Public Service Commission. The Kentucky Public Service Commission was also named as a defendant.

<sup>2</sup> 15 USCA §§ 1 - 6.

the Clayton Act,<sup>3</sup> and to deprive them of their electric service. They requested compensatory and punitive damages that allegedly arise from the named defendants' conduct.

On August 1, 2005, the Commission dismissed the complaint as it related to all persons other than Grayson RECC. It further directed Grayson RECC to answer or satisfy the matters in the complaint that related to the Callihans' allegations that Grayson RECC had wrongfully discontinued their electric service on or about April 11, 2003 and that Grayson RECC had wrongfully refused to restore Complainants' electric service.

Following Grayson RECC's answer and the establishment of a procedural schedule, the Callihans made a series of procedural motions. They first moved for recusal of the Commission and the Commission's legal staff.<sup>4</sup> On November 9, 2005, they then moved for postponement of the scheduled hearing<sup>5</sup> and for Grayson RECC's disclosure of certain information about its insurance carrier. On November 21, 2005, the Callihans moved for emergency relief. The following day they moved for a pre-hearing conference in the proceeding. On December 1, 2005, they filed a notice of their intent to withdraw their complaint.

On March 15, 2006, the Commission disposed of all outstanding motions. We denied the Callihans' motions for recusal of the Commission and the Commission's legal staff and for disclosure of information. Considering the Callihans' notice of withdrawal as a motion to withdraw their complaint, we granted this motion but directed

---

<sup>3</sup> 15 USCA §§ 12 - 15, 15a - 15h, 16 - 18, 18a, 19, 21 - 26, 26a.

<sup>4</sup> In the same motion, the Callihans also moved the Commission to take the video deposition of Goldie Callihan. Their subsequent motion to withdraw their complaint rendered this motion moot.

<sup>5</sup> The Commission rescheduled the hearing in this matter several times.

that the investigation of Grayson RECC's provision of electric service to the Callihans should continue. We further directed that, to the extent possible, this investigation should use informal procedures, including the use of interviews and depositions, to gather all available evidence.

Consistent with this directive, Commission Staff issued two sets of interrogatories and requests for production of documents upon Grayson RECC. On May 2, 2006, Commission Staff deposed under oath the following persons: Carol Fraley, Grayson RECC President and Chief Executive Officer; Donald Combs, Manager of Finance and Accounting, Grayson RECC; Rosemary Atkins; Ruby Cordle; and Glenn Coffee.<sup>6</sup> Commission Staff attempted to depose Walter Callihan. Mr. Callihan, however, refused to give testimony.<sup>7</sup>

#### STATEMENT OF THE CASE

Grayson RECC is a rural electric cooperative corporation that is organized pursuant to KRS Chapter 279. It provides electric service for heat, power, lights and other uses to 15,423 customers in Carter, Elliott, Greenup, Lawrence, Lewis and Rowan counties, Kentucky.<sup>8</sup> It is a utility subject to the Commission's jurisdiction.<sup>9</sup>

The Callihans are residents of Argillite, Kentucky and reside in the certified service territory of Grayson RECC.<sup>10</sup> With some lengthy interruptions, Grayson RECC

---

<sup>6</sup> In a request for issuance of subpoenas made prior to the withdrawal of their Complaint, the Callihans had indicated that these persons had unique knowledge of the events surrounding the termination of their electric service and the Callihans' subsequent efforts to restore that service.

<sup>7</sup> Deposition of Walter Callihan at 7 – 8.

<sup>8</sup> Annual Report Grayson Rural Electric Cooperative Corporation to the Public Service Commission of Kentucky for the Year Ending December 31, 2005, at 17 and 19.

<sup>9</sup> KRS 278.010(3)(a); KRS 279.210.

<sup>10</sup> See KRS 278.018(1) (a retail electric supplier "shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within its certified territory").

has provided electric power to the Callihans at their Argillite property since 1952.<sup>11</sup> It provided continuous electric service to the Callihans' property from October 21, 1991 until April 9, 2003. During this period, the Callihans had three separate accounts for electric service: a small commercial account, a pump account, and a house account.<sup>12</sup> Each of these accounts was separately metered and its usage recorded through an automatic meter reading system.<sup>13</sup>

According to Ms. Fraley, the cooperative experienced no significant payment or customer relation problems with the Callihans from 1996 until May 2002.<sup>14</sup> They generally paid their bills with cash or by check.<sup>15</sup> Grayson RECC's billing records show that the Callihans failed to make payments for service rendered on each account in *June and July 2002 and to reduce this arrearage in subsequent months.* Attachment A lists the Callihans' billing history for the period from April 2002 until April 2003.

