

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC INVESTIGATION INTO ALLEGED )	
VIOLATIONS OF KRS 278.160, 807 KAR 5:006; )	
AND COMMISSION ORDERS BY SALT RIVER )	
ELECTRIC COOPERATIVE CORP., SALT RIVER )	
ELECTRIC COOPERATIVE CORP.'S BOARD OF )	
DIRECTORS: JIMMY LONGMIRE, CHAIRMAN; )	CASE NO.
A.C. "HAPPY" CAHOE, VICE CHAIRMAN; LINDA )	2020-00347
WEST, SECRETARY; GAYLE TROUTMAN, )	
TREASURER; DARRELL TINGLE, DIRECTOR; )	
AND GARRY MAN, AND SALT RIVER ELECTRIC )	
COOPERATIVE CORP.'S PRESIDENT AND )	
CHIEF EXECUTIVE OFFICER, TIM SHARP )	

ORDER

The Commission, on its own motion and pursuant to KRS 278.260, established this proceeding by Order on October 22, 2020, to conduct a formal investigation into Salt River Electric Cooperative Corp.'s (Salt River Electric) and, individually, Salt River Electric's Board's, and Executive Officers' (collectively, Salt River Electric) possible violations of: the Commission's Orders in Case No. 2020-00085<sup>1</sup> entered on September 21, 2020, and September 30, 2020; Salt River Electric's tariff provisions governing disconnection procedures; and 807 KAR 5:006, Section 15(f).

These alleged violations arose out of planned disconnections of Salt River Electric member's electric service for nonpayment for arrearages accrued during the COVID-19 pandemic. The October 22, 2020 Order directed Salt River Electric and the parties to file

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<sup>1</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Sept. 21, 2020).

a response to the Order no later than October 23, 2020, scheduled a hearing for October 26, 2020, and suspended disconnections for nonpayment of Salt River Electric's customers.

### BACKGROUND

On October 21, 2020, the Commission received notice that Salt River Electric had begun disconnection of its members. Employees of the Commission contacted Salt River Electric to inquire as to whether Salt River Electric had begun disconnections. In an email dated October 21, 2020, sent from the Manager of Office Services for Salt River Electric, Phyllis Oliver, to Branch Manager of the Office of the Consumer Services Branch for the Commission, Rosemary Tutt, Ms. Oliver confirmed that Salt River Electric has already disconnected several of its prepay members and planned to begin disconnections of its postpay members beginning October 27, 2020.

The Commission, in the October 22, 2020 Order, found that applying Salt River Electric's tariff provision and the requirements of the September 21, 2020 Order in Case No. 2020-00085 for disconnections of postpay members, Salt River Electric would have had to, based upon the October billing cycle, render a bill for electric service consumed after October 1, 2020, and include in that bill the payment for the partial payment plan either agreed to by the customer or, if there was no agreement on a payment plan, the amount due under the default six-month payment plan.<sup>2</sup> Unless Salt River Electric's billing cycle ended on October 2, 2020, Salt River Electric mailed its bills that day, and postpay members failed to pay both the current bill for service rendered after October 1, 2020, and missed making payment under the partial payment plan, it appeared that the

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<sup>2</sup> Order (Ky. PSC Oct. 22, 2020) at 4.

earliest date Salt River Electric could have begun disconnections of its postpay members would have been October 29, 2020.<sup>3</sup>

The Commission concluded that, unless a customer refused to make any payment on a prepay account, it was difficult to discern a situation in which Salt River Electric would already be disconnecting prepay customers.<sup>4</sup> Particularly because, regarding prepay customers, the Commission, in Case No. 2020-00085, required that Salt River Electric either enter a payment plan with a member that had an arrearage or use the prepay splitting mechanism in the utility's tariff to apply payments to arrearages.<sup>5</sup> Salt River Electric's tariff provides a 70/30 split, where 70 percent of a payment is applied to new purchases and 30 percent is applied to the arrearage.<sup>6</sup> The Commission required that the payment plan of this splitting mechanism be provided for a minimum of one year, and for no more than two years.<sup>7</sup> Under either the splitting mechanism or an agreed-to payment plan, the prepay customer will run a negative balance until the arrearage is paid off.

On October 23, 2020, Salt River Electric filed a partial response to the October 22, 2020 Order and petitioned the Commission to, *inter alia*, reschedule the October 26, 2020 hearing, as well as for an extension of time in which to respond to the October 22, 2020

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<sup>3</sup> *Id.* at 6.

<sup>4</sup> *Id.*

<sup>5</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Sept. 21, 2020), Order at 11.

<sup>6</sup> Salt River Electric's Tariff, P.S.C. No. 12, 2<sup>nd</sup> Original Sheet No. 81B.

<sup>7</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Sept. 21, 2020), Order at 11.

