

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LICKING VALLEY)
RURAL ELECTRIC COOPERATIVE CORPORATION) Case No. 2020-00338
FOR A GENERAL ADJUSTMENT OF RATES)
PURSUANT TO STREAMLINED PROCEDURE PILOT)
PROGRAM ESTABLISHED IN CASE NO. 2018-00407)

**THE ATTORNEY GENERAL’S RESPONSE TO LICKING VALLEY RURAL
ELECTRIC COOPERATIVE CORPORATION’S MOTION FOR REHEARING**

The intervenor in this proceeding, the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention (“Attorney General”), submits the following Response to Licking Valley Rural Electric Cooperative Corporation’s (“Licking Valley RECC” or the “Company”) Motion for Rehearing of the Commission’s April 8, 2021 Final Order pursuant to KRS 278.400, in the above-styled matter. The Attorney General requests the Commission grant in part, and deny in part, the pending Motion for Rehearing. If this Response is silent to any particular subject(s) raised in the Company’s Motion for Rehearing, that silence should not be construed as acquiescence, approval, or agreement to the same.

ARGUMENT

I. The Commission should not require the Company to file a full general rate case within one year of the April 8, 2021 Final Order.

In the Motion for Rehearing, Licking Valley RECC requests that the Commission modify the requirement for the Company to file a full general rate case within one year of the April 8, 2021 Final Order. Licking Valley RECC requests at least three years to elapse in order to allow

the effects of various cost-cutting measures to realize their full potential.¹ In support of this position, Licking Valley RECC states that its management has closely monitored expenses in order to minimize cost-escalation and has implemented cost-cutting measures to serve its ratepayers more efficiently.² Licking Valley RECC provides the following examples of these measures:

- reducing costs in labor expense;
- extending the lives of large and expensive vehicles such as digger and bucket trucks; repurposing costly equipment such as regulators, transformers, and breakers instead of buying new equipment;
- improved right-of-way management efficiencies realized by implementing a new AMI system and office communication systems;
- deployment of an efficient outage management system utilizing Global Positioning System mapping of the service territory; and,
- reductions in advertising and donation expenses.³

According to Licking Valley RECC, in time these various cost-cutting measures should result in savings, but if the Company is required to file a general rate case within the next year, any historical test year chosen would not fully include the results of these savings.⁴

Licking Valley RECC also argues that there is another equally compelling reason for the Commission to reconsider the mandatory full rate case filing within one year. In addition to the rate increase stemming from this case, East Kentucky Power Cooperative (“EKPC”) also has a pending rate case that, if granted, will increase rates to its member systems, including Licking

¹ Motion for Rehearing at 8 – 11.

² *Id.* at 8.

³ *Id.* at 8 – 9.

⁴ *Id.* at 9 – 10.

Valley RECC.⁵ Thus, if the Commission forces the Company to file for another rate case within one year, then Licking Valley RECC's ratepayers will have three base rate increases in rapid succession over the course of approximately eighteen months.⁶ Licking Valley RECC rightfully states that this is a result that its member ratepayers should not be required to sustain.⁷ Licking Valley RECC further declares that if a third rate increase is implemented within such a short period of time, it will result in "an unfortunate financial burden on ratepayers, and one that is preventable by the Commission."⁸ Therefore, Licking Valley RECC requests that the Commission modify the requirement to file for another rate increase within one year of the April 8, 2021 Final Order, and instead extend the period to three years.⁹ Licking Valley RECC argues that this will allow the full effect of the Company's previously discussed cost containment measures and rate increases to fully develop into consistent and demonstrable revenues.¹⁰

The Attorney General agrees with Licking Valley RECC's request to not be required to file a general rate case in one year from the April 8, 2021 Final Order. First and foremost, in this case the Commission granted Licking Valley RECC almost \$200,000 more of a rate increase¹¹ than it requested in the application; therefore, the additional funds will improve the Company's overall financial health even more than the Company had expected.

Second, Licking Valley RECC should be provided time to determine whether its cost containment measures will in fact create savings, which would continue to improve its financial stability. If the Commission forces utilities to file time consuming and expensive rate cases when

⁵ *Id.* at 10.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 11.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 2.

they are not financially needed then utilities will not have the same incentive to manage and operate in a fiscally responsible way.

