

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)

ATTORNEY GENERAL’S COMMENTS

The intervenor in this proceeding, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), submits the following comments to the Public Service Commission (“Commission”) in the above-styled matter.

STATEMENT OF THE CASE

Licking Valley Rural Electric Cooperative Corporation (hereinafter “Licking Valley RECC” or the “Company”), is a non-profit electric cooperative organized under KRS Chapter 279.¹ It provides distribution electric service to approximately 17,272 customers in Breathitt, Elliott, Lee, Magoffin, Menifee, Morgan, Rowan, and Wolfe Counties.² On December 18, 2020, Licking Valley RECC filed an application for an adjustment in rates pursuant to the pilot program established by the Commission in Case No. 2018-00407. Specifically, Licking Valley RECC is requesting to increase its annual revenues by \$595,560, to achieve a Times Interest Earned Ratio (“TIER”) of 1.38, which equates to an Operating Times Interest Earned Ratio (“OTIER”) of 1.30.³

¹ Application at 1.

² *Id.*

³ *Id.* at 2.

Licking Valley RECC is also requesting to increase the residential monthly customer charge from \$14.00 to \$17.09, while making no change to the residential energy charge.⁴ Pursuant to the pilot program’s streamlined process, only one round of discovery was conducted, with Licking Valley RECC providing responses to the Attorney General’s and Commission Staff’s discovery requests on February 11, 2021. The Company also filed supplemental responses to the Attorney General’s discovery requests on February 15, 2021. Following the submission of these comments, the case will stand submitted for a decision on the record on February 19, 2021.

ARGUMENT

I. The Commission should evaluate whether Licking Valley RECC complied with the Final Order in Case No. 2016-00174.

Licking Valley RECC acknowledges that the overall economy in the area it serves is in a severe economic decline, and has been for over a decade due to the downturn of Eastern Kentucky coal business and the related loss of jobs.⁵ Based upon the most recent United States Census information, which does not include the ramifications of the Covid-19 pandemic, the average poverty rate for Licking Valley RECC’s service area is 28.4%.⁶ Licking Valley RECC admits that the poverty rates in its service territory are not only among the highest in Kentucky, but likely in the United States of America.⁷ The Covid-19 pandemic has compounded the problems by further ravaging Eastern Kentucky’s already strained economy. The Attorney General is deeply concerned with the current economic issues that Kentuckians in Licking Valley RECC’s service area are facing. This leads the Attorney General to question whether Licking Valley RECC fully considered

⁴ *Id.* at 2 – 3.

⁵ Licking Valley RECC’s response to the Attorney General’s First Request for Information (“Attorney General’s First Request”), Item 1(a).

⁶ <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%.

⁷ Licking Valley RECC’s response to the Attorney General’s First Request, Item 1(a).

the economic and poverty issues in its service area when awarding *continuous* raises and providing *rich* benefit packages to its employees⁸

In the Final Order of Case No. 2016-00174, the Commission expressed concern over the lack of information the Company provided to evaluate the reasonableness of salaries and wages paid to Licking Valley RECC's employees.⁹ The Commission stated that, "Licking Valley has not conducted a study or analysis to show that its current pay structure is reasonable or relevant in today's market."¹⁰ The Commission asserted that it has begun placing more emphasis on evaluating salary and benefits provided by electric cooperatives as they relate to competitiveness in a broad marketplace, as opposed to wage and salary studies limited exclusively to electric cooperatives, electric utilities, or other regulated utility companies. The Commission further stated that in its next rate application, Licking Valley RECC would be required to include a formal study that provides local wage and benefit information for the geographic area where Licking Valley RECC operates, and must include state data where available.¹¹

In the pending case, Licking Valley RECC avers that historically, the Board of Directors reviews the finances of the Company to determine whether sufficient margins exist to provide across the board wage increases for employees, and if so, sets the amount of the wage increase.¹² After the wage increase is approved, the President and Chief Executive Officer, Mr. Kerry Howard ("Mr. Howard") then handles, "the details of when and how the increase will be paid to

⁸ *Id.*

⁹ Case No. 2016-00174, Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase (Ky. PSC Mar. 1, 2017), Order at 7.

