

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

THE APPLICATION OF LICKING VALLEY)
RURAL ELECTRIC COOPERATIVE)
CORPORATION FOR AN ORDER) Case No. 2016-00077
ISSUING A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY)

ATTORNEY GENERAL'S PETITION FOR REHEARING

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and pursuant to KRS 278.400 hereby petitions the Kentucky Public Service Commission (Commission) for a rehearing regarding the Commission's Final Order in the above-styled matter, issued on August 29, 2016. In support of this petition, the Attorney General states as follows.

A. Statement of the Case

Licking Valley Rural Electric Cooperative Corporation (LVRECC) in the instant case sought a Certificate of Public Convenience and Necessity (CPCN) pursuant to KRS 278.020 for a system-wide replacement of the company's approximately 17,000 existing AMR (TS-I) and AMI (TS-II) meters. Both of these existing meters utilize Power Line Carrier (PLC) in order to transmit communications along LVRECC's power lines, and send meter readings every 27 hours.¹ The new meters LVRECC plans to install are AMI with radio frequency modules (AMI/RF), which would be capable of transmitting meter data

¹ Staff Memorandum dated June 3, 2016, p. 1.

every 15 minutes.² The project also includes installation of related infrastructure to support the new metering system. The project's estimated cost is \$4.423 million.³

B. Argument

1. *The Commission Improperly Determined that AMI TSII Meters Could No Longer be Supported*

In support of its justification for seeking the CPCN for a new metering system and related infrastructure, LVRECC stated that its current system of AMI TS-2 meters could continue to work:

“This study began by looking at the different types of systems available. We looked at the two-way PLC power line carrier systems, and the RF radio frequency systems. It seems either would work . . . while **there is still plenty of support for PLC systems, there seemed to be more movement in the direction of the RF systems.** Meters and equipment were more readily available for RF.”⁴ (emphasis added)

However, LVRECC also stated in the record that TS-II meters will no longer be supported by the manufacturer.⁵ The Attorney General highlighted this contradiction in his Final Comments.⁶ It was this latter statement of LVRECC which the Commission apparently seized upon in noting that, “Licking Valley determined that continuing forward with TSII rollout would expose Licking Valley and its ratepayers with an unsupported meter system,”⁷ and which the Commission apparently relied upon in its findings that LVRECC: (a) “. . . provided sufficient evidence that Landis + Gyr is discontinuing technical support

² LVRECC Application, Exhibit 1, p. 1 of 3.

³ Case No. 2016-00077, Final Order dated Aug. 29, 2016, p. 4.

⁴ LVRECC response to Attorney General's Initial Data Requests, Exhibit 5, p. 3 of 9 (entitled “AMI Study”), emphasis added. The term “PLC systems,” by definition appears to include TS1 and TS2 systems, since LVRECC utilizes its PLC system for both TS-I and TS-II meters.

⁵ Responses to AG 2-1 and PSC 1-1, PSC 1-2 (g), and Application Exhibit 1, p. 1.

⁶ Attorney General's Final Comments, pp. 4-5.

⁷ Case No. 2016-00077, Final Order dated Aug. 29, p. 3 (citing LVRECC's response to AG 2-1). *See also Id.* at p. 4: “Licking Valley faces two choices: replace its existing system with a new RF AMI metering system at a cost of \$4,423,147, or continue to invest in what *Licking Valley asserts* is an obsolete and unsupported system” (emphasis added).

for TSII meter software technology. . .”; and (b) “. . . provided sufficient information that the PLC system . . . remains a viable but rarely chosen option, as most of the industry is selecting RF systems over PLC systems.”⁸ The Commission paid scant attention, if any, to the fact that LVRECC acknowledged that “there is plenty of support for PLC systems.”⁹

Due to the contradictions in the record created by LVRECC’s statements an issue of fact is created which requires a specific Commission resolution. Absent resolution of these contradictory facts upon rehearing, no adequate basis exists to support the Commission’s decision.