Third, the overall economy in the area that Licking Valley RECC serves is in a severe economic decline, and based upon the most recent United States Census information, the average poverty rate for the Company's service area is 28.4%.¹² This places Licking Valley RECC's service area among the highest poverty-stricken regions in Kentucky, and likely in the United States of America. The Attorney General is concerned with how the Company's ratepayers will manage to pay the rate increase already granted by the Commission in this case. However, it will be an even more dire situation if the Company's ratepayers are forced to also absorb a pass through rate increase from EKPC, and a third rate increase from Licking Valley RECC within the short span of eighteen months. Based upon the foregoing, the Attorney General concurs with Licking Valley RECC that the Company should not be required to file for another rate increase in one year from the April 8, 2021 Final Order. Instead, the Commission should provide Licking Valley RECC time to work on its overall financial health, and encourage the Company to rein in expenses in order to stave off further rate increases.

II. The Commission should deny Licking Valley RECC's rehearing request to increase the residential monthly customer charge from \$14.00 to \$17.09.

In its application, Licking Valley RECC proposed to increase the residential monthly customer service charge from \$14.00 to \$17.09,¹³ and relied upon a Cost of Service Study ("COSS") to justify the increase. The Attorney General argued that an increase of this magnitude to the residential monthly customer charge would hinder the residential customers' ability to

¹² <https://www.census.gov/quickfacts/fact/table/KY,US/PST045219>.

Poverty Rates for Licking Valley RECC's Service Area are as follows: Breathitt County – 29.2%, Elliott County – 27.7%, Lee County – 34.9%, Magoffin County – 29.4%, Menifee County – 26.1%, Morgan County – 26.5%, Rowan County – 23.3%, and Wolfe County – 30.1%.

¹³ Application at 2.

control their bills, and pose a financial hardship on those customers who are already struggling to make ends meet.¹⁴ Consequently, the Attorney General recommended that any approved rate increase be placed on the residential energy charge, instead of the residential monthly customer charge.¹⁵

In the April 8, 2021 Final Order, the Commission stated that its preference is to use the zero-intercept method when reviewing COSSs, but determined that in Licking Valley RECC's COSS the zero-intercept analysis did not provide reasonable results for poles, towers, and fixtures (Acct 364), overhead conductors and devices (Acct 365), and underground conductors and devices (Acct 367).¹⁶ As well, the Commission noted that the analysis indicated "little relationship between the number or cost of the poles or conductors and the number of customers."¹⁷ Thus, the Commission removed the customer related percentage for Accts 364, 365, and 367 so that the allocation was 100 percent demand, which resulted in a monthly residential customer charge of \$12.99.¹⁸ Based on this analysis, the Commission concluded that increasing the monthly residential customer charge to the requested \$17.09 based on an arbitrary allocation within the COSS was unreasonable, and ordered the monthly residential customer charge to remain at \$14.00.¹⁹ While the Attorney General would have preferred the residential monthly customer charge to be reduced to \$12.99 based upon the modified COSS, the Commission's maintenance of the \$14.00 customer charge was preferable to the Company's proposal.

In its Motion for Rehearing, Licking Valley RECC contends that the Commission erred by modifying its COSS, and the Company should have been granted a residential monthly customer

¹⁴ Attorney General's Comments at 10.

¹⁵ *Id.*

¹⁶ April 8, 2021 Final Order at 11.

¹⁷ *Id.*

¹⁸ *Id.* at 11 – 12.

¹⁹ *Id.*

charge of \$17.09.²⁰ Specifically, Licking Valley RECC states that the Commission's decision to remove customer expense allocations in favor of an allocation that is 100% demand is arbitrary and inconsistent with prior Commission decisions and industry standards.²¹ Licking Valley RECC argues that by ignoring both the zero-intercept and minimum system methodologies, the Commission in essence created a third standard that is at odds with the accounting rules it has historically required cooperatives to follow.²²

The Attorney General disagrees with Licking Valley RECC's arguments and contends that the Commission's modifications to the Company's COSS were necessary and reasonable. The Commission has plenary authority over ratemaking, and is therefore not required to approach an issue as it has in the past.²³ Regardless, Licking Valley RECC's argument that this decision is inconsistent with prior decisions is inaccurate because the Commission recently made identical modifications to COSSs of at least two other similarly situated RECCs.²⁴ In the other cases neither RECC objected to the COSS modifications, requested rehearings, or appealed the decisions.²⁵ The Commission is tasked with reviewing the evidentiary record and setting fair, just, and reasonable rates for the ratepayers.²⁶ To this end, the Commission utilized its preferred zero-intercept method,

²⁰ Motion for Rehearing at 3 – 8

²¹ *Id.* at 3 – 7.