¹⁰ *Id.*

¹¹ *Id.* at 7 – 8.

¹² Licking Valley RECC's response to the Attorney General's First Request, Item 23(a).

employees.”¹³ Notably, Mr. Howard proclaims in his testimony that in order to reduce expenses, Licking Valley RECC has been, “holding the line on employee wage raises.”¹⁴

Conversely, Licking Valley RECC acknowledges in discovery responses that both salaried and non-salaried employees received across the board average raises of 2.00% in 2017, 1.50% in 2019, and 3% in 2020.¹⁵ Additionally, all employees received a \$300.00 bonus in 2018.¹⁶ Licking Valley RECC further admits, as of January 1, 2021, employees began receiving raises between 0% and 3% during the midst of the Covid-19 pandemic that has caused many Kentuckians to lose their jobs.¹⁷ If the Board of Directors reviewed the financial stability of Licking Valley RECC before awarding raises, these recent awards should indicate that the Company’s revenues are sufficient to support its operations and a rate increase is unnecessary. Otherwise, and based upon these results, one must question whether Licking Valley RECC has properly balanced the economic realities between employee raises and ratepayer affordability.

Licking Valley RECC notes that a wage, salary, and benefit plan has been conducted, and will be used as a benchmark for setting and maintaining employee wages and an employee evaluation process will be gradually introduced.¹⁸ If the submitted wage and salary plan in the pending case properly compares Licking Valley RECC’s wage and benefit information with local wage and benefit information for the geographic area where Licking Valley RECC operates, as required by the Final Order in Case No. 2016- 00174, it is difficult to understand how the following

¹³ *Id.*

¹⁴ Direct Testimony of Kerry Howard (“Howard Testimony”) at 5.

¹⁵ *Id.*

¹⁶ Licking Valley RECC’s response to the Attorney General’s First Request, Item 32(e).

¹⁷ Ben Tobin, Louisville Courier Journal, The Coronavirus Pandemic has put 1 in 3 Kentuckians out of Work – the Worst in the Nation, (May 8, 2020, 2:45 PM) <https://www.courier-journal.com/story/news/2020/05/08/coronavirus-kentucky-33-percent-workers-submit-initial-jobless-claims/3094840001/>.

¹⁸ Direct Testimony of Sandra N. Bradley (“Bradley Testimony”), at 8.

results can be justified. In discovery responses, Licking Valley RECC provided annual wages for its employees, the following represents a small sample of the large increase in wages:

- “General Manager/CEO” went from annual wages of \$113,133.00 in 2015 to \$133,885.93 in 2020, an increase of 18.34%;
- “General Superintendent” went from annual wages of \$85,343.44 in 2016 to \$101,410.40 in 2020, an increase of 18.83%;
- “Executive Secretary to GM/CEO” went from annual wages of \$92,791.69 in 2015 to \$114,434.08 in 2017, an increase of 23.32%; and,
- “Meter Person” went from annual wages of \$54,464.16 in 2015 to \$68,877.28 in 2020, an increase of 26.46%.¹⁹

The Attorney General contends that these large wage increases represent a questionable use of ratepayer funds, which do not lead to fair, just, and reasonable rates for the ratepayers. Thus, the Commission should evaluate Licking Valley RECC’s salary and wage increases to ensure that it complies with the Final Order from Case No. 2016-00174, as well as recent Commission precedent.

In Case No. 2016-00174, the Commission also stated that Licking Valley RECC needed to rein in expenses for employee benefits by establishing a policy limiting Licking Valley’s contribution to health insurance premiums and requiring that all employees pay some portion of the premium.²⁰ The Commission further found that Licking Valley RECC should limit its contributions to its employees’ health plans to percentages more in line with those of other businesses in order to reduce its expenses.²¹ Based upon this reasoning, the Commission relied on

¹⁹ Licking Valley RECC’s response to the Attorney General’s First Request, Item 23, pages 5 and 7.

²⁰ Case No. 2016-00174, Electronic Application of Licking Valley Rural Electric Cooperative Corporation for a General Rate Increase (Ky. PSC Mar. 1, 2017), Order at 10.

