ARKANSAS PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE APPLICATION OF OUACHITA ELECTRIC COOPERATIVE CORPORATION REQUESTING IMPLEMENTATION OF A NEW ENERGY EFFICIENCY PROGRAM DESIGNED TO INDIVIDUALLY CUSTOMIZE ENERGY EFFICIENCY MEASURES	)))))))	DOCKET NO. 15-106-TF ORDER NO. 2

ORDER

On October 19, 2015, Ouachita Electric Cooperative Corporation (Ouachita) filed an Application (subsequently amended on December 10, 2015, to provide renumbered tariff sheets), seeking approval by the Arkansas Public Service Commission (Commission) of Rate Schedule No. 15, "Pay As You Save®" Optional On-Bill Program (PAYS® Program or Program). In support of its request, Ouachita filed the testimony of Michael W. Searcy and Mark Cayce. On October 23, 2015, at the request of the General Staff (Staff), the Commission suspended the proposed Program tariff, pending investigation. On December 14, 2015, Staff filed the Compliance Testimony of Senior Rate Analyst Robert H. Swaim, recommending approval of the tariff.

Mark Searcy, a consultant for Ouachita, describes the PAYS® Program, which he notes has been approved by regulatory bodies in New Hampshire, Kansas, Hawaii, and Kentucky. He states that the Program is a voluntary energy efficiency (EE) service that applies only to the metered structures of members requesting the service. The Program helps members overcome the up-front cost of EE measures that are "paid back" through power cost reductions over a multi-year period, particularly members who are not

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certain they will be at a given location long enough to recover their investment or whose investments benefit renters.

According to Mr. Searcy, the Program funds individually customized EE projects at residential, municipal, or small commercial buildings, which are reimbursed by clearly defined savings over a given time period. *Id.* at 2. He notes that Ouachita anticipates that the majority of participants will be residential and that most projects will likely consist of:

High efficiency air source or ground source heat pumps installation;

High efficiency air conditioning coupled with high efficiency gas furnaces;

Duct sealing and duct insulation;

Building envelope sealing and insulation; and

Commercial and residential high efficiency lighting.

Id. at 3.

Mr. Searcy states that the Program is not a loan program and instead uses a tariffed on-bill service charge that will eliminate the need for a personal loan or up-front cash investment by Ouachita members. No debt obligation is created for the member because the terms of service defined in the tariff assign the obligation to the metered location, not to the member. *Id.* at 4-5. In effect, Mr. Searcy testifies, the cooperative is providing the member with a service (improved energy efficiency and lower billing) and is charging for this service through a monthly fee for a time period not to exceed a portion of the expected life of the measure and the structure. Since the member will, at worst, pay nothing more than if the project was never done, Mr. Searcy asserts that the customer cannot lose. *Id.*

Mr. Searcy notes that the Program does not guarantee total monthly energy savings because, for example, customers may add additional energy-using equipment in their building, more occupants may occupy the building, or members may increase use of energy-consuming equipment. However, he states, the Program does guarantee that installed measures will continue to function and the service charge will be suspended and/or reduced if a measure does not perform, until repairs are made to restore the measure to service. *Id.* at 6.

Mr. Searcy states that Ouachita's smart meters will allow it to compare current bills at a location where measures were installed to estimated savings and to investigate the cause if projected savings do not appear to materialize. Failed measures will be repaired or customers will receive information about how their changing use has increased their bills and what they can do about it. *Id.*

Mr. Searcy contends that the Program is in the public interest because it will fund projects that will not otherwise move forward. He notes that reduced wholesale energy costs will significantly offset the revenue reductions to Ouachita from the Program, and that it could reduce operating margins. He states, however, that the Program will focus on measures such as high efficiency heat pumps, LED lighting, insulation, duct sealing, etc., that will reduce wholesale capacity demand costs. Ouachita expects a small long-term effect on operating margins. *Id.* at 7.

