



**REPORT TO THE BOARD OF APPEALS  
SPECIAL EXCEPTION REQUEST:  
SMECO SUBSTATIONS  
DOCKET #1295 (Thompkinsville)  
DOCKET #1296 (Grayton)  
DOCKET #1297 (Newburg)  
Meeting Date: December 11, 2012**

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**SUMMARY OF REQUESTS:**

**Total Area of Site:**        **Thompkinsville-** 0.74 acres

**Grayton-** 0.76 acres

**Newburg-** 0.43 acres

**Location of Site:**        **Thompkinsville-** 15170 Rock Point Road, in Newburg, Maryland  
Tax Map 86, Grid 11, in the 5<sup>th</sup> Election District.

**Grayton-** 9865 Ironsides Road in Nanjemoy, Maryland  
Tax Map 60, Grid 18, Parcel 74 in the 3<sup>rd</sup> Election District.

**Newburg-** 11580 Edge Hill Road in Newburg, Maryland  
Tax Map 73, Grid 22, Parcel 161 in the 5<sup>th</sup> Election District.

**Tax ID Information:**    **Thompkinsville-** 05-020301

**Grayton-** 03-012921

**Newburg-** 05-020328

**Owner/Applicant:**        Southern Maryland Electric Cooperative, Inc.  
c/o Tom Russell  
P.O. Box 1937  
Hughsville, Maryland 20637

**Attorney:**                    Jenkins Law Firm, P.A.  
c/o Louis Jenkins  
103 Centennial Street, Suite K  
La Plata, Maryland 20646

**Engineer:** Lorenzi, Dodds & Gunnill, Inc.  
c/o Staci Lagana  
3475 Leonardtown Road, Suite 100  
Waldorf, Maryland 20602

**Proposed Activities:** Use # 4.06.300 – Telecommunications tower more than 50 feet tall

**Thompkinsville**– 140’ utility pole (124’ AGL)

**Grayton**- 110’ (97’ AGL)

**Newburg**- 110’ (97’ AGL)

AGL stands for ‘Above Ground Level’

**Zoning:** **Thompkinsville**- AC, Agricultural Conservation

**Grayton**- AC, Agricultural Conservation

**Newburg**- RC, Resource Conservation

### **SUMMARY OF ISSUES:**

The following is a discussion of specific issues identified by Staff for consideration by the Board of Appeals. The minimum standards for Use # 4.06.300 – Telecommunications tower more than 50 feet tall are established within Article XIII §297-212 of the Charles County Zoning Ordinance. The principle issue is whether the proposed use is appropriate for the subject sites, the surrounding neighborhoods, and consistent with the requirements of the Zoning Ordinance.

### **NEED FOR SPECIAL EXCEPTION:**

According to the current ordinance, the proposal as detailed in the application would require a Special Exception in the AC –Agricultural Conservation and RC- Resource Conservation Zones. (See Figure IV-1 Table of Permissible Uses, Use #4.06.300 – Telecommunications tower more than 50 feet tall). SMECO is required to receive special exception approval in order to erect the proposed utility poles necessary for the desired Advanced Metering Infrastructure System (AMI), which will enable SMECO to utilize smart meters that will drastically reduce the time it takes to read electricity usage and provide a more efficient system to its customers.

### **MINIMUM ZONING REQUIREMENTS:**

In order to be conforming with the current ordinance, the proposed towers (utility poles) must be located on the property in such a way that it meets all the minimum requirements as found in the AC – Agricultural Conservation and RC – Resource Conservation Zones; standards set forth in Article XXV, §297-415 on Special Exceptions; the applicable minimum standards in Article XIII, §297-212; and, any performance guarantees and conditions imposed by the Board.

## **DESCRIPTION OF PROPERTY:**

**Thompkinsville-** The 0.74 acre property is located on Rock Point Road (MD 257) just south of the intersection of Boarman Road and Rock Point Road. The site currently contains the Thompkinsville Substation.

**Grayton-** 0.76 acre property is located on Ironsides Road (MD Route 425) just east of the intersection between Ironsides Road and Port Tobacco Road (MD Route 6). The site currently contains the Grayton Substation.