When the Callihans failed to make timely payment of their bill, Grayson RECC issued overdue notices to them.<sup>16</sup> According to Ms. Fraley, Mr. Callahan disputed these notices and contended that payment had been made. When a search of its records failed to indicate that payment had been made, the utility requested that Mr. Callahan

---

<sup>11</sup> From February 1952 to October 1982, Walter Callihan was a member and customer of Grayson RECC. From October 8, 1982 until October 21, 1991, Grayson RECC refused to provide electric service to the Callihans because of alleged debts for electric service. See Walter Callihan v. Grayson Rural Electric Cooperative Corporation, 105 PUR4th 218 (Ky. PSC 1989); Grayson RECC's Response to Commission Staff's First Set of Interrogatories and Requests for Production of Documents, Item 1.

<sup>12</sup> Grayson RECC's Response to Commission Staff's First Set of Interrogatories and Requests for Production of Documents, Item 1.

<sup>13</sup> Deposition of Carol Fraley at 9.

<sup>14</sup> Id. at 16 – 17.

<sup>15</sup> Id. at 10 -11. See also Deposition of Don Combs at 6.

<sup>16</sup> Id. at 18.

provide evidence in the form of payment receipts to support his contention.<sup>17</sup> To assist Mr. Callihan, the utility prepared a spreadsheet of the Callihans' accounts.<sup>18</sup> Mr. Callihan, however, failed to provide any evidence to support his claims of payment.

On January 30, 2003, Ms. Fraley wrote to Mr. Callihan to advise him of the current status of his account and to offer a partial payment plan. Under this plan, the Callihans would have been required to pay, no later than February 17, 2003, the full arrearage of \$24.52 on their pump account, to pay the arrearage of \$170.02 on their residential account over a 3-month period, and to pay the arrearage of \$485.33 on their commercial account over a 6-month period.<sup>19</sup> Mr. Callihan did not accept this offer.

On March 21, 2003, Ms. Fraley again wrote to Mr. Callihan to advise him of his account status and to offer a partial payment plan. The proposed plan offered payment terms similar to the earlier partial payment plan. Ms. Fraley further requested that Mr. Callihan produce any receipts for payments that were not properly credited to his account. Ms. Fraley also included with her letter formal notices that stated the total amount due on the residential and commercial accounts and warned that each account was subject to disconnection on or after March 31, 2003. The record does not indicate that the Callihans responded to this letter. On April 9, 2003, Grayson RECC discontinued electric service to the three accounts.

Immediately following the discontinuance of service, Grayson RECC advised Mr. Callihan that the following actions were conditions to the restoration of electric

---

<sup>17</sup> Id. at 17.

<sup>18</sup> Letter from Carol Hall Fraley to Walter Callihan (Dec. 13, 2002).

<sup>19</sup> Letter from Carol Hall Fraley to Walter Callihan (Jan. 30, 2003).

service.<sup>20</sup> (1) payment of all remaining amounts owed for service rendered on or before April 9, 2003;<sup>21</sup> (2) payment of a deposit;<sup>22</sup> (3) payment of a membership fee; (4) payment of a disconnection and reconnection fee; and (5) submission of a membership application.<sup>23</sup>

After the discontinuance of his electric service, Mr. Callihan made at least 3 appearances at Grayson RECC's offices in Grayson, Kentucky. On April 15, 2003, Mr. Callihan visited and tendered a check in the amount of \$347.51. On this check, he noted that the payment was for April usage only.<sup>24</sup> The utility accepted the payment, but endorsed the check with the words "with recourse." On May 7 and 8, 2003, Mr. Callihan again visited and inquired about his account balances.<sup>25</sup> An office employee provided him with his account balances and his final meter reading. Mr. Callihan did not make any payment to the cooperative on these occasions.