²¹ *Id.*

the Bureau of Labor Statistics' Healthcare Benefits national database and reduced the Company's health insurance expense based on a 32 percent employee contribution rate for family coverage and 21 percent employee contribution rate for single coverage.²² Additionally, the Commission stated that in the next rate case filing, Licking Valley RECC's request for cooperative paid life insurance should be capped at the lesser of an employee's annual salary or \$50,000.²³

In the pending rate case, however, Licking Valley RECC admits to having continued to pay 100% of health insurance premiums for single coverage and 89.3% for family coverage — at the same levels disallowed in Case No. 2016-00174 — until September 1, 2020, at which time the Company began paying 89.3% of the health insurance premiums for both single and family coverage.²⁴ The Attorney General asked Licking Valley RECC in discovery to explain how the 10.37% employee contribution rate for health insurance premiums had been formulated, and whether the Company reviewed national, state, or local data when creating the contribution rate. Licking Valley RECC stated that the 10.37% contribution rate was formulated and made effective many years ago, but no internal records could be found to establish how the contribution rate was determined.²⁵ Moreover, Licking Valley RECC also admitted that no national, state, or local data was referred to when creating the contribution rate.²⁶ When asked by the Attorney General in discovery whether Licking Valley RECC plans to increase the employee's contribution rate closer to the national average for insurance, the Company surprisingly responded that the employee contribution rate would remain at 10.37%.²⁷ Even after providing no substantive evidence to support a 10.37% employee contribution rate, Licking Valley stated that it, "believes the

²² *Id.*

²³ *Id.*

²⁴ Bradley Testimony at 7 - 8.

²⁵ Licking Valley RECC's response to the Attorney General's First Request, Item 20(b).

²⁶ *Id.*

²⁷ *Id.* at 20(a).

contribution rate to be reasonable and generally consistent with some other rural electric cooperatives in Kentucky.” Additionally, it appears that Licking Valley RECC still pays for 100% of the employees’ life insurance premiums, including the plans that are greater than \$50,000 in coverage,²⁸ as well as 100% of the employees’ long-term disability insurance premiums.²⁹

Based upon these admissions, it does not appear that Licking Valley RECC complied with the Final Order in Case No. 2016-00174, in which the Commission ordered Licking Valley RECC to limit its contributions to its employees’ health plans to percentages more in line with those of other businesses in order to reduce its expenses. The Attorney General requests a full evaluation of the benefits offered by Licking Valley RECC to its employees to ensure that the Company complied with the Final Order from Case No. 2016-00174, as well as recent Commission precedent.

II. The Commission should evaluate whether there should be savings included in the pending rate case associated with the deployment of the Advanced Metering Infrastructure.

In Case No. 2016-00077, Licking Valley RECC filed an application for a certificate of public convenience and necessity (“CPCN”) to purchase and install an Advanced Metering Infrastructure (“AMI”) system to replace its existing metering system.³⁰ Licking Valley RECC estimated that it would cost approximately \$4,423,174 to upgrade to the AMI system, and the proposed project would be completed in two to three years.³¹ However, Licking Valley RECC did not conduct a formal study or cost/benefit analysis when deciding to replace its existing meters.³² Licking Valley asserted that the proposed AMI system would be capable of, among other things,

²⁸ *Id.* at 21.

²⁹ *Id.* at 19(c).

³⁰ Case No. 2016-00077, Application of Licking Valley Rural Electric Cooperative Corporation for an Order Issuing a Certificate of Public Convenience and Necessity (Ky. PSC Aug. 29, 2017), Order at 1.

³¹ *Id.* at 4.

³² *Id.* at 3.

remote connect and disconnect, access by Licking Valley ratepayers to their account information, including online bill payment, via an online portal.³³ In the present case, Licking Valley confirmed that the deployment of the AMI system began in August 2015 and was completed in June 2020.³⁴

In Case No. 2016-00077, the Attorney General argued that if Licking Valley RECC were granted approval to purchase and install an AMI system, then the meter reading expense should be reduced.³⁵ However, Licking Valley RECC stated in the record of that case that it would not be eliminating any meter reading positions as a result of the system-wide conversion to an AMI system.³⁶ The Attorney General questioned the necessity of retaining all of the meter reader positions if there would no longer be as much need associated with those position. In the Final Order of Case No. 2016-00077, the Commission stated that it, “shares the Attorney General's concern regarding potential meter reading savings” but noted that Licking Valley RECC experienced meter reading savings from staff reductions when it installed Automated Meter Reading (“AMR”) meters over a decade ago.³⁷ The Commission concluded that the amount of meter reading expense is a ratemaking item, which is addressed in a rate case, and not a CPCN application.³⁸