**Newburg-** The 0.43 acre property is located on Edge Hill Road approximately 650' north of the intersection between Edge Hill Road and Popes Creek Road. The site currently contains the Newburg Substation.

**Definition of a Substation-** A substation is a part of an electrical distribution system that transforms voltage from high to low, or the reverse to generate electricity to SMECO's customers. In general, all of SMECO's substations have switching, protection and control equipment and transformers. All of SMECO's substations are enclosed by an 8' chain link fence with a locked gate and are only accessible to authorized SMECO employees.

## **IMPACT ON SURROUNDING USES:**

**Thompkinsville-** The site is bordered by a vacant wooded lot to the north, a single-family home to the south and Rock Point Road to the west. Directly across Rock Point Road is wooded property. All adjoining properties are zoned AC.

**Grayton-** The site is bordered by a single-family residential home to the north, a large wooded parcel to the south and east, and Ironsides Road (MD 425) to the west. Directly across Ironsides Road is an open field and a single-family home. All adjoining properties are zoned AC.

**Newburg-** The site is bordered by a single-family residential home on 4.85 acres to the east and south, a SMECO right-of-way to the north (note that directly across from the SMECO right-of-way another single-family home on 4.28 acres). Directly across Edge Hill Road is a SMECO 100' right-of-way as well as a single-family home on 9.025 acres. All adjoining properties are zoned RC.

## **USE SPECIFIC ANALYSIS:**

**Thompkinsville-** SMECO is proposing to erect a 140' utility pole (124' AGL) at its Thompkinsville Substation, located at 15170 Rock Point Road in Newburg, MD. The utility pole shall be an H1 class, direct-embed, galvanized steel pole. The pole will accommodate two antennas, both in direct support of the Advanced Metering Infrastructure (AMI) system. One 3' microwave dish (Andrew VHL3-11W) shall be installed at 120' level and one 11' omnidirectional antenna (Amphenol BCD-87010) shall be installed at the 124' level (135' height to tip).

**Grayton-** SMECO is proposing to erect a 110' utility pole (97' AGL) at its Grayton Substation, located at 9865 Ironsides Road in Nanjemoy, Maryland. The utility pole shall be an H1 class, direct-embed, galvanized steel pole. The pole will accommodate one yagi antenna (Commscope DB499-K) for Supervisory Control and Data Acquisition (SCADA) communications from the operators center to the substation and one 11' omnidirectional

antenna (Amphenol BCD-87010) for the Advanced Metering Infrastructure (AMI) system. The yagi antenna shall be installed at the 90' level and the omnidirectional antenna shall be installed at the 97' level (108' height to tip).

**Newburg-** SMECO is proposing to erect a 110' utility pole (97' AGL) at its Newburg Substation, located at 11580 Edge Hill Road in Newburg, Maryland. The utility pole shall be an H1 class, direct-embed, galvanized steel pole. The pole will accommodate one yagi antenna (Commscope DB499-K\_ for Supervisory Control and Data Acquisition (SCADA) communications from the operations center to the substation. This antenna shall be installed at the 90' level.

### **PRELIMINARY FINDINGS:**

The requests for Special Exceptions #1295, #1296, and #1297 were evaluated based upon the standards set forth in Article XXV Section 297-415 (H) and Use #4.06.300 of the *Charles County Zoning Ordinance*. Findings of the Staff have been annotated in *italics*. This use

- i. Will not be detrimental to or endanger the public health, safety, and general welfare.

*Staff Finding: The proposed use will not be detrimental to or endanger the public health, safety, and general welfare. The three proposed utility pole locations are home to existing substations operated by SMECO.*

- ii. Is a Permissible Special Exception in the Zone.

*A telecommunications tower more than 50 feet tall (Use # 4.06.300) is permitted by Special Exception in the AC, Agricultural Conservation and RC, Resource Conservation Zones.*

- iii. Will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood.

*Staff Finding: The proposed utility poles will not be detrimental to the use, peaceful enjoyment, economic value or development of surrounding properties or the general neighborhood. Little to no impact is envisioned to be imposed upon the residencies neighboring the proposed utility poles. The three locations are home to existing substations operated by SMECO which have been in operation for over 20 years.*

- iv. Complies with the Standards and Requirements set forth in Article XIII.