Order.<sup>8</sup> As grounds for its motion, Salt River Electric stated that it had reconnected all of the disconnected prepay accounts and ceased any other disconnections for nonpayment.<sup>9</sup> The Commission, on October 26, 2020, granted the extension of time for Salt River Electric to file a response and canceled the hearing.<sup>10</sup>

On October 30, 2020, Salt River Electric filed its complete response to the Commission's Order.<sup>11</sup> Salt River Electric, in its response, stated that it had only disconnected prepay customers that had made no payment whatsoever on their accounts, and had made no disconnection on postpay accounts.<sup>12</sup> Salt River Electric, however, conceded that in its communications with postpay customers, it should have made clearer that postpay customers would be subject to disconnection procedures if no payment was made on current and arrearage balances.<sup>13</sup>

Salt River Electric stated that it had communicated with its customers throughout the moratorium, and has worked with its customers to establish payment plans for individual customers, as well as establishing a default payment plan of nine months.<sup>14</sup> Salt River Electric asserted that, since the Commission's Order initiating this investigation, it had redoubled its efforts to contact its customers, both directly and by use of

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<sup>8</sup> Salt River Electric's Motion for Extension of Time, to Reschedule Hearing, and for Other Relief (filed Oct. 23, 2020).

<sup>9</sup> *Id.*

<sup>10</sup> Order (Ky. PSC Oct. 26, 2020).

<sup>11</sup> Salt River Electric's Supplemental Response to Order (Salt River Electric's Supplemental Response) (filed Oct. 30, 2020).

<sup>12</sup> *Id.* at 3.

<sup>13</sup> *Id.* at 2.

<sup>14</sup> *Id.* at 11.

advertisements, social media, etc., to inform customers of payment plans.<sup>15</sup> Salt River Electric claimed that its efforts have been mostly successful.<sup>16</sup>

Regarding prepay accounts, Salt River Electric stated that, on October 21, 2020, a total of 311 prepay accounts had negative balances, had made no payments, and had not responded to any of the communications (including daily low balance/pending-auto-disconnect alerts by phone, email, or text) made by Salt River Electric.<sup>17</sup> At that point, the 311 accounts were disconnected.<sup>18</sup> Subsequently, 249 customers contacted Salt River Electric and were reconnected and placed under Salt River Electric's 70/30 splitting factor in Salt River Electric's tariff, unless a customer requested a different plan. Of the remaining 62 prepay accounts, two of the accounts were no longer needed and discontinued at the customers' request.<sup>19</sup> As of October 23, 2020, 23 other prepay customers had been placed on the 70/30 splitting factor.<sup>20</sup>

For the remaining prepay accounts with negative balances, Salt River Electric stated that two of the customers have objected to the requirement to make any payment at all.<sup>21</sup> The remainder, Salt River Electric claimed, have not responded to Salt River Electric or otherwise communicated with Salt River Electric.<sup>22</sup> Salt River Electric asserted

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<sup>15</sup> *Id.* at 11–12.

<sup>16</sup> *Id.*

<sup>17</sup> Salt River Electric's Supplemental Response (filed Oct. 30, 2020) at 4–5.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 4.

<sup>22</sup> *Id.*

that these accounts could be disconnected, consistent with its tariff and the Commission's Orders.<sup>23</sup>

In response to a Commission Staff's request for information, Salt River Electric provided information concerning its efforts to contact prepay customers. Regarding Salt River Electric's communications with prepay customers with negative or low balances, Salt River Electric provided copies of the automated texts and emails that are sent out under normal circumstances for those customers.<sup>24</sup> Salt River Electric also produced of these texts and email messages and any follow up communication with these customers. Beginning on October 14, 2020, Salt River Electric began transmitting automated phone calls to its prepay customers that would be subject to disconnection once the moratorium on disconnections was lifted.<sup>25</sup>

Salt River Electric utilizes a third party system, Milsoft, to contact members with past due balances. Milsoft produced a confidential report that reflects the results of the October 14, 2020 calling campaign. According to the report, 92 percent of the automated calls were answered.<sup>26</sup> Salt River Electric reviewed the call logs to determine which customers had not answered the automated calls.<sup>27</sup> Salt River Electric then emailed a letter to those customers informing the customers that the Commission had lifted the

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<sup>23</sup> *Id.*

<sup>24</sup> Salt River Electric's Response to Commission Staff's First Request for Information (Salt River Electric's Response to Staff's First Request) (filed Nov. 13, 2020), Item 1.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

moratorium on disconnections and to contact Salt River Electric as soon as possible to make payment arrangements to avoid disconnection.<sup>28</sup>

Salt River Electric conducted a second automated calling campaign on October 20, 2020, with an approximate 90 percent success rate.<sup>29</sup> The records show if the call was answered, or an answering machine picked up, or if there was no response. Salt River Electric stated that it did begin calling the delinquent prepay customers that had not responded, but that after a few calls, Salt River Electric concluded that the in-person calls would not benefit those customers because of those reached, the customers, “consistently expressed that they neither expected nor wanted to be contacted again.”<sup>30</sup> Salt River Electric also noted that its member service personnel were receiving double the volume of normal calls, up to 4,000 per day, and Salt River Electric asserted that its resources were better directing to handling those calls.<sup>31</sup>