In the pending rate case, Mr. Howard states that the deployment of the AMI system had created cost reductions for Licking Valley RECC.³⁹ The Attorney General asked Licking Valley RECC in discovery what meter reading savings the AMI system had created for its ratepayers. Disappointingly, Licking Valley provided no attributable savings⁴⁰ and stated that there are still

³³ *Id.* at 3.

³⁴ Licking Valley RECC's response to the Attorney General's First Request, Item 8(a).

³⁵ Case No. 2016-00077, Application of Licking Valley Rural Electric Cooperative Corporation for an Order Issuing a Certificate of Public Convenience and Necessity (Ky. PSC Aug. 29, 2017), Order at 6 - 7.

³⁶ *Id.*

³⁷ *Id.* at 7.

³⁸ *Id.*

³⁹ Howard Testimony at 5.

⁴⁰ Licking Valley RECC's response to the Attorney General's First Request, Item 8(d).

four meter reading employees - the same number as before the AMI system was operational.⁴¹ Licking Valley RECC argues that these four employees are still needed to fully comply with Commission regulations found in 807 KAR 5:041, in particular those provisions regarding periodic meter reading and testing.⁴² However, Licking Valley RECC has the ability to request a deviation from the periodic meter reading and testing requirements found in 807 KAR 5:041. In fact, a multitude of utilities, specifically rural electric cooperatives, have petitioned the Commission to deviate from various meter reading and testing regulations in order to save money for its ratepayers.⁴³ Furthermore, under the prior AMR system, Licking Valley RECC's staff of four meter reading employees was performing both meter reading and field servicing of meters, so it seems perplexing that the same number of staff are required to perform fewer functions (i.e., no meter reading) on new and more advanced meters. Based upon the discovery responses, it appears that Licking Valley RECC is refusing to provide the ratepayers with any meter reading or testing savings that should coincide with the deployment of an AMI system.

Further, the Attorney General asked in discovery whether there were any general savings attributable to the AMI system, to which Licking Valley RECC responded that it "is unable to provide reliable dollar-amount cost savings associated with the AMI project. However, Licking Valley is confident that savings are being realized because of the ability to remotely read and connect/disconnect meters without the necessity of rolling a truck with employees, as was the case before AMI was installed. There are also other back-office savings realized due to automation in billing."⁴⁴ It seems inherently unfair that Licking Valley RECC's ratepayers have been forced to

⁴¹ Licking Valley RECC's response to the Attorney General's First Request, Item 8(e).

⁴² *Id.*

⁴³ Case No. 2013-00186, Application of Farmers Rural Electric Cooperative for Adoption of a Sample Meter Testing Procedure (Ky. PSC Aug. 8, 2014); Case No. 2016-00275, Request of Nolin Rural Electric Cooperative Corporation to Adopt Scientific Sample Meter Testing for Single Phase Meters (Ky. PSC May 5, 2017).

⁴⁴ Licking Valley RECC's response to the Attorney General's First Request, Item 8(d).

pay \$4,423,174 to upgrade to the AMI system, yet Licking Valley RECC cannot, or will not, point to even \$1.00 of savings that the AMI system has created to benefit the ratepayers – savings that should have been included in the pending rate case. Thus, the Attorney General once again recommends that the Commission evaluate whether meter reading savings and savings in general associated with the deployment of the AMI system should be included in the pending case, and make the appropriate corresponding downward adjustment to the requested revenue increase reflecting the same.

III. Licking Valley RECC’s proposal to increase its residential monthly customer charge by 22.07% is unreasonable.

Licking Valley RECC proposes to increase the residential monthly customer service charge from \$14.00 to \$17.09,⁴⁵ which equates to a 22.07% increase. An increase of this magnitude to the residential charge will hinder the residential customers’ ability to control their monthly bills, and will pose a financial hardship on those customers who are already struggling to make ends meet.