Others sought to intervene with Grayson RECC on the Callihans' behalf. In April 2005, Ruby Cordle, an acquaintance of the Callihans, contacted Grayson RECC and

---

<sup>20</sup> Deposition of Carol Fraley at 26-27.

<sup>21</sup> According to Grayson RECC's billing records, the Callihans' accounts are \$707.26 in arrears. This arrearage includes the application of Mr. Callahan's membership of \$15 toward the arrearage.

<sup>22</sup> A new membership fee is required because Mr. Callahan's prior membership fee has been applied to the Callihans' outstanding debt. See Deposition of Carol Fraley at 27. See Tariff of Grayson RECC, PSC No. 3, Original Sheet 23.

<sup>23</sup> A new membership application is required because the Callihans' membership in Grayson RECC was terminated when their electric service was terminated. See Tariff of Grayson RECC, PSC No. 3, Original Sheet 23.

<sup>24</sup> Grayson RECC's Response to Commission Staff's First Set of Interrogatories and Requests for Production of Documents, Item 3 at 6.

<sup>25</sup> Id., Item 2 at 2 -3.

inquired about the restoration of electric service. In a telephone conversation with Ms. Fraley, Ms. Cordle offered to pay the outstanding arrearage.<sup>26</sup>

According to Ms. Fraley, Ms. Fraley advised Ms. Cordle of the prerequisites necessary for service to be restored to the Callihans.<sup>27</sup> She further indicated that either Mr. Callihan or some other person would have to assume responsibility for the new account. If someone other than Mr. Callihan was to assume responsibility for the account, Ms. Fraley advised, then Mr. Callihan must give the utility permission to place a meter on his property.<sup>28</sup>

According to Ms. Cordle's testimony, Ms. Cordle suggested to Ms. Fraley that electric service to the Callihans' property be placed in Mrs. Callihan's name and offered to pay the outstanding bill. Ms. Fraley told her, Ms. Cordle further testified, that "Mr. Callihan knew what it would take to have the electric turned back on" but did not elaborate.<sup>29</sup> Ms. Cordle did not question Ms. Fraley about the conditions under which Grayson RECC would restore electric service nor did Ms. Fraley identify any conditions for the restoration of electric service.<sup>30</sup> Ms. Cordle has not tendered any monies to Grayson RECC to reduce or eliminate the Callihans' debt.

---

<sup>26</sup> Deposition of Carol Fraley at 29.

<sup>27</sup> Grayson RECC's Response to Commission Staff's First Set of Interrogatories and Requests for Production of Documents, Item 3 at 29; Item 9.

<sup>28</sup> Id. at 29 – 30.

<sup>29</sup> Deposition of Ruby Cordle at 11.

<sup>30</sup> Id. at 11 – 12.

Glenn Coffee, a relative of the Callihans, also sought restoration of electric service to the Callihans. On April 27, 2006, Mr. Coffee offered in writing to guarantee payment of any bills for future electric service to the Callihan property.<sup>31</sup>

Responding to Mr. Coffee the next day, Ms. Fraley wrote:

Please be advised that in order for [Grayson] to provide service to the Callihans in your name, Mr. Callihan would have to agree in writing to allow us to do so. His outstanding indebtedness would have to be paid. Under normal circumstances, you would have to pay one month's deposit and a \$24.00 reconnect fee because you are not the property owner. However, as I told the Kentucky Public Service Commission some time ago, I will waive those fees in order to expedite this issue. Service can be restored as soon as I receive a written agreement and payment in full.<sup>32</sup>

Mr. Coffee found these terms unacceptable. He subsequently testified that his offer did not include payment of the Callihans' existing debts to Grayson RECC, the advancement of a security deposit to guarantee payment for electric service to the Callihans' property, or entering a contract with Grayson RECC for electric service to the Callihans' property.<sup>33</sup>

As of this date, the Callihans remain without electric service to their property in Argillite, Kentucky. They have not paid to Grayson RECC the sum of \$818.87<sup>34</sup> that the electric cooperative's records show is owed for electric service nor have they availed

---

<sup>31</sup> Undated letter from Glenn Coffee to Public Service Commission (filed April 27, 2006). Mr. Coffee repeated this offer under oath when he gave testimony to Commission Staff on May 17, 2006. See Deposition of Glenn R. Coffee at 5 - 6, 8. Nothing in the record suggests that this offer meets the requirements of KRS 371.065, which sets forth the requirements for a valid and enforceable guaranty.