²² *Id.* at 7.

²³ In *Federal Power Comm'n v. Hope Nat. Gas Co.*, 320 U.S. 591, 64 S.Ct. 281 (1944), the Court noted that in prior rulings, it has found that a rate setting Commission is “. . . not bound to the use of any single formula or combination of formulae in determining rates. Its rate-making function, moreover, involves the making of ‘pragmatic adjustments.’ . . . Under the statutory standard of ‘just and reasonable’ it is the result reached not the method employed which is controlling. Moreover, in the ratemaking process, ‘the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and the consumer interests.” 64 S. Ct. 281, 288. See also Case No. 2018-00281, *Electronic Application of Atmos Energy Corporation for an Adjustment of Rates* (Ky. PSC May 7, 2019); See also Case No. 2020-00160, *Electronic Application of Water Service Corporation of Kentucky for a General Adjustment in Rates* (Ky. PSC December 8, 2020).

²⁴ Case No. 2020–00131, *Electronic Application of Meade County Rural Electric Cooperative Corporation for an Adjustment in Rates* (Ky. PSC Sept 16, 2020), Order at 12 – 13; Case No. 2020-00264, *Electronic Application of Cumberland Valley Electric, Inc. for a General Adjustment of Rates Pursuant to Streamlined Procedure Pilot Program Established in Case No. 2018-00407* (Ky. PSC Dec. 30, 2020), Order at 10 – 11.

²⁵ *Id.*

²⁶ KRS 278.030(1); KRS 278.040.

but found that the aforementioned Accts 364, 365, and 367 of the COSS were unreasonable and therefore made modifications to the same. In doing so, the Commission discharged its statutory duty to set fair, just, and reasonable rates.²⁷ The Commission is well within its statutory authority to use its ratemaking expertise to modify the COSS, and the modifications to the COSS are reasonable.

Licking Valley RECC also argues that the Commission should have recognized that the approved rate structure places too little recovery of fixed costs in the fixed charge, which the Company claims results in significant under recovery of fixed costs.²⁸ The Attorney General contends that there is no legitimacy to this argument because the Commission's revised COSS produced a residential monthly customer charge of \$12.99. Therefore, the approved \$14.00 residential monthly customer charge actually provides more recovery for fixed costs than necessary. Based upon the foregoing, the Attorney General objects to Licking Valley RECC's request to reverse the Commission's modifications to its COSS, and likewise objects to increasing its residential monthly customer charge from \$14.00 to \$17.09.

CONCLUSION

WHEREFORE, the Attorney General respectfully requests that the Commission not require Licking Valley RECC to file a full general rate case within one year of the April 8, 2021 Final Order. Further, the Attorney General urges the Commission to deny Licking Valley RECC's request to remove the Commission approved modifications to the COSS, which would increase the monthly residential customer charge from \$14.00 to \$17.09.

²⁷ *Id.*

²⁸ Motion for Rehearing at 7.

Respectfully submitted,

DANIEL J. CAMERON
ATTORNEY GENERAL



ANGELA M. GOAD
J. MICHAEL WEST
LAWRENCE W. COOK
JOHN G. HORNE II
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE, SUITE 200
FRANKFORT, KY 40601
PHONE: (502) 696-5421
FAX: (502) 564-2698
Angela.Goad@ky.gov
Michael.West@ky.gov
Larry.Cook@ky.gov
John.Horne@ky.gov

Certificate of Service and Filing

Pursuant to the Commission's Orders dated March 16, 2020 and March 24, 2020, in Case No. 2020-00085, and in accord with all other applicable law, Counsel certifies that the foregoing electronic filing was transmitted to the Commission on April 27, 2021, and there are currently no parties that the Commission has excused from participation by electronic means in this proceeding. Further, the Attorney General will submit the paper originals of the foregoing to the Commission within 30 days after the Governor lifts the current state of emergency.

This 27th day of April, 2021.



Assistant Attorney General