The Commission has always relied upon the principle of gradualism in ratemaking, which mitigates the financial impact of rate increases on customers.⁴⁶ Therefore, if the Commission approves Licking Valley RECC’s increase in rates, the Attorney General recommends placing the full increase on the residential energy charge, instead of the residential monthly customer service charge. If the awarded increase in rates were placed on the energy charge, then it would provide the ratepayers the ability to conserve electricity in order to better control the monthly bill.

⁴⁵ Application at 2.

⁴⁶ Case No. 2014-00396, In the Matter of Application of Kentucky Power Company for: (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2014 Environmental Compliance Plan; (2) An Order Approving its Tariffs and Riders; and (4) An Order Granting All Other Required Approvals and Relief, Order (Ky.PSC June 22, 2014) (“the Commission has long employed the principle of gradualism”); See also, Case No. 2000-00080, In the Matter of: The Application of Louisville Gas & Electric Company to Adjust its Gas Rates and to Increase its Charges for Disconnecting Service, Reconnecting Service and Returned Checks, Order (Ky. PSC Sept. 27, 2000) (“the Commission is adhering to the rate-making concepts of continuity and gradualism in order to lessen the impact of these increases on the customers that incur these charges.”)

In the alternative, the Attorney General proposes a two-phased approach for any increase in the residential customer charge. For example, if the Commission were inclined to raise the residential monthly customer service charge from \$14.00 to \$17.09, then the first phase would allow for the customer service charge to increase to \$15.55 in the first year, and then under the second phase the customer charge would increase to \$17.09 in the second year. This would at least provide an opportunity for Licking Valley RECC's customers to absorb the higher monthly customer charge over the course of a longer period of time, rather than be immediately forced to pay a 22.07% increase. The Attorney General requests a more gradual increase in the residential monthly charge than Licking Valley RECC's one-time proposed 22.07% increase.

IV. Licking Valley RECC should be required to reduce its miscellaneous expenses.

Mr. Howard states that since the 2016 rate case Licking Valley has encountered increased costs in many areas of its business, and has attempted to create cost reductions through various means.⁴⁷ However, in the 2019 test year, Licking Valley RECC provided \$41,372 in donations, and paid \$60,785 in membership dues, \$44,625.35 for the annual meeting, and \$110,646 in miscellaneous expenses.⁴⁸ In response to the Attorney General's discovery questions, Licking Valley RECC provided a breakdown of these 2019 expenses that included items such as the following:

- Christmas Dinner and Gifts approximately \$7,109.85;
- Employee associated gifts approximately \$2,426.34;
- Employee shirts for the annual meeting in the amount of \$2,396.02; and
- Caps in the amount of \$3,884.07.⁴⁹

⁴⁷ Howard Testimony at 5.

⁴⁸ Licking Valley RECC's response to the Attorney General's First Request, Item 30.

⁴⁹ *Id.*

Even if some of these expenses are being excluded from rates, it does not change the fact that the expenses are still being paid with ratepayer funds. As Mr. Howard stated in Case No. 2016-00174, the only revenue stream that Licking Valley RECC has is from the members/ratepayers.⁵⁰ Thus, Licking Valley RECC needs to rein in these expenses moving forward in order to stave off further rate increases. Licking Valley RECC should work to better utilize ratepayers money by reducing the hundreds of thousands of dollars of expenditures that are not directly related to providing safe and reliable electric service. Due to the economic decline and high poverty rates that exist in Licking Valley RECC's service area, the Company's ratepayers have been required to cut expenditures. Likewise, Licking Valley RECC needs to do the same.

CONCLUSION

WHEREFORE, the Attorney General requests that the Commission set fair, just and reasonable rates for the customers of Licking Valley RECC. If the Commission is inclined to grant a rate increase, then it should be limited to what the Company has proven with known and measurable evidence that will result in fair, just, and reasonable rates for the Company's ratepayers.

⁵⁰ Case No. 2016-00077, Licking Valley RECC's response to the Attorney General's Second Request for Information, Item 5.

Respectfully submitted,

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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 February 18, 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 18th day of February, 2021.



Assistant Attorney General