<sup>32</sup> Letter from Carol Hall Fraley to Glenn Coffee (April 28, 2006).

<sup>33</sup> Deposition of Glenn R. Coffee at 5 - 8.

<sup>34</sup> See Attachment A. This amount has been reduced by \$15 to reflect the forfeiture of the Callihans' membership fee of \$15.



themselves of either a partial payment plan or the winter hardship reconnection plan that would allow for the restoration of electric service.

### DISCUSSION

This investigation presents two questions:

- (1) Was Grayson RECC's discontinuance of electric service to the Callihans' property unlawful?
- (2) Are the conditions that Grayson RECC has established for the restoration of electric service to the Callihans' property unlawful or unreasonable?

#### Termination of Electric Service

KRS Chapter 278 requires the Commission to "prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility."<sup>35</sup> "[O]n proper demand and tender of rates" a utility must provide "the commodity or render the service within the time and upon the conditions provided in the[se] rules."<sup>36</sup> Pursuant to Administrative Regulation 807 KAR 5:006, Section 14(1)(f), a "utility may terminate service at a point of delivery for nonpayment of charges incurred for utility service at that point of delivery."

Our investigation clearly reveals that the Callihans failed to make timely and complete payment to Grayson RECC of all charges billed for electric service. Grayson RECC's billing records show that the Callihans did not pay bills issued in June and July 2002 for electric service and thereafter failed to make any significant effort to reduce the arrearage caused by this failure. As of April 9, 2003, when Grayson RECC terminated electric service, the Callihans were in arrears \$707.26 on their 3 accounts for electric service to their property.

---

<sup>35</sup> KRS 278.280(2).

<sup>36</sup> Id. (emphasis added).

The Callihans contend that full payment has been made for electric service. In their complaint they assert that they “have in their possession receipts that will show that Walter and Goldie have in fact paid GRECC in full. And those receipts would satisfy any reasonable person or persons that Water and Goldie do not owe GRECC any delinquent bills.”

In asserting payment as a defense to Grayson RECC’s claims, the Callihans assume the burden of proving payment.<sup>37</sup> They have failed to meet this burden. Although contending that they possessed such proof, when offered the opportunity to present such documentary evidence, the Callihans refused to present it.<sup>38</sup> We have found no documentary evidence – no receipts, cancelled checks or accounting records – to prove payment.<sup>39</sup>

Administrative Regulation 807 KAR 5:006, Section 14(f)(1), requires that a utility provide advance notice of intent to terminate electric service.<sup>40</sup> The Callihans have not asserted that Grayson RECC failed to comply with these requirements. Our review of

---

<sup>37</sup> See Massie’s Ex’x v. Massie’s Ex’x, 156 S.W.2d 195 (Ky. 1941); Phillip’s Ex’r v. Reid, 104 S.W.2d 1093 (Ky. 1937); 60 Am.Jur.2d Payment § 115 (2006) (“As a general rule, a party who alleges payment as a defense has the burden of proving it.”).

<sup>38</sup> See Deposition of Walter Callihan at 7 – 17.

<sup>39</sup> Grayson RECC stated that prior to June 2002 the Callihans routinely paid their bills with cash. After June 2002, they generally paid with certified checks. See Grayson RECC’s Response to Commission Staff’s Second Set of Interrogatories and Requests for Production of Documents, Item 12. When the Callihans paid with cash, Grayson RECC provided them with a receipt of payment. See Deposition of Carol Fraley at 10 – 11.

<sup>40</sup> Termination notice requirements for electric or gas service. Each electric or gas utility proposing to terminate customer service for nonpayment shall mail or otherwise deliver to that customer ten (10) days’ written notice of intent to terminate. Under no circumstances shall service be terminated before twenty-seven (27) days after the mailing date of the original unpaid bill. The termination notice to residential customers shall include written notification to the customer of the existence of local, state and federal programs providing for the payment of utility bills under certain conditions, and of the address and telephone number of the Department for Social Insurance of the Cabinet for Human Resources to contact for possible assistance.

the record indicates that Grayson RECC notified the Callihans on March 21, 2003 of their account's delinquency and of possible disconnection on and after March 31, 2003.<sup>41</sup> This notice also included an offer of a partial payment plan.