*Staff Finding: The proposed use complies with the Standards and Requirements set forth in Article XIII for this use.*

- v. Will cause no objectionable impact from traffic, noise, type of physical activity, fumes, odors, dust or glare.

*Staff Finding: The proposed use will not cause an impact on traffic nor cause objectionable noise, type of physical activity, fumes, odors, dust or*

*glare. The proposed use will generate minimal traffic and will not have an objectionable impact to the community. The substation locations in which the utility poles will be located are only accessible to SMECO employees in order to perform routine maintenance.*

- vi. **Will provide adequate utilities, water, sewer or septic systems, access roads, storm drainage, and/or necessary public facilities and improvements. If a request requires an Adequate Public Facilities Review by the Charles County Planning Commission, such review shall be made a condition of the granting of the Special Exception by the Board.**

***Staff Finding:** The proposed use will have a minimal impact on public facilities at each location. The proposed use will not require a storm drainage, water, sewer or septic system and will not require an Adequate Public Facilities Review.*

- vii. **Will provide adequate ingress and egress and be so designed as to minimize traffic congestion on the public streets.**

***Staff Finding:** Adequate ingress and egress to each location will be provided via the existing entrances to the SMECO substations. The Thompkinsville site will be accessed via Rock Point Road, the Grayton site via Ironsides Road, and Newburg site via Edge Hill Road.*

- viii. **Is in accordance with the objectives of the Charles County Comprehensive Plan.**

***Staff Finding:** The proposed utility poles are in accordance with the objectives of the Comprehensive Plan in the following ways:*

*Per the Applicant:*

***Chapter 3: Growth Management and Land Use:** Although the Growth Management and Land Use Chapter of the 2006 Comprehensive Plan provides for limited residential growth in rural areas, it does specify the need to assure that the required infrastructure and services are available for existing residents, as well as any possible future development. The proposed utility poles will allow for remote reading of meters for the SMECO service areas and allow SMECO to better serve its customers in the event of an outage. SMECO is continuing to improve upon its current service in an effort to accommodate any future growth and better accommodate existing customers. In addition, the proposed utility poles are being placed in existing substations in an effort to minimize their effect on the community.*

**Chapter 4: Economic Development:** SMECO currently pays an outside contractor approximately \$92,000 a month to read meters. With the implementation of the smart meters it will not only be a monthly savings to SMECO's customers, but will be additional funds that can be reinvested into the community, rather than going to an outside contractor.

**Chapter 6: Community Facilities & Services:** The proposed use will have minimal impact on the County's community facilities and services. The proposed use will provide SMECO the ability to utilize smart meters that will drastically reduce the time it takes to read electricity usage and provide a more efficient system for the community.

- ix. Conforms to the Applicable Regulations of the zone in which it is located and to the Special Requirements established for the specific use.

**Staff Finding:** SMECO has requested several variances which are detailed below.

The requests for Special Exceptions #1295, #1296, and #1297 were evaluated based upon the standards set forth in Article XIII Section 297-212 and Use #4.06.300 of the *Charles County Zoning Ordinance*. Findings of the Staff have been annotated in *italics*.

- A. All structures shall be located at least 200 feet from an existing dwelling or residential zone.

**Staff Finding:** SMECO is requesting a variance from this requirement for the utility pole at the **Thompkinsville substation**.

*Per the Applicant, "The utility pole is being placed within the out bounds of the existing substation. The proposed pole location is within 200' from the nearest dwelling unit (approximately 167'), but is outside the fall radius of the pole".*

*Per the RCC Consultant, "The proposed monopole does not meet the minimum setback requirements of 200' from existing dwellings, and 1 foot setback from property adjoining property lines for every foot of height. The monopole will be within 175' of the building on the property owned by Tina Thomas and Jeffrey Hill. The fall radius of the tower is outside of this building".*

*Per the submittal materials the closest dwelling is approximately 167' away from the base of the utility pole well outside of the fall radius of 124'. Please reference Page 7 of the variance request packet.*