Mr. Searcy testifies that the Program is neither a fuel-switching plan nor does it promote electric usage. He testifies that a customer with existing low-efficiency gas heating equipment can use the Program to fund a high-efficiency replacement with a high-efficiency gas furnace and electric air conditioning in the same way as it would a high-efficiency electric heat pump. Ouachita is working with neighboring gas utilities to create a partnership under which a member customer who receives an EE rebate or other funding from the gas company for the same project would "sign over" the rebate to the cooperative and thus lower the monthly service charge. *Id.*

According to Mr. Searcy, Ouachita has an ongoing contract with EEtility, an Arkansas-based contractor that will perform the EE tests for any interested customer and provide the member and the cooperative with a report that will include an Energy Efficiency Plan (Plan). The Plan will provide a description of each retrofit option proposed, the estimated and maximum amounts of funding the cooperative would invest, and a financial summary of the monthly on-bill service charge, including the amount of program fees, cumulative cooperative interest reimbursed, and the total amount paid by members at this location in service charges over the life of the project. The program will only fund measures with costs no more than 80% of their benefits. *Id.* at 8.

The Program will include post-installation testing, Automated Metering Infrastructure (AMI) smart metering analysis to track savings, and a maintenance contract for major equipment. *Id.* at 9-10. Mr. Searcy states that members will see savings significantly greater than the average monthly service charge for the program, although there may be months when a customer would have higher or lower usage. *Id.* at 10.

Mr. Searcy states that the program binds future members at the same structure to pay the monthly service charge, but notes that the new member will be receiving the benefit of the Program in excess of the cost. *Id.* at 11. According to Mr. Searcy, future bill payers, including renters, will be notified by the seller or building owner that the program is in place and that they will receive a monthly service charge as part of their electric bill. *Id.* at 12. The cooperative will require participants to sign a contract that will include a requirement that the participant will provide notice to any future property owner or renter prior to sale. Mr. Searcy explains that, in almost all cases, utilities do not learn about transfers of occupancy or ownership until after they have taken place and the new occupant or owner requests new electric service, and that the owner is the only party in a position to ensure that disclosure takes place prior to a transfer. Nonetheless, he states, the cooperative will ensure that new members at a location where measures are installed receive proper disclosure from the building owner by providing each new member with notice of the on-bill charge amount, the measures installed, the installing contractor, the estimated savings based on older rates, and the estimated duration of charges. The cooperative will instruct new members who did not receive required disclosure from the building owner of their rights as provided for and agreed to by the owner in the contract that authorized installation of measures and created the requirement to disclose. *Id.*

Mr. Searcy touts the simplicity of the Program because members will pay for everything on the same bill and will not have to deal with lenders, credit checks, cash outlays and monthly payments, and the simplicity of having everything on the same bill – both savings and costs. Under the proposed Program, if a member does not make the required monthly service charge payment, service will be disconnected, in accordance with previously established rules for treatment of non-payment. Mr. Searcy testifies that Ouachita specifically requests the Commission to find that this service is an integral part of electric service and that the cooperative is permitted to disconnect members for non-payment of this service, subject to existing rules covering notice, time periods, etc. that are included in the Commission's *General Service Rules* and the cooperative's terms and conditions of service that are applicable to standard electric service. He states that Ouachita believes the Program service charge should be considered as similar to providing security lighting, whereby a member cannot request an optional security light and then later to refuse to pay for the lighting part of the bill without being ultimately subject to disconnection for non-payment. *Id.* at 13-14.

Mr. Searcy notes that Ouachita has received funding in prior years to use as a fund against losses in its existing energy efficient loan program. Ouachita seeks approval to use any non-expensed fund remainder from this loan-loss reserve to set against lost service charge revenue from causes, such as those just described, but only after the cooperative's normal collection efforts have failed to recover service charge revenue. *Id.*

Mr. Searcy states that the monthly charge will be determined on a case-by-case basis, following Ouachita's contractor's analysis and development of an Energy Efficiency Plan. If the project is determined to have a positive cost-benefit, it will be subject to funding by the cooperative on a non-discriminatory basis, and when the member begins to see savings, a charge will be added to the member's bill. The charge will include the following:

1. Recovery of the direct investment provided for the project over a period of years, which may not exceed the projected life of the project

and may not exceed 12 years – the maximum period of time the cooperative is willing to consider for cost recovery.