Based upon our review of the record before us, we find no substantial evidence that Grayson RECC's termination of electric service to the Callihans was improper or unlawful. To the contrary, the evidence demonstrates that Grayson RECC's actions were consistent with Administrative Regulation 807 KAR 5:006.

#### Conditions of Service for Restoration of Service

In their complaint, the Callihans contend that Grayson RECC has refused to accept payment for the outstanding amounts owed on their accounts and has imposed additional conditions to restore electric service. These alleged conditions include Mr. Callihan's written agreement to cease public criticism of the cooperative's management, the filing of complaints against Grayson RECC with the Commission, and organizing efforts to force the sale of the cooperative.<sup>42</sup>

Administrative Regulation 807 KAR 5:006, Section 14(d) provides that "a utility shall not be required to furnish new service to any customer who is indebted to the utility for service furnished or other tariffed charges until that customer has paid his indebtedness." The evidence shows that the Callihans have yet to pay Grayson RECC the outstanding debt of \$707.26 for electric service provided prior to April 9, 2003. Accordingly, Grayson RECC's refusal to restore electric service is not unlawful, but within the utility's right.

---

<sup>41</sup> Grayson RECC's Response to Commission Staff's First Set of Interrogatories and Requests for Production of Documents, Item 1.

<sup>42</sup> Complaint at 9.

Our review of the record does not support the Callihans' contention that Grayson RECC refused an offer of payment. The record is absent of any evidence that the Callihans or any other person has tendered any monies to Grayson RECC for payment of the outstanding debt of \$818.37.

The Callihans place great emphasis on the efforts of Ms. Cordle in late April 2005, but these efforts did not involve the tender of any monies or Grayson RECC's refusal of such tender. Ms. Cordle testified that she contacted Grayson RECC by telephone in late April 2005 to inquire about restoration of electric service to the Callihans and to offer payment of the Callihans' outstanding bill. Ms. Cordle was acting without authority from the Callihans<sup>43</sup> and without specific knowledge of the amount of the outstanding debt.<sup>44</sup> According to Ms. Cordle, Ms. Fraley responded to her inquiry by stating that "Mr. Callihan knew what it would take to have the electric turned back on," but did not specify any specific conditions.<sup>45</sup> At no time did Ms. Cordle tender any monies to Grayson RECC nor did Grayson RECC refuse any offer of payment.

The Callihans have also noted the efforts of Mr. Coffee to guarantee payment of any future bills for electric service. Assuming arguendo that Mr. Coffee's guarantee is legally enforceable, it is not an offer of payment. Mr. Coffee testified that he has not

---

<sup>43</sup> Deposition of Ruby Cordle at 9. According to Ms. Fraley's testimony, Ms. Cordle indicated to her that Mr. Callahan had knowledge of Ms. Cordle's contacts with the cooperative and encouraged them. Deposition of Carol Fraley at 30-31.

<sup>44</sup> Id. at 11.

<sup>45</sup> Id. Ms. Fraley's recollection of the telephone conversation differs on this point. Ms. Fraley testified that she did not state the amount of the outstanding debt because of privacy considerations and because Ms. Cordle was apparently aware of the amount. She did, however, list the conditions necessary for restoration of service and advised that "someone would have to be responsible for the bill to get service restored." Deposition of Carol Fraley at 29-30.

offered to pay the Callihans' outstanding debt and that his offer extends only to future electric service.<sup>46</sup>

Grayson RECC has established the following conditions for restoring electric service to the Callihans.<sup>47</sup>

- Payment of the outstanding indebtedness of \$707.26;<sup>48</sup>
- Submission of an application for membership and electric service or a request for service as a non-member;<sup>49</sup>
- Payment of a membership fee of \$15;<sup>50</sup>
- Payment of a reconnection fee of \$24;<sup>51</sup>
- Payment of a security deposit of \$60.<sup>52</sup>

Each of these conditions is set forth in Grayson RECC's filed schedule of rates and rules.

As a utility, Grayson RECC must "furnish adequate, efficient, and reasonable service."<sup>53</sup> It may "establish reasonable rules governing the conduct of its business and

---

<sup>46</sup> Deposition of Glenn R. Coffee at 8 ("I've never offered to pay the bill and I won't pay the bill").