**SMECO is requesting a variance from this requirement for the utility pole at the Grayton substation.**

*Per the Applicant, "The utility pole is being placed within the out bounds of the*

*existing substation. The proposed utility pole is greater than 200' from the nearest dwelling unit, but is within 200' of the neighboring property line.*

*Per the RCC Consultant, "The proposed monopole will not meet the minimum property line setback requirements of 1 foot of setback for every foot of tower height. The proposed monopole will not be located within 200 feet of existing dwellings or buildings".*

*The distances to the neighboring property lines not meeting the 200' setback requirement are illustrated on the schematic attached to the Staff Report and on Page 8 of the variance request packet.*

*SMECO is requesting a variance from this requirement for the utility pole at the **Newburg substation.***

*Per the Applicant, "The utility pole is being placed within the out bounds of the existing substation. The proposed utility pole is greater than 200' from the nearest dwelling unit, but is within 200' of the neighboring property line".*

*Per the RCC Consultant, "The proposed monopole will not meet the minimum property line setback requirements of 1 foot of setback for every foot of tower height. The proposed monopole will not be located within 200 feet of existing dwellings or buildings".*

*The distances to the neighboring property lines not meeting the 200' setback requirement are illustrated on the schematic attached to the Staff Report and on Page 9 of the variance request packet.*

- B. A minimum ten-foot landscape strip will be around all property lines exterior to any fence or wall.

**Staff Finding:** *SMECO is requesting a variance from this requirement at the **Thompkinsville, Grayton, and Newburg substations** related to utility pole placement. Per the Applicant, "The Applicant is seeking a variance from this requirement for all three substations due to the fact that these are already established substations surrounded by 8' chain link fence. Typically, SMECO does not allow vegetation, particularly trees, within the substation or within their easements due to the concern that as the vegetation matures that they may interfere with overhead power lines. In addition, in some areas it would be hard to fit the specified landscape strip between the existing fence and the adjoining property".*

- C. Any proposed tower will have a setback of one foot from all property lines for every foot of height of the tower. Any broadcasting tower lawfully existing prior to the effective date of this chapter shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed or enlarged, provided that no structural change, repair, addition, alteration or reconstruction shall result in increasing the height of such tower above the then-existing structurally designed height.

**Staff Finding:** SMECO is requesting a variance from this requirement at the **Thompkinsville, Grayton and Newburg substations** related to utility pole placement. Per the Applicant, “The Applicant is seeking a variance from this requirement for all three substations due to the fact that the three proposed utility poles are being installed at existing substations so that the SMECO redundant communications network can be utilized to backhaul all sensitive meter data to the headend site in Hughesville. Co-location at a 3<sup>rd</sup> party site that could meet the above requirement would necessitate additional security measures to ensure that sensitive data is not compromised and may also affect RF coverage to the electric meters. Sites using MAS must be located within the existing substations, as this system is responsible for the control and status of the substation, and it would not be technically feasible to do this at a 3<sup>rd</sup> party site. Given the layout of the substations and the location of the property lines, it is not possible to install a pole with the requested setback of ‘one foot for every foot of height of the tower’ at any of the above noted locations. In addition, it stands to reason that this particular requirement was intended for actual towers, not for the use as proposed.

Variances to the requirements outlined in Use #4.06.300 shall not be granted for Dockets #1295, #1296, and #1297 unless the following criteria are met in accordance with the Charles County Zoning Ordinance Article XXV Section 297-416(C). Variances.

- (1) That special conditions or circumstances exist that are unique to the subject property or structure and that a strict enforcement of the provisions of this chapter would result in unwarranted hardship which is not generally shared by owners of property in the same land use classification.

**Staff Finding:** Staff finds that special conditions or circumstances exist that are unique to the subject properties in question.

