

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

RUSTY AND TERESA MULLINS	)	
	)	
COMPLAINANTS	)	
	)	
v.	)	CASE NO. 2002-00176
	)	
LICKING VALLEY RURAL ELECTRIC	)	
COOPERATIVE CORPORATION	)	
	)	
DEFENDANT	)	

O R D E R

On May 20, 2002, Rusty and Teresa Mullins ( Complainants ) filed a complaint against Licking Valley Rural Electric Cooperative Corporation ( Licking Valley ) requesting that the Commission order Licking Valley to allow Complainants to pay for an extension of service in installments. Complainants allege that they are unable to pay Licking Valley s estimated price for the extension.

In its answer, Licking Valley denies that it is under any duty or obligation to require less than payment in full prior to making any extension of service. Licking Valley also states as affirmative defenses that it cannot extend service because Complainants had not acquired the proper sewer permit<sup>1</sup> and that the cabin to which the Complainants seek to have service extended is not a primary residence. Licking Valley requests that either the complaint be dismissed or that Complainants be required to pay all costs required by law for the extension.

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<sup>1</sup> See KRS 211.250(5).

## FACTS

Complainants currently live in a mobile home in Morgan County. Located closely to the trailer is a cabin to which the Complainants want to move and make their residence. Neither the cabin nor the mobile home receive electric service; however, it appears that phone service has been extended to the cabin. The cabin is fully constructed outside, but is only partially finished inside.

According to documents<sup>2</sup> that Licking Valley has provided, Complainants applied for service to the cabin on September 10, 2001. The connect order indicates that the extension of service is to be to a non-primary residence, though it appears that the cabin was first marked as a primary residence. Licking Valley, in response to a Commission Staff Data Request, explained that the employee filling out the connect order initially marked the cabin as a primary residence but, upon questioning Complainants, determined that the cabin was not a primary residence and subsequently changed the marking.

On September 21, 2001, a Licking Valley employee estimated the total footage of extension to be 1,758 feet. Under Licking Valley's extension policy to non-primary residences, Complainants' first 150 feet of the extension is free, the second 150 feet of the extension is \$50.00, and the remaining footage of the extension (1,458 feet) is billed at \$2.53 a foot. Including a \$50.00 charge for service extensions to non-primary residences, Complainants would have to pay \$3,738.74 for an extension of service. Pursuant to Administrative Regulation 807 KAR 5:041, Section 11, and Licking Valley's tariff, if Complainants' cabin were considered a primary residence, Complainants would

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<sup>2</sup> Answer, Exhibit A, Electric Connect Order.

receive the first 1,000 feet of the extension free, thus reducing the cost of the extension to \$1,917.74.

In response to a Commission Staff data request, Licking Valley explains how it determined that Complainants cabin is not a primary residence.<sup>3</sup> Licking Valley states that a Licking Valley employee had inspected the premises and reported to Licking Valley that that cabin was not a primary residence and should be treated as a trailer or barn order.<sup>4</sup> Licking Valley further explains that the employee based the determination upon a visual inspection of the premises in which the employee noted there was no visual evidence of habitability, electric service apparatus, electric plug-ins, or lighting fixtures.

In a second data request, Commission Staff requested that Licking Valley explain how it determines whether a residence is primary or not. Licking Valley states that it physically visits the property and conducts a visual inspection to look for signs of habitation. These signs include prior electrical service, maintenance of yard and surrounding area, beaten and worn paths to the structure, presence of garbage cans, and porch furniture. Licking Valley employees also observed the interior through windows.<sup>5</sup>

### DISCUSSION

Licking Valley provides two reasons for denying Complainants request for a normal extension of service. First, Licking Valley denies the extension of service based

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<sup>3</sup> Licking Valley s Response to Commission Staff s First Data Request at 3.

<sup>4</sup> Id.

<sup>5</sup> Licking Valley s Response to Commission Staff s Second Data Request at 2.

upon Complainants failure to comply with KRS 211.350. Second, Licking Valley denies the service because it claims that it is not obligated to make the extension under the terms that Complainants seek: Complainants want to pay for the extension in installment payments. A third issue is whether the structure to which the Complainants want service extended is a primary residence.

Complainants have acquired the necessary release as required by KRS 211.350 and have provided the Commission with a copy of said release. Thus, Licking Valley may not deny service based upon Complainants previous failure to comply with KRS 211.350.

Licking Valley is correct in its assertion that it does not have to offer Complainants the opportunity to pay for the extension of service in installments. Licking Valley's tariff<sup>6</sup> and Commission administrative regulations allow Licking Valley to require a deposit for the estimated cost of the extension prior to construction. Nothing in the applicable statutes, administrative regulations, or Licking Valley's tariff require or mandate that Licking Valley accept installment payments in lieu of full pre-payment for an extension of service. Thus, Complainants, should they desire service, must pay the

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<sup>6</sup> Licking Valley's Tariff Sheet No. 32 Rules and Regulations: Distribution Line extension (2)(a), quoting, verbatim, Administrative Regulation 807 KAR 5:041, Section 11(2)(a), states, in pertinent part:

When an extension of the utility's line to serve an applicant or group of applicants amounts to more than 1,000 feet per customer, the utility may, if not inconsistent with its filed tariff, require total cost of the excessive footage over 1,000 feet per customer to be deposited with the utility by the applicant or applicants, based on the average estimated cost per foot of the total extension.

deposit for the estimated cost of the extension, and Complainants requested relief that they be allowed to pay for an extension of service in installments should be denied.