2. *The Commission Should Have Required LVRECC to Conduct a Cost-Benefit Analysis*

LVRECC did not conduct a cost-benefit analysis in this case. As the Commission’s Final Order noted:

“Because Licking Valley decided to pursue the proposed system upgrade to prevent investing additional money in obsolete technology and not for cost-saving reasons, Licking Valley did not conduct a formal study or cost/benefit analysis when deciding to replace its existing meters.”¹⁰

Smart Meter systems such as the one at the center of the instant case are highly complex, and become more so with each new iteration of technology. Moreover, the average service lives of these digital systems are less than one-half of electro-mechanical meters. As argued above, LVRECC’s proposed AMI system poses a considerable cost burden to its ratepayers. For these reasons, “*cost saving reasons*” should always be the central consideration whenever smart meter / smart grid technology is at issue, and never a secondary or peripheral consideration. Accordingly, the utility should have been required

⁸ Final Order dated Aug. 29, 2016, p. 6. As recently as January, 2015, it appears that Landis + Gyr was continuing to offer PLC systems. *See* Case No. 2014-00436, Nolin RECC’s responses to Commission Staff’s Initial Data Requests, question no. 2.

⁹ LVRECC response to Attorney General’s Initial Data Requests, Exhibit 5, p. 3 of 9 (entitled “AMI Study”).

¹⁰ Final Order dated August 29, 2016 at p. 3, citing Licking Valley’s responses to PSC 1-10 and AG 2-12.

to conduct a robust, comprehensive cost-benefit analysis to insure that the proposed system would be designed and crafted in such a manner as to achieve the maximum savings possible to its ratepayers.

The Attorney General has no doubt that LVRECC, as a cooperative, has the best interests of its ratepayers in mind. However, absent such a detailed cost-benefit study, it remains unknown whether quantifiable monetary benefits to ratepayers could ever at least equal the costs they will be forced to pay.

The Commission has historically required that dockets for meter replacements have cost-benefit analyses. However, in the instant case the Commission appears to be relaxing this precedent:

“Historically, the Commission *has not issued a CPCN for meter replacement absent a cost-benefit analysis*, but has on occasion approved meter replacement requests when the petitioners have provided the Commission with evidence of extenuating circumstances, such as the obsolescence of existing systems, along with exhibits showing the associated costs. Here, Licking Valley has provided evidence that its existing system is obsolete, along with exhibits documenting Licking Valley's evaluation of multiple proposals filed in response to a RFP and the costs of the proposed system that was selected.”¹¹

In support of its finding that LVRECC was not required in this case to provide a cost-benefit analysis, the Commission cited its final order issued in Nolin RECC's CPCN filing for permission to install an AMI system.¹² In that case, however, Nolin RECC filed a net-present value analysis regarding the proposed project in order to establish its value to

¹¹ Final Order dated August 29, 2016 at pp. 4-5.

¹² Final Order dated August 29, 2016 at p. 4, n. 14, citing Case No. 2014-00436, *Application of Nolin Rural Electric Cooperative Corporation for an Order Pursuant to KRS 807 5:001 and KRS 278.020 Requesting the Granting of a Certificate of Public Convenience and Necessity to Install an AMI System*, Final Order dated Feb. 13, 2015.

ratepayers.¹³ Although not a complete cost-benefit analysis, Nolin's net-present value analysis in that case doubtlessly provided at least some information regarding quantifiable benefits to ratepayers of the proposed AMI system for that cooperative. The Nolin case thus does not provide a viable exception to the Commission's overall precedents requiring the filing of cost-benefit analyses in meter replacement cases. Additionally, the Commission in Case No. 2016-00220¹⁴ ordered a separate utility seeking permission to install an AMI system to conduct a cost-benefit analysis. The Commission should do likewise with LVRECC.

Thus, utility companies filing meter replacement cases, including LVRECC in the instant case, should continue to be required to file robust, comprehensive cost-benefit analyses. The Commission therefore erred in finding that LVRECC was not required to provide a cost-benefit analysis in the instant matter. The Attorney General urges the Commission to require all utilities filing smart meter / smart grid cases to conduct robust, comprehensive cost-benefit analyses to be included with their filings.