<sup>47</sup> Deposition of Carol Fraley at 26.

<sup>48</sup> Tariff of Grayson RECC, PSC No. 3, Original Sheets 25-26. See also 807 KAR 5:006, Section 14(d). Based upon our review of Grayson RECC's billing records, the Commission believes that the Callihans owed \$818.87 for electric service. The amount of \$707.26 does not reflect service that the Callihans used between March 26, 2003 and April 9, 2003.

<sup>49</sup> Id. at Original Sheet 23; Bylaws of Grayson RECC, Article I, Section 7.

<sup>50</sup> Id. A new membership fee is required because Grayson RECC applied the original membership fee that the Callihans paid in 1991 against the Callihans' outstanding balance owed when it terminated electric service. See also Deposition of Carol Fraley at 28.

<sup>51</sup> Tariff of Grayson RECC, PSC No. 4, Original Sheet 38. See also 807 KAR 5:006, Section 8(3)(b).

<sup>52</sup> Tariff of Grayson RECC, PSC No. 3, Original Sheet 28. See also 807 KAR 5:006, Section 7.

<sup>53</sup> KRS 278.030(2).

the conditions under which it shall be required to render service.<sup>54</sup> Once it has established these rules and filed them with the Commission, it must strictly enforce them and may not apply them in an unequal or prejudicial manner.<sup>55</sup>

The conditions that Grayson RECC has established for the restoration of electric service to the Callihans are consistent with Commission regulations and Grayson RECC's filed rules and regulations. Their imposition is not improper, unreasonable or unlawful. Were Grayson RECC to restore electric service to the Callihans without satisfaction of these conditions, Grayson RECC would be providing an unreasonable preference to the Callihans at the expense of its other customers.

As to the Callihans' allegations that Grayson RECC sought to impose additional requirements as a condition for the restoration of electric service, such as an agreement to cease publicly criticizing the cooperative, we have found no supporting evidence. Ms. Cordle, who the Callihans alleged in their complaint to have witnessed Grayson RECC's insistence on other conditions, testified that she had no direct knowledge of such conditions. The Callihans did not identify any other person with knowledge of such conditions. Mr. Callihan refused to testify about such matters. Grayson RECC's officials expressly deny that any additional conditions for the restoration of service were imposed.

---

<sup>54</sup> Id.

<sup>55</sup> KRS 278.160(2); KRS 278.170(1).

## SUMMARY

As a general rule, a public utility must serve on reasonable terms all who desire the service it renders.<sup>56</sup> It may, however, refuse service to any customer who, after reasonable notice, fails to pay his bill. Because the refusal of service is more effective and economical than the limitation of an infinite number of lawsuits to collect small amounts from scattered customers, it is a universally accepted practice.<sup>57</sup>

In the present case, the Callihans have failed to pay their bills for electric service that Grayson RECC has furnished. After providing proper notice and a reasonable period of time to pay the outstanding debt, Grayson RECC terminated electric service. It refuses to provide electric service until the Callihans have complied with the conditions for restoration of service that are set forth in Grayson RECC's filed rules and regulations. Its refusal to provide service is not unlawful or unreasonable.

The Commission is not unmindful of the living conditions that the Callihans must endure as a result of the termination of electric service. These living conditions, however, are of their own choosing and their own conduct. They may have service restored at any time by paying the entire balance of their indebtedness and meeting the other conditions set forth in Grayson RECC's rules. Moreover, they may enter into a partial payment plan with Grayson RECC and have electric service restored immediately while they pay the outstanding indebtedness over an agreed period. Their

---

<sup>56</sup> See Huff v. Electric Plant Board of Monticello, 299 S.W.2d 817 (Ky. 1957); Louisville Tobacco Warehouse Co. v. Louisville Water Co., 172 S.W.928 (Ky. 1915); Cox v. City of Cynthiana, 96 S.W. 456 (Ky. 1906). See also 64 Am.Jur.2d Public Utilities §48 (2006).