Regarding postpay accounts, Salt River Electric admitted that disconnections of postpay accounts prior to October 29, 2020, would have been inconsistent with the Commission's Orders, as well as the applicable tariffs and regulations.<sup>32</sup> Salt River Electric asserted, however, that its intent was to begin the process of its disconnection procedures and evaluating delinquent postpay accounts for disconnection with its normal

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<sup>28</sup> *Id.*

<sup>29</sup> *Id.* at Item 2.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Salt River Electric's Supplemental Response at 5.

cycles, starting with the cycle beginning Tuesday, October 27, 2020.<sup>33</sup> Salt River Electric recounted its disconnection procedures which include: manual review of the account to ensure that no billing error has occurred; manual evaluation of notice mailing date; confirmation that the appropriate period of time has passed since notice; one final attempt by customer service to contact the customer and notify them of the impending disconnect before a disconnection order is actually entered. Salt River Electric stated that it will also take into account other factors such as the weather, availability of linemen/meter readers, etc., when determining whether disconnection should occur.<sup>34</sup>

Salt River Electric asserted it makes every reasonable and legally-required effort to contact delinquent customers prior to discontinuing service. In addition, Salt River Electric denied it violated its tariff with regard to prepay customers. Salt River Electric noted its tariff does not require advance termination notices for prepay customers and these disconnections were conducted pursuant to tariff.<sup>35</sup>

### DISCUSSION

Based upon the above, the Commission concludes that Salt River Electric did not violate its tariff or 807 KAR 5:006 Section 15(f) because Salt River Electric did not actually disconnect any postpay customers (even though it was prevented by the Commission's Order in Case No. 2020-00085). Commission regulation 807 KAR 5:006, Section 15(f) provides that no service can be disconnected for nonpayment earlier than 27 days after the mailing of a bill; Salt River Electric's tariff contains the requirements for disconnection

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 5–6.

<sup>35</sup> *Id.* at 7.

as set forth in 807 KAR 5:006 Section 15(f). If Salt River Electric proceeded as it originally planned, then it is probable that Salt River Electric would have violated its tariff and 807 KAR 5:006, Section 15(f). However, in the absence of any actual disconnections for postpay customers, the Commission finds that there are no violations of Salt River Electric's tariff or 807 KAR 5:006 Section 15(f).

Regarding prepay customers, Salt River Electric's tariff allows it to disconnect any prepay customer that has a negative balance. Therefore, Salt River Electric did not violate its tariff when it disconnected prepay customers who had a negative balance on and after October 20, 2020. Likewise, Salt River Electric has a deviation from 807 KAR 5:006, Section 15(f), granted when the Commission approved Salt River Electric's prepay tariff.<sup>36</sup> Therefore, the Commission finds that Salt River Electric did not violate its tariff or 807 KAR 5:006, Section 15(f) when it disconnected prepay customers.

The Commission further finds that Salt River Electric's efforts to contact its prepay members to avoid disconnection appear to be reasonable and warrant no further investigation. As discussed above, Salt River Electric engaged in a broad based media and social media campaign, including radio and television spots. In addition to the normal texts and emails informing prepay customers of negative or low balances, Salt River Electric made automated calls to these prepay customers and the records show that 92 percent of these calls were answered.<sup>37</sup> If Salt River Electric did not get confirmation the call had been answered, a letter was emailed to the customer. If the email address

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<sup>36</sup> Case No. 2012-00141, *Application of Salt River Electric Cooperative Corporation for Approval of a Prepay Metering Pilot Program* (Ky. PSC July 11, 2012).

<sup>37</sup> Salt River Electric's Response to Staff's First Request (filed Nov. 13, 2020), Items 1 and 2.

did not work, a copy of the letter was mailed to the address listed on the account. A second round of automated calls was made on October 20, 2020.

Given the volume of calls incoming to Salt River Electric, the Commission finds that it was reasonable for Salt River Electric to have relied on automated calls, letters, and texts to reach the prepay customers. Furthermore, as discussed above, Salt River Electric's disconnection of prepay customers did not violate its tariff, Commission regulations, or the Commission's Orders in Case No. 2020-00085 because Salt River Electric had only disconnected prepay customers who had made no payment on their accounts. Salt River Electric reconnected all of the prepay customers that had been disconnected at the time.

The Commission, based upon the foregoing, finds that this investigation should be closed and Salt River Electric be permitted to resume disconnections for nonpayment upon the date of entry of this Order. The Commission further finds that, due to the possible high past-due balances, that Salt River Electric may provide payment plans for the past-due balances consistent with the payment plans required by the September 21, 2020 Order in Case No. 2020-00085.<sup>38</sup>

Based on the foregoing, IT IS HEREBY ORDERED that:

1. Salt River Electric may resume disconnections for nonpayment consistent with this Order.
2. This case is closed and removed from the Commission's docket.

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<sup>38</sup> Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC Sept. 21, 2020), ordering paragraphs 2 and 7.

By the Commission

ENTERED  
JAN 28 2022 rcs  
KENTUCKY PUBLIC  
SERVICE COMMISSION

ATTEST:

  
Executive Director

Case No. 2020-00347

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