Per the Applicant, “The proposed utility poles are being installed at existing substations so that the SMECO redundant communications network can be utilized to backhaul all sensitive meter data to the headend site in Hughesville. Co-location at a 3<sup>rd</sup> party site that could meet the above requirements would necessitate additional security measures to ensure that sensitive data is not compromised and may also affect RF coverage to the electric meters. Sites using MAS must be located within the existing substations, as this system is responsible for control and status of the substation, and it would not be technically feasible to do this at a 3<sup>rd</sup> party site. Therefore, special conditions or circumstances exist that are unique to the subject property or structure and strict enforcement of the provisions of this chapter would result in an unwarranted hardship, which is not generally shared by owners of property in the same land use classification”.

- (2) That strict enforcement of the provisions of this chapter would deprive the property owner of rights commonly shared by other owners of property in the area.

**Staff Finding:** Staff finds that the strict enforcement of the provisions of this

*chapter would deprive the Applicant of the ability to utilize their existing substations for the desired use.*

*Per the Applicant, "The strict enforcement of this ordinance would deprive the property owner of utilizing the properties, already designated as electrical substations, to their highest and best use. For the reasons noted in Number (1) above, it is not feasible to relocate the proposed utility poles to a 3<sup>rd</sup> party site".*

- (3) That the granting of a variance will not confer upon an applicant any special privilege that would be denied to other owners of like property and/or structures within the same zone/land use classification.

***Staff Finding:*** *SMECO is the only electric cooperative in Charles County therefore it is a unique request that will not confer upon an applicant any special privilege that would be denied to other owner of like property and/or structures within the same zone/land use classification.*

*Per the Applicant, "Due to the fact that this request is being made by SMECO to improve efficiency and reliability of services and communications; that the request is being made at existing substations owned by SMECO; and SMECO is the only electric cooperative in this this area, it is a unique request that will not confer upon an applicant any special privilege that would be denied to other owner of like property and/or structures within the same zone/land use classification".*

- (4) That the variance request is not based upon conditions or circumstances which are self-created or self-imposed.

***Staff Finding:*** *Staff finds that the variance requests are not based upon conditions or circumstances which are self-created or self-imposed.*

*Per the Applicant, "The Thompkinsville, Grayton and Newburg substations have been in place for over 20 years and, with the improvements in technology, it is imperative that SMECO be able to install the utility poles to support the Advanced Metering Infrastructure (AMI) system. Today's technology and associated zoning requirements could not have been predicted when these substations were originally constructed, therefore this variance request is not based upon conditions or circumstances which are self-created or self-imposed".*

- (5) That greater profitability or lack of knowledge of the restrictions shall not be considered as sufficient justification for a variance.

***Staff Finding:*** *The Applicant is not claiming a greater profitability or lack of knowledge of the restrictions as sufficient justification for the variances requested.*

*Per the Applicant, "Greater profitability or lack of knowledge of the restrictions is not part of the justification for this variance".*

- (6) That the proposed variance is consistent with the Charles County Comprehensive Plan.

***Staff Finding:*** *The proposed variances are consistent with the Charles County Comprehensive Plan. Please reference the Applicant's findings on Page 5 and 6 of this report.*

- D. The application submitted by the applicant to the Board of Appeals shall include the following:

- (1) A system design plan that shall include, at a minimum, radio frequency parameters, tower height, number and location of antennas on the tower, radio frequency output, effective radiated power and azimuth antenna type.

***Staff Finding:*** *This information has been provided within the Applicant's submittal materials.*

- (2) Coverage map of the area to be served by the proposed tower.

***Staff Finding:*** *The requested coverage maps have been provided within the Applicant's submittal materials.*

- (3) Coverage map showing coverage available under existing towers, towers proposed to be constructed for the county's public communication system and other appropriate structures.

***Staff Finding:*** *The requested coverage maps have been provided within the Applicant's submittal materials.*

- (4) An evaluation of the tower's relationship to other antenna sites, existing buildings taller than 50 feet and communications towers and water tanks within ½ mile of a proposed tower which is less than 150 feet tall and within one mile of a proposed tower which is greater than 150 feet tall.

***Staff Finding:*** *Per the Applicant, "There are no existing sites within the specified radius that meet these criteria".*

*Per the RCC Consultant, "SMECO has sufficiently searched the general area for potential alternative candidate towers for colocation of their antennas. They have demonstrated that there are no other sites in the area that can provide the desired communications coverage necessary to support the automatic metering system. SMECO has provided RF coverage maps that demonstrate the need for a communications tower at the proposed location and height".*

- E. Co-location.