Finally, in Case No. 2009-00143,¹⁵ Inter-County RECC filed a CPCN to construct certain projects including, *inter alia*, an AMR metering system at a projected cost of approximately \$5.2 million. Inter-County did not file a cost-benefit analysis in regard to the proposed AMR system, instead stating that overall benefits being recognized by other utilities should be enough reason to approve the AMR project. The Commission disagreed, holding:

¹³ Case No. 2014-00436, Staff Memorandum dated Feb. 12, 2015, p. 1, *citing* Nolin Exhibit 5, confidential pages 1 and 4.

¹⁴ Application of Clark Energy Cooperative, Inc. for a Certificate of Public Convenience and Necessity to Install an Advanced Metering Infrastructure (AMI) System, Commission Staff's Second Data Request issued Sept. 15, 2016.

¹⁵ *In Re*: Application of Inter-County Energy Cooperative for a Certificate of Public Convenience and Necessity Pursuant to KRS 278.020(1) and 807 KAR 5:001, § 9, and Related Sections, Authorizing Certain Proposed Construction Identified as the 2009-2012 Construction Work Plan, Final Order dated Dec. 23, 2009.

“ . . . the Commission would prefer to have seen a cost-benefit analysis specific to Inter-County’s program rather than rely on the “*overall benefits recognized by many utilities across the state and nation.*” The Commission recommends that, in future work plan applications, if Inter-County proposes any large expenditures for new technologies such as AMR devices, Inter-County should perform a cost-benefit analysis as part of its application, showing how the proposed expenditure will benefit Inter-County’s system and customers specifically.”¹⁶

As argued *supra* at page 2 of this brief, LVRECC argues in support of its system that “*there seemed to be more movement in the direction of the RF systems,*” obviously referring to trends in the utility industry. This Commission’s own precedent thus states that a cost-benefit analysis relevant to each utility’s own system is the yardstick by which the need for such systems will be measured, not trends elsewhere. More importantly, the Commission’s own finding that “*most of the industry is selecting RF systems over PLC systems*”¹⁷ also paid undue attention to industry trends over the need for a system-specific cost-benefit analysis. The Attorney General urges the Commission to grant rehearing and modify its finding, to require LVRECC to conduct a robust, comprehensive cost-benefit analysis.


WHEREFORE, the Attorney General urges that the Commission grant rehearing on its Final Order dated August 29, 2016 in the instant case, to: (1) sufficiently determine whether the existing system can still be supported; and (2) order LVREC to conduct a robust, comprehensive cost-benefit analysis to insure that the proposed AMI/RF system is designed in such a way as to provide maximum quantifiable monetary benefits to its ratepayers.

¹⁶ Case No. 2009-00143, Final Order dated Dec. 23, 2009, p. 2.

¹⁷ Final Order dated Aug. 29, 2016, p. 6.

Respectfully submitted,

ANDY BESHEAR
ATTORNEY GENERAL



LAWRENCE W. COOK
KENT A. CHANDLER
REBECCA W. GOODMAN
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE,
SUITE 200
FRANKFORT KY 40601-8204
(502) 696-5453
FAX: (502) 573-8315
Rebecca.Goodman@ky.gov
Larry.Cook@ky.gov
Kent.Chandler@ky.gov

Certificate of Service and Filing

Counsel certifies that an original and six photocopies of the foregoing were served and filed by hand delivery to Dr. Talina Mathews, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Hon. Gregory Allen
P. O. Box 585
Salyersville KY 41465

Kerry K. Howard
President & CEO
Licking Valley R.E.C.C.
P. O. Box 605
West Liberty, KY 41472

Licking Valley R.E.C.C.
P. O. Box 605
271 Main Street
West Liberty, KY 41472

this 16th day of September, 2016



Assistant Attorney General