

BEFORE THE WYOMING PUBLIC SERVICE COMMISSION OF WYOMING

IN THE MATTER OF THE APPLICATION)
OF LOWER VALLEY ENERGY, INC.,) Docket No. 30018-38-GP-08
FOR AUTHORITY TO PASS ON A) Record No. 11703
WHOLESALE NATURAL GAS COST)
INCREASE OF \$0.4300 PER THERM)

COMMENTS OF THE WYOMING OFFICE OF CONSUMER ADVOCATE
(Filed July 7, 2008)

On April 7, 2008, Lower Valley Energy, Inc., hereinafter referred to as Lower Valley or the Company, filed an application to pass-on increases in its wholesale commodity costs. Lower Valley included several exhibits with its filing including an Income Statement. The Company also provided responses to two sets of data requests from the Commission Technical Staff, hereinafter referred to as the CTS, to supplement its filing.

Lower Valley and the CTS presented the application to the Commission at an Open Meeting held on May 27, 2008. During the discussion, Mr. Mike McBride, representing the Company, informed the Commission that the financials, which were filed with the application, and the data request responses appeared to show that the Company is currently over-earning. The OCA would like to submit comments related to this application and the Commission's decision.

Section 249(b)(i) of the Commission's rules states that a pass-on application shall:

Include documentation showing the public utility's normalized annual earnings and rate of return on rate base, comparing the rate of return on rate base to that last authorized by the Commission.

The OCA believes that, in order to comply with this portion of the rule, in the most accurate manner possible, a company should file an income statement

spreadsheet showing booked amounts, normalizing and annualizing adjustments, and any adjustments that are known and measurable for the period that rates will be in effect, typically the period of 12 months within the date of an open meeting or hearing in which arguments for the application are heard. The same is true for calculations relating to rate base. A company should file spreadsheets including booked amounts, normalizing and annualizing adjustments, and any known and measurable adjustments. Both spreadsheets are needed in order for the CTS, the Commission, and any other interested parties to properly review the Company's normalized earnings and return against its authorized return. During its review, the OCA found that a fully normalized income statement was not provided, nor were any calculations for rate base.

After speaking with Mr. Mike McBride regarding this issue, He agreed to file a fully normalized the income statement and rate base calculations to update those filed with the application and given in response to CTS data requests. The OCA believes that the updated, normalized financials show that the Company is not over-earning. The decrease in return from what was originally filed is mainly attributable to the inclusion of the cost associated with the installation of a new pipeline. The pipeline will be in place in October 2008, and ,therefore, should be included in rate base as a known and measurable adjustment. Other normalizing adjustments were also included. In addition, the OCA would like to note that all of the financials showed that other financial parameters such as OTIER, DSC, etc., were within reasonable ranges. Since, the Company is a cooperative, it is important to review these parameters as well as return.

The OCA is concerned that Lower Valley may not have been held to the same standard regarding over-earnings as other companies. The CTS did not recommend, nor did the Commission take action, against Lower Valley to "assure rates and earnings remain just and reasonable" (Rule 249(c)(ii)) such as denying the approval of the pass-on. In the past, the Commission has taken a negative stance towards utilities that are in an over-earning situation. These companies

include Montana-Dakota Utilities and Pinedale Natural Gas. In a previous docket, Montana-Dakota Utilities was shown to be over-earning. The Commission denied two consecutive monthly pass-on applications until the Company was earning less than its authorized return. Similarly, a hearing was held regarding Pinedale Natural Gas' over-earnings. In a Stipulation with the OCA, PNG agreed to lower its base rates until it was no longer over-earning. The Commission approved that Stipulation. In this case, the Commission, based on CTS recommendations, only ordered Lower Valley to provide a report to update the Commission on its pipeline build and earnings. The basis for this decision seemed to be that Lower Valley stated that it would be filing a rate case in the fall of 2008, mainly because of the new pipeline. The OCA believes that, had Lower Valley truly been over-earning, the CTS and the Commission should remain consistent and hold this Company to the same standard as others. This would have resulted in withholding approval of the pass-on until the Company was no longer over-earning.

The OCA would also like to touch on a response that the Company provided to the CTS (Response to Question #6, filed May 8, 2008). The response states:

Like its electric service, the Company provides its natural gas service on a non-profit cooperative basis. Revenues in excess of expenses are treated as equity investments by the consumers and first reduce the negative equity created from the initial years when gas service was first provided and then allocated to the consumers in proportion to their individual usage. Equity thus accumulated by members/consumers is returned to consumers when approved by the Board of Directors. The Company feels this is an important distinction in that there are not shareholders and therefore no benefit to shareholders from an over-earning situation.

The OCA would like to include this response in the record because it appears that Lower Valley is suggesting that it is acceptable if a cooperative over-earns its authorized return since its earnings go back to its consumers, not shareholders. The OCA does not agree with this assumption. Just because a utility is a cooperative, doesn't mean that it cannot over-earn. Ratepayers do *not*

need to pay higher rates now to get the money back as capital credits in 20-30 years. Rates that are currently paid should be just and reasonable and should not provide the Company with more earnings than it is authorized to collect.

The OCA recommends that the Commission accept the Company's revised financial statements, fully normalized, to show that Lower Valley Inc. is *not* over-earning. The OCA also recommends that the Commission still require a report from the Company updating the Commission on the status of the pipeline installation. In addition, the OCA urges the Commission to remain consistent regarding any utilities' over-earnings.

Respectfully submitted this 7th day of July, 2008.



Ivan H. Williams, Senior Counsel
Wyoming Office of Consumer Advocate
2515 Warren Avenue, Suite 304
Cheyenne, WY 82002
(307) 777-5717
iwilli@state.wy.us