- (1) The applicant for a new communications tower shall demonstrate to the

Board of Appeals that co-location on existing towers or other appropriate structures is not feasible. Feasibility shall be demonstrated by an analysis and explanation prepared by the applicant which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed communication service and a structural analysis indicating that no existing or proposed tower can be structurally modified to accommodate the applicant's use.

**Staff Finding:** *Per the Applicant, "Extensive RF propagation studies have indicated excellent coverage to the 2 way-electric meters served in the Grayton and Thompkinsville areas. It is advantageous to install all AMI equipment within the substation so the SMECO redundant communications network can be utilized to backhaul all sensitive data to the headend site in Hughsville. Co-location at a 3<sup>rd</sup> party site would necessitate additional security measures to ensure that sensitive data is not compromised and may also affect RF coverage to the electric meters. Sites using MAS must be located within the substation, as this system is responsible for the control and status of the substation and it would not be technically feasible to do this at a 3<sup>rd</sup> party site:.*

*Per the RCC Consultant, "SMECO has sufficiently searched the general area for potential alternative candidate towers for colocation of their antennas. They have demonstrated that there are no other sites in the area that can provide the desired communications coverage necessary to support the automatic metering system. SMECO has provided RF coverage maps that demonstrate the need for a communications tower at the proposed location and height".*

- (2) The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size and adverse environmental and public safety impacts of facilities necessary to provide the needed services to the county. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Physical constraints and economic feasibility may be considered. Approval of the project is subject to the board making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site.

**Staff Finding:** *Per the Applicant, "A 350' tower, owned by American Tower (ASR 1212989), is located approximately 1.7 miles north of Grayton substation. Moving the AMI antenna this far north will adversely affect meter coverage in the southern portion of Charles County. A 350' tower owned by American Tower (ASR 1212004) is located approximately 3.3 miles south of Thompkinsville substation. Moving the AMI antenna this far south will adversely affect meter coverage in the northern portion of the peninsula. The MAS antennas at Grayton and Newburg cannot be moved as it is not technically feasible to serve these substations remotely.*

*Per the RCC Consultant, "SMECO has sufficiently searched the general area for potential alternative candidate towers for colocation of their antennas. They have demonstrated that there are no other sites in the area that can provide the desired communications coverage necessary to support the automatic metering system. SMECO has provided RF coverage maps that demonstrate the need for a communications tower at the proposed location and height".*

(3) Co-location is not deemed possible if the Board finds that:

- (a) Planned equipment would exceed the structural capacity of existing and approved towers or towers proposed to be constructed for the county's public communications system considering existing and planned use of those towers, and such towers cannot be structurally modified or reinforced to accommodate planned or equivalent equipment at a reasonable cost;
- (b) Planned equipment will cause interference with other existing or planned equipment for the tower, and the interference cannot be prevented at a reasonable cost;
- (c) Existing, approved towers, or towers proposed to be constructed for the county's public communications system do not have space on which planned equipment can be placed so as to function effectively; or
- (d) Existing, approved towers, towers proposed to be constructed for the county's public communications system will not provide effective signal coverage sought by the applicant.

***Staff Finding:*** *Per the Applicant, "Please see explanation in above sections E. (1) and (2)".*

*Per the RCC Consultant, "SMECO has sufficiently searched the general area for potential alternative candidate towers for colocation of their antennas. They have demonstrated that there are no other sites in the area that can provide the desired communications coverage necessary to support the automatic metering system. SMECO has provided RF coverage maps that demonstrate the need for a communications tower at the proposed location and height".*

- F. The tower shall be constructed so as to provide adequate capacity for future co-location of other commercial and/or government-operated antennas, unless the applicant demonstrates why such design is not economically or physically feasible. The system design plan shall delineate an area near the base of the tower to be used for the placement of additional equipment buildings for other users.