2. Recovery of the cooperative's cost of interest for money invested in the project at the cooperative's current average cost of financing or the actual cost at the time financing is obtained, if known.
3. Recovery spread across all projects of administrative costs for the Program, including required software, form printing, advertising, etc.
4. Prepayment of any future cost for maintenance checks as determined by the cooperative.

Id. at 15.

Mr. Searcy states that Ouachita will ask participants to pay a fee of $100 to conduct the initial energy audit, which will be billed when the customer makes a decision on the proposed work. This amount will be waived to the customer if the EE Plan as prepared by Ouachita's contractor results in less than $1,000 in improvements that can be paid for by the cooperative through the program. Any fee or a portion of a fee that prevents a project from qualifying for the tariff will also be waived. Should the member move forward with financing the project through the Program, the fee may be included as part of the project to be funded and repaid through the service charge. *Id.* at 15-16.

Mr. Searcy states that the minimum amount of a project to be funded through the Program is $1,000. The maximum for any one project is $25,000. *Id.* Mr. Searcy states that Ouachita's existing duct-sealing and building insulation and seal programs are experimental and do not include a tariff. While Ouachita strongly believes in these existing programs, the cooperative believes it can better promote them as part of this new Program and that the new program will be able to be accessed by many more members. Accordingly, Ouachita requests as part of this docket that its existing programs end and be folded into the new Program. *Id.* For purposes of any carbon credits, Mr. Searcy states that since Ouachita will own the measures until the project has been paid for through collection of the service charges, the cooperative will claim any value associated with carbon or any similar credits. *Id.* at 16-17.

Ouachita General Manager Mark Cayce states that the Program will improve the quality of life in Ouachita's region by assisting member-owners in lowering their cost of power, thus putting more money in their pockets at the end of the month. He notes that, as a cooperative, Ouachita has no stockholders and must recover the full cost of providing service to its member-owners. As the cost of providing service increases, that cost must be passed through, but, he states, if Ouachita can partner with its members to lower the cost of providing them with service, the cooperative can pass that savings to the member without undermining the financial position of the cooperative. Mr. Cayce testifies that, as a distribution cooperative, Ouachita owns no generation or cross country transmission facilities, but it can respond to the pricing signals in its wholesale pricing and pass savings through to its member owners, particularly as and if wholesale energy costs rise. He adds that Ouachita's members will benefit as its energy efficiency programs mitigate the need for expensive generation resources. Cayce Direct at 1-2. He expects that the Program will be strongly supported by Ouachita's member-owners. *Id.*

Mr. Cayce also states that the proposed Program can be replicated across the state and notes that Ouachita has entered into discussions with the Rural Utilities

Service (RUS) – an agency of the U.S. Department of Agriculture and Ouachita's lender, to see if RUS funding, assistance, and promotion could be of benefit to electric cooperatives across the nation. *Id.* at 4. Mr. Cayce notes that Ouachita's existing EE program, in effect since 2013, has improved 263 residences, 14 school buildings, and 10 county buildings. It has provided 131 active residential loans, with average bill savings of 17.8%, based on AMI data. Ouachita has saved 608,075 kWh annually through LED lighting retrofits. Mr. Cayce expects this promising start to expand greatly as it ends its existing loan program and folds it into the proposed Program. *Id.* at 5.

Testifying for Staff, Robert Swaim states that although Ouachita's proposed Program is similar to certain EE programs offered by investor-owned utilities, the cooperative is not requesting approval of this filing as an EE program. Rather, he states, Ouachita is proposing the Program as a tariff rate so that it would be considered electric service that would enable the cooperative to disconnect the customer for non-payment of the Program Charge. Mr. Swaim notes that in Order No. 12 in Docket No. 06-004-R, the Commission exempted the electric cooperatives from its *Rules for Conservation and Energy Efficiency Programs* (C&EE Rules), contingent on them filing annual reports comparable to those of the investor-owned utilities. The Commission also reaffirmed in that order that load building and fuel switching programs would continue to be evaluated under the Commission's *Rules and Regulations Governing Promotional Practices of Electric and Gas Public Utilities* (PP Rules). Swaim Compliance at 4.

