



P.S.C.
Adm. Reg. 24-1-1
Series III

STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
CHARLESTON, 25305

November 30, 1981

STATE REGISTER FILING

NOTICE OF FINAL RULE

I, Howard M. Cunningham, Executive Secretary, Public Service Commission of West Virginia, hereby submit to record in the State Register on 8-1/2" x 11" paper two (2) copies of a final rule entitled Residential Conservation Service Program, to be included in the Rules and Regulations for the Government of Electric Utilities, as contained in Series III, P.S.C., promulgated by the Commission in General Order No. 198

This final rule is filed in the Office of the Secretary of State, State of West Virginia, pursuant to the requirements of Chapter 29A, Article 3, Section 8, Code of West Virginia, and will become effective sixty (60) days from today or January 29, 1982, as required by West Virginia Code Section 29A-3-10 and West Virginia Code Section 24-1-7.

November 30, 1981

Date Submitted

Howard M. Cunningham
Howard M. Cunningham
Executive Secretary

OFFICE OF THE
SECRETARY OF STATE

NOV 30 4 54 PM '81

RECEIVED

P.S.C.
Adm. Reg. 24-1-1
Series III

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA at the Capitol in the City of Charleston on the 25th day of November, 1981.
GENERAL ORDER NO. 198

PROCEEDING UPON THE COMMISSION'S OWN MOTION
TO CONSIDER CHARGES TO RESIDENTIAL CUSTOMERS
UNDER THE NATIONAL ENERGY CONSERVATION POLICY
ACT.

COMMISSION'S FINAL ORDER ADOPTING RULE

By order entered on August 28, 1981, in this case, this Commission promulgated, as a proposed rule, Rule 4.15 RESIDENTIAL CONSERVATION SERVICE PROGRAM, as recommended by Hearing Examiner C. Terry Owen in his Memorandum Opinion dated June 30, 1981. Said proposed rule and a notice of proposed rulemaking was filed in the state register and with the Governor as required by West Virginia Code §§29A-3-7 and 29A-3-8. The order of August 28, 1981, provided any interested parties with an opportunity to submit data, objections, suggested amendments, views, evidence and arguments, in writing, concerning the proposed rulemaking to the Public Service Commission no later than September 28, 1981, at 5:00 p.m., all pursuant to West Virginia Code §29A-3-8. Comments were received from Equitable Gas Company, Appalachian Power Company and Wheeling Electric Company and Electricity Consumers Resource Council (ELCON).

DISCUSSION

Equitable Gas Company raised two issues in its Comments. First, Equitable has requested that the final rule adopted by the Commission insure that costs incurred by utilities by either having another utility or an outside contractor perform its RCS Program requirements be included within the meaning of costs, as the term is used in the rule. The Commission is of the opinion that the revision requested by Equitable is not in conflict with the purposes of Section 215 of the National Energy Conservation Policy Act (NECPA), as amended by the Energy Security Act (ESA), and should be incorporated within our final rule on the RESIDENTIAL CONSERVATION SERVICE PROGRAM. Thus, we will amend Section (2) of Rule 4.15 to read as follows:

All amounts expended by a public utility to carry out subsection (b), Section 215 of NECPA, by conducting or causing to be conducted a Class A Energy audit

Equitable's second comment suggests that the use of the term "may" in Section (3) of the Commission's Proposed Rule 4.15 be changed to "shall" in order to insure that all proper program costs which have been incurred by the utility pursuant to the residential conservation plan shall be recovered by the utility from all ratepayers as a current expense in providing utility service, as opposed to the present language which would state that such costs may be recovered by the utility as a current expense. We are of the opinion that the use of the term "shall" would unnecessarily restrict the Commission from an investigation into the reasonableness of any amounts expended by a utility company pursuant to Section 215 of NECPA; thus we will not amend that language.

Appalachian Power Company and Wheeling Electric Company have proposed language to modify Section (3) of the Commission's Proposed Rule 4.15, in order to specify that the amounts expended by a public utility to conduct a Class A energy audit, in excess of the \$15.00 limit, may be recovered by the utility company as a current expense of providing utility service. This revision conforms to the general purpose of Section 215 of NECPA and will be adopted by the Commission by our deletion of the phrase "other activities under" in Section (3) of our Proposed Rule 4.15. We are of the opinion that the new Section (3) of Rule 4.15 proposed by Appalachian Power Company and Wheeling Electric Company is unnecessary, since the deletion of the above mentioned phrase, will result in the same outcome which was desired by the two companies.

The comments filed by ELCON were primarily in the nature of a statement of dislike and dissatisfaction with the general purposes behind the RESIDENTIAL CONSERVATION SERVICE PROGRAM and Section 215 of NECPA, as amended by the ESA. However, ELCON did suggest that costs which are incurred by a utility company in excess of those which are to be collected from the individual customer, should be collected from all residential customers rather than from all customers of the utility company, since, according to ELCON, it is highly unlikely that either commercial customers or industrial customers will ever reap any benefit from the existence of the RCS Program. The Commission is of the opinion that conservation efforts undertaken by any class of customer will ultimately inure to the benefit of all customers of the utility company,

including commercial and industrial customers. Thus, we will not revise our proposed Rule 4.15 to incorporate the suggestion of ELCON to require that all costs incurred by a utility company to carry out the RCS Program, in excess of those which are to be borne by the individual customer, be collected from all residential customers rather than from all customers of the utility company.