***Staff Finding:*** *Per the Applicant, "It is not physically feasible to accommodate a larger pole or additional communications shelters necessary for future co-location of other commercial and/or government-operated antennas with these substations".*

*Per the RCC Consultant, "The proposed utility poles will be located at SMECO electrical substations. Therefore, future co-location with commercial carriers or other entities is not feasible for safety purposes".*

- G. The applicant shall submit a master plan for its proposed communications network for the entire county. The Department of Planning and Growth Management shall adopt a policy outlining the submittal requirements for such a master plan.

**Staff Finding:** *SMECO agrees to comply with County requirements regarding a Master Plan for the three substation sites.*

- H. The applicant shall demonstrate that the proposed tower will not interfere with existing lines of communication used for public safety purposes.

**Staff Finding:** *Per the Applicant, "All frequencies in use have been coordinated and licensed by the FCC to ensure that interferences do not occur. No known public safety entities are located within the near-field of these sites. In the unlikely event that interference does occur, all appropriate measures will be taken to eliminate the interference, up to and including cessation of use".*

*Per the RCC Consultant, "SMECO has submitted a non-interference statement that explains why the 900 MHZ system will not interfere with Charles County 800 MHZ trunked or conventional systems. The proposed utility poles are not in the direct path of the County's microwave system and will not physically block or interfere with the microwave operation".*

- I. No signals, lights or illumination shall be permitted on the tower unless required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA) or the County.

**Staff Finding:** *SMECO agrees to comply with this requirement. Per the Applicant, "There will be no signals, lights or illumination on the tower unless required by the Federal Communications Commission, the Federal Aviation Administration or the County".*

- J. No commercial advertising or other signage shall be permitted on the tower.

**Staff Finding:** *SMECO agrees to comply with this requirement. Per the Applicant, "There will be no commercial advertising or other signage on the utility pole". Only appropriate danger / warning signage, required by law, are permissible.*

- K. The applicant shall demonstrate that a tower shall not unreasonably interfere with the view of, or from, sites of significant public interest such as a public park, a state-designated scenic road, a structure on the historic sites surveyor or an historic district.

**Staff Finding:** *The utility poles will be erected within the confines of the existing*

*substation locations. Per the Applicant, "The utility poles will not unreasonably interfere with the view of, or from, sites of significant public interest". No photographs are available of the utility poles since SMECO has yet to erect any in their coverage areas; however photographs of their design will be provided by the Applicant during the Board of Appeals meeting.*

- L. All obsolete or unused facilities shall be removed within 12 months of cessation of operations without cost to the county.

**Staff Finding:** *SMECO agrees to comply with this requirement. Per the Applicant, "All obsolete or unused facilities shall be removed within 12 months of cessation of operations without cost to the County".*

- M. No tower or fixture attached thereto shall be taller than 300 feet above existing grade.

**Staff Finding:** *SMECO agrees to comply with this requirement. Per the Applicant, "No tower, or fixture, is proposed to be taller than 300 feet above existing grade". The Thompkinsville utility pole will be 140' (124 AGL) and the Grayton and Newburg utility poles will be 110' (97' AGL).*

#### **ENVIRONMENTAL IMPACTS:**

**Staff Finding:** *No environmental impacts are identified. The utility poles will be erected within the confines of the existing Thompkinsville, Grayton, and Newburg substation locations; which have been in operation for over 20 years.*

#### **STAFF RECOMMENDATIONS:**

Planning Staff recommends that Dockets #1295, #1296, and #1297 be approved with the following **Conditions of Approval**, for the purpose of adequately and completely addressing the requirements of the *Zoning Ordinance*:

- 1) The Applicant will provide a structural analysis of each utility pole within final building permit applications to confirm that the proposed structures are capable of supporting the proposed and speculative antenna loads.
- 2) SMECO will submit individual Site Development Plan applications for each of the utility poles to be erected within the existing Thompkinsville, Grayton, and Newburg substation locations.
- 3) The approval and continued effect of the Special Exceptions are contingent upon compliance with all applicable County, State, and Federal regulations, including, but not limited to, the following local regulations: Charles County Zoning Ordinance, Grading and Sediment Control Ordinance, Road Ordinance, Storm Water Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

Prepared By: Kirby R. Blass, Planner II, Department of Planning & Growth Management

Attachments