Mr. Swaim testifies that Ouachita did not file the proposed Program through a promotional practices docket because the Program includes the replacement of electric equipment with more efficient electric equipment and gas equipment with more efficient gas equipment. Consequently, the Program is very unlikely to cause load building or fuel switching. Further, he finds, the Program does not meet the definition of "promotional practices" as specified in the PP Rules. *Id.* at 5.

Mr. Swaim summarizes the Program's basic elements and describes Ouachita's provisions to ensure that the member will obtain energy savings sufficient to offset the Program Charge in its measurement and verification provisions. He finds that the Program is very unlikely to cause load building. He concludes that by tying the Program Charges to the meter instead of the individual member, Ouachita's Program will reach markets previously underserved by more traditional energy efficiency programs: namely, renters and occupants with poor credit ratings. He finds the Program to be beneficial and in the public interest and recommends that the Commission approve Ouachita's Rate Schedule No. 15, "Pay As You Save®" On-Bill Program, as amended on December 10, 2015.

Commission Findings and Ruling

Based upon Ouachita's Application, the Direct Testimonies of Mr. Searcy and Mr. Cayce for Ouachita, and the Compliance Testimony of Mr. Swaim for Staff, the Commission finds that Ouachita's "Pay As You Save®" Optional On-Bill Program, as amended on December 10, 2015, presents an innovative approach to achieving significant energy efficiency improvements in hard-to-reach segments of Ouachita's member-owner base. The Commission also determines that, notwithstanding the exemption previously granted to the electric cooperatives from the Commission's C&EE Rules, the proposed Program is fully consistent with the finding by the Arkansas General Assembly set forth in the Energy Conservation Endorsement Act of 1977 (Ark.

Code Ann. § 23-3-401 *set seq.*), that engaging in "energy conservation programs, projects, and practices which conserve, as well as distribute, electrical energy and supplies of natural gas, oil, and other fuels" is "a proper and essential function of public utilities." Ark. Code Ann. § 23-3-404.

The Commission further finds that because the Program Charge for participation in the Program is tied to the cooperative member's electric meter and premises, it is a charge for electric service. Accordingly, the Commission approves Ouachita's request to allow the cooperative to disconnect the customer for non-payment of the Program Charge, subject to existing rules covering notice, time periods, etc. that are included in the Commission's *General Service Rules* and the cooperative's terms and conditions of service that are applicable to standard electric service. The Commission, however, in its role of ensuring the fairness and reasonableness of rates and tariffs, directs Ouachita to carefully implement the provisions of PAYS that ensure notice by the utility and by participating customers to future customers at the same premises. The Commission expects that Ouachita's annual report on EE programs will reflect program achievements and any implementation challenges, including challenges related to customer notice.

The Commission finds that the Program does not meet the definition of "promotional practices" as specified in the PP Rules because it is unlikely to cause load building or fuel switching. The Commission also grants Ouachita's request as part of this docket to fold its existing experimental duct sealing and building insulation and seal loan program into this Program.

Accordingly, for good cause shown, the Commission approves as in the public interest Ouachita's Rate Schedule No. 15, "Pay As You Save®" Optional On-Bill Program, as amended on December 10, 2015, and as described in the Application and supporting testimony in this docket.

BY ORDER OF THE COMMISSION,

This 8th day of February, 2016.

Ted J. Thomas, Chairman

Elana C. Wills, Commissioner

Lamar B. Davis, Commissioner

Karen Shook (Acting)
Michael Sappington, Secretary of the Commission

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

___U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or
X Electronic mail using the email address of each party as indicated in the official docket file.