In a data request, Commission Staff asked Licking Valley why it did not offer the first 1,000 feet of the extension free as provided in its tariff and Administrative Regulation 807 KAR 5:041, Section 11(1). Licking Valley claims that it believes that Complainants cabin to which they desire service be extended is not a primary residence <sup>7</sup> and, thus, should be extended service under the extension of service policy applied to mobile homes. Licking Valley's mobile home extension is identical to Administrative Regulation 807 KAR 5:041, Section 12. Administrative Regulation 807 KAR 5:041, Section 12 and Licking Valley's tariff provide that an applicant desiring an extension of service to a mobile home receive the first 150 feet at no charge, the next 150 feet for \$50, and the remainder of the extension at the tariffed charges for an extension. Licking Valley, under the mobile home extension policy, estimated the cost of the extension to be \$3,783.74. Complainants would also have to pay a \$20.00 membership fee and a \$205.00 deposit, bringing the estimated total cost to \$4,008.74.

A utility must file with the Commission its terms and conditions of service. KRS 278.160(1) states, in pertinent part, that:

Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all **rates and conditions** for service established by it and collected or enforced. (Emphasis added.)

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<sup>7</sup> Licking Valley's Response to Commission Staff's First Data Request at 3.

KRS 278.160 prohibits a utility from imposing rates or conditions of service that are not contained in its tariff, Commission administrative regulations, or statutes.

Licking Valley's claim that Complainant's cabin is not a primary residence and, thus, that Licking Valley's mobile home extension policy applies, is not sustainable by its tariff or Commission regulations. Licking Valley's mobile home extension policy applies solely to mobile homes and makes no mention of primary residences. Likewise, Licking Valley's Distribution Line Extension policy makes no distinction between a primary residence and other structures. Furthermore, Licking Valley's tariff provides no classification of service that differentiates between primary and non-primary residences. A review of Commission statutes and regulations provided no basis for Licking Valley's distinction between a primary and non-primary residence.

Licking Valley, therefore, must charge for an extension of service as it is calculated according to its Distribution Line Extension Policy as applied to extensions exceeding 1,000 feet. The estimated length of the extension is 1,758 feet, of which Complainant is responsible for 758 feet. Licking Valley charges \$2.53 per foot, thus, in addition to the \$20.00 membership fee and \$205 deposit, the approximate cost of the extension that Complainant must pay is \$2,142.74, \$1,866.00 less than Licking Valley's total estimated cost. Licking Valley's tariff<sup>8</sup> also provides that Complainant, over 10 years following the extension of service, will receive a refund for what they paid for footage in excess of 1,000 feet.

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<sup>8</sup> Licking Valley's Tariff Sheet No. 32 Rules and Regulations: Distribution Line extension (2)(B).

It is worth noting that Complainants must still comply with all other applicable rules and regulations regarding receiving electrical service. These rules and regulations include, but are not limited to, compliance with existing electrical codes, approval from the appropriate electrical inspector, and other Licking Valley terms and conditions of service regarding access to property and safety.

### CONCLUSION

The primary purpose for allowing a utility to receive the full amount of the cost of an extension of service prior to construction of the extension is to protect the utility's investment in that extension. To allow a prospective customer to pay for an extension in installments not only puts the utility's investment at risk, it also forces the utility to bear the initial cost of the extension. For these reasons, the Commission will not require Licking Valley to accept installment payments for the requested extension of service.

Licking Valley, however, incorrectly calculated the cost of the proposed extension of service. This higher estimated cost may have caused Complainants to file the complaint requesting an installment plan, as they may be able to pay in full the correctly calculated extension price.

IT IS THEREFORE ORDERED that:

1. Complainants request that Licking Valley be required to accept installment payments for an extension of service is denied.
2. Complainants cabin to which they desire an extension of service shall be considered a primary residence for the purpose of calculating the cost of an extension of service.

3. Licking Valley, upon Complainants compliance with all applicable rules and regulations upon which an extension of service is predicated, must calculate the cost of the extension according to its normal extension policy as contained in Licking Valley's Tariff Sheet No. 32 Rules and Regulations: Distribution Line extension (2)(a) and Administrative Regulation 807 KAR 5:041, Section 11(2)(a).

4. Within 30 days of the date of this Order, Licking Valley shall file a report with the Commission detailing the status of Complainants extension of service.

Done at Frankfort, Kentucky, this 22<sup>nd</sup> day of November, 2002.

By the Commission

ATTEST:

  
Executive Director