<sup>57</sup> The U.S. Supreme Court found the practice "strongly supported in reason, for not only are telephone rates fixed and regulated in the expectation that they will be paid, but the company's ability properly to serve the public largely depends upon their prompt payment. They usually are only a few dollars per month, and the expense incident to collecting them by legal process would be almost prohibitive." Southwestern Telegraph & Telephone Co. v. Danaher, 238 U.S. 482, 489-490.

refusal to take these actions does not entitle them to treatment more favorable than that to which other customers are entitled.

IT IS THEREFORE ORDERED that this investigation is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 12th day of February, 2007.

By the Commission

ATTEST:

  
Executive Director

Case No. 2005-00280



**TABLE I**

<b>HOUSE ACCOUNT</b>					
<b>Member: 36247-03</b>					
<b>Bill Date</b>	<b>Arrears</b>	<b>Bill Amount</b>	<b>Paid Date</b>	<b>Paid Amount</b>	<b>Outstanding Balance Owed</b>
04/25/03	177.13	37.00			214.13
03/26/03	177.13	115.52	04/15/03	115.52	177.13
03/04/03	170.02	78.21	03/14/03	71.10	177.13
01/27/03	170.02	85.67	02/14/03	85.67	170.02
12/26/02	161.47	94.09	01/14/03	85.54	170.02
11/22/02	149.87	127.66	12/11/02	116.06	161.47
10/29/02	49.00	100.87	Not Paid	.00	149.87
09/25/02	73.42	8.77	10/23/02	33.19	49.00
08/27/02	68.01	43.49	09/04/02	38.08	73.42
07/26/02	38.08	29.93	Not Paid	.00	68.01
06/26/02	4.17	33.91	Not Paid	.00	38.08
05/24/02	.00	45.91	06/20/02	41.74	4.17
04/24/02	59.95	-21.35	05/09/02	38.60	.00
03/25/02	.00	59.95	Not Paid	.00	59.95
<b>PUMP ACCOUNT</b>					
<b>Member: 36247-02</b>					
<b>Bill Date</b>	<b>Arrears</b>	<b>Bill Amount</b>	<b>Paid Date</b>	<b>Paid Amount</b>	<b>Outstanding Balance Owed</b>
04/25/03	27.08	6.21			33.29
03/26/03	27.08	47.69	04/15/03	47.69	27.08
03/04/03	24.62	64.61	03/14/03	62.15	27.08
01/27/03	24.62	66.57	02/14/03	66.57	24.62
12/26/02	22.39	57.57	01/14/03	55.34	24.62
11/22/02	21.37	11.30	12/11/02	10.28	22.39
10/29/02	4.68	16.69	Not Paid	.00	21.37
09/25/02	-1.63	8.61	10/23/02	2.30	4.68
08/27/02	3.67	7.98	09/04/02	13.28	-1.63
07/26/02	13.28	-9.61	Not Paid	.00	3.67
06/26/02	4.51	8.77	Not Paid	.00	13.28
05/24/02	.00	49.67	06/20/02	45.16	4.51
04/24/02	-54.50	99.21	05/09/02	44.71	.00
03/25/02	.00	74.73	04/08/02	129.23	-54.50
<b>COMMERCIAL ACCOUNT</b>					
<b>Member: 36247-01</b>					
<b>Bill Date</b>	<b>Arrears</b>	<b>Bill Amount</b>	<b>Paid Date</b>	<b>Paid Amount</b>	<b>Outstanding Balance Owed</b>
04/25/03	503.05	83.40			586.45
03/26/03	503.05	184.30	04/15/03	184.30	503.05
03/04/03	485.33	205.63	03/14/03	187.91	503.05
01/27/03	485.33	193.34	02/14/03	193.34	485.33
12/26/02	469.10	188.36	01/14/03	172.13	485.33
11/22/02	458.77	119.84	12/11/02	109.51	469.10
10/29/02	326.98	431.79	11/04/02	300.00	458.77
09/25/02	582.30	9.19	10/23/02	264.51	326.98
08/27/02	565.72	297.55	09/04/02	280.97	582.30
07/26/02	280.97	284.75	Not Paid	.00	565.72
06/26/02	18.08	262.89	Not Paid	.00	280.97
05/24/02	-.27	210.07	06/20/02	191.72	18.08
04/24/02	.00	122.42	05/09/02	122.69	-00.27
03/25/02	.00	201.72	04/08/02	201.72	00.00