The Commission is of the opinion that our Proposed Rule 4.15, RESIDENTIAL CONSERVATION SERVICE PROGRAM of the Commission's Rules and Regulations for the Government of Electric (Gas) Utilities represents a reasonable attempt to comply with Section 215 of the National Energy Conservation Policy Act, as amended by the Energy Security Act, thus, we will finally adopt our Proposed Rule 4.15, which was promulgated by order entered on August 28, 1981, and filed in the state register and with the Governor on that date as required by §29A-3-8 of the West Virginia State Administrative Procedures Act.

FINDINGS OF FACT

None of the comments filed in response to the Commission's Proposed Rule 4.15, pointed out any substantive flaws in our proposed RESIDENTIAL CONSERVATION SERVICE PROGRAM rule.

CONCLUSIONS OF LAW

1) The comment filed by Equitable Gas Company requesting that the rule insure that costs incurred by utility companies by either having another utility company or an outside contractor perform its RCS Program requirements be included within the meaning of costs, as the term is used in the Rule, is reasonable and will be adopted by the Commission, since the proposed revision can only add a greater guarantee that utility companies will in fact comply with the requirements of the RCS Program.

2) It would be unreasonable to change the language in Section (3) of our Rule 4.15 to state that all costs incurred by a public utility in carrying out Section 215 of NECPA shall be recovered by the utility as current expense of providing utility service, since such language would in effect prohibit the Commission from inquiring into the reasonableness of any amounts expended by a public utility to carry out its activities under subsection (b) of Section 215 of NECPA.

P.S.C.

Adm. Reg. 24-1-1
Series III

3) The proposed revision suggested by Appalachian Power Company and Wheeling Electric Company to insure that costs incurred by a public utility in providing a Class A energy audit, in excess of the \$15.00 per dwelling unit limitation included in subsection (b), Section 215 of NECPA, as amended by the Energy Security Act, is reasonable and will be incorporated in Section (3) of Rule 4.15 by our deletion of the phrase "other activities under", from the first and second lines of Section (3) of Rule 4.15.

4) Any conservation efforts undertaken by any class of customers of a public utility, which result in either a reduction in use by that class of customers or a more efficient use of electricity or gas by that class of customers will benefit all other classes of customers of that public utility.

ORDER

IT IS, THEREFORE, ORDERED that Proposed Rule 4.15, RESIDENTIAL CONSERVATION SERVICE PROGRAM, set forth as Appendix A to our Order of August 28, 1981, as amended herein, and attached hereto as Appendix A, be, and it hereby is, adopted as the Commission's Final Rule 4.15, to be included in the Commission's Rules and Regulations for the Government of Electric Utilities and the Commission's Rules and Regulations for the Government of Gas Utilities and Gas Pipeline Safety.

IT IS FURTHER ORDERED that the Commission's Rule 4.15 as finally adopted herein, be filed in the state register with a notice of final adoption as amended, all as required by West Virginia Code §29A-3-10.


IT IS FURTHER ORDERED that the Commission's new Rule 4.15 shall become effective sixty (60) days from the date of filing of the Commission's Final Rule 4.15 in the state register as required by West Virginia Code §29A-3-10 and West Virginia Code §24-1-7.

IT IS FURTHER ORDERED that the Executive Secretary shall serve a copy of this order upon all parties to this proceeding by United States

Registered Certified Mail, return receipt requested.

A TRUE COPY

TESTE:


HOWARD M. CUNNINGHAM
Executive Secretary

FINAL ORDER

4.15 RESIDENTIAL CONSERVATION SERVICE PROGRAM

A public utility subject to the jurisdiction of this Commission and to which Part 1, Title II of the National Energy Conservation Policy Act (Pub. L. 95-619, 92 Stat. 3206 et seq.), as amended by the Energy Security Act (Pub. L. 96-294, 94 Stat. 611 et seq.) (hereinafter NECPA), is applicable may recover reasonable costs associated with the implementation of the utility program under NECPA in the following manner:

- (1) All amounts expended by a public utility for providing information under subsection (a), Section 215 of NECPA are to be treated as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing utility service.
- (2) All amounts expended by a public utility to carry out subsection (b), Section 215 of NECPA, by conducting or causing to be conducted a Class A Energy audit, for a particular residential customer may be recovered directly from the residential customer for whom the activities are performed: Provided, That the amount recovered from said residential customer for whom the Class A Energy audit described in subsection (b) is performed shall not exceed a total of \$15 per dwelling unit or the actual cost of such activities, whichever is less.
- (3) All amounts expended by a public utility to carry out subsection (b), Section 215 of NECPA, including a Class B energy audit, which are not recovered directly from the residential customer for whom a Class B energy audit or the activities described in said subsection (b) are performed, and all administrative and general costs incurred by a public utility in carrying out a utility program under NECPA, including Class B energy audits, may be recovered by the utility as a current expense of providing utility service and charged to all ratepayers of such utility in the same manner as current operating expenses of providing utility service.
- (4) All amounts expended by a public utility for labor and materials for the purchase or installation of any residential energy conservation measure under Section 216 of NECPA shall be recovered from the residential customer for whom such purchase or installation is performed.