COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY TO MODIFY AND RENAME THE BROWNFIELD DEVELOPMENT RIDER AS THE ECONOMIC DEVELOPMENT RIDER	))))))	CASE NO. 2011-00103

O R D E R

On March 18, 2011, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively "Applicants") filed an application seeking Commission approval to revise the Applicants' Brownfield Development Tariff Riders. Specifically, the Applicants sought to modify and expand the availability of their Brownfield Development Riders ("BDRs") and rename them Economic Development Riders ("EDRs"). The Attorney General for the Commonwealth of Kentucky is the only intervenor in this proceeding. A procedural schedule was established providing for discovery and an opportunity for the filing of comments. The parties did not file comments and request that the matter be decided on the evidentiary record. For the following reasons, the Commission will approve the application.

BACKGROUND

The Commission authorized the Applicants' current BDRs in Case No. 2007-00192.[1] The BDRs were designed to promote reclamation of environmentally

[1] Case No. 2007-00192, Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a New Tariff – Brownfield Development Rider (Ky. PSC, Mar. 7, 2008).

contaminated sites; to promote economic development efforts within the Commonwealth of Kentucky; and to increase efficient utilization of the Applicants' facilities for the benefit of all their customers. The BDRs were also designed to be a companion schedule to any of the Applicants' power rate schedules, i.e., schedules with a separate demand charge as a part of the billing charges. The BDRs provided for five years of decreasing demand charge discounts for customers who located at least 500 kW of load at sites where the Applicants have facilities in place to serve those customers.[2] In addition, the location must have been idle for two years and have been deemed by the Commonwealth of Kentucky to be a "brownfield"[3] site. Service under this tariffed schedule would only be rendered following approval by the Commission of a special contract between the Applicants and any prospective customer. The length of the special contract is eight years. Thus, a prospective customer would take service under the standard rate schedule for a minimum of three years following the five-year reduced billing period. Currently, the Applicants have no customers who take service under the BDRs.

STATEMENT OF THE CASE

The Applicants propose to change the name to EDR to reflect a wider application. While the current BDRs are available only to customers relocating at brownfield sites, the Applicants are proposing to expand the availability of their new

[2] The BDRs would reduce the demand component by 50 percent during each of the first 12 months, 40 percent during each of the next 12 months, and continuing on a declining scale of 10 percent for each 12-month period for the first 60 months of the customer's contract.

[3] A "brownfield" site is defined as property that is abandoned or under-utilized due to contamination. *See*, Testimony of Fred Howard Bush, Jr. at page 2.

EDRs to be available to any qualifying new load. The Applicants propose to make the current set of BDR demand charge discounts to customers locating at least 1,000 kW (or kVa) of new load in the Applicants' service territories, provided that any such customer, whether new or existing, has been qualified by the Commonwealth of Kentucky for benefits under the Kentucky Business Investment Program[4] and is willing to enter into a special contract for a term of at least 10 years. This new Rider availability for economic development would be in addition to the current offering of demand discounts to customers locating at Kentucky-certified brownfield sites. The modified riders will be available to KU customers with service under Standard Rate Schedules TODP, TODS, and RTS. They will be available to LG&E customers with service under Standard Rate Schedules CTODS, CTODP, ITODS, ITODP, and RTS.

The Applicants are proposing two other changes to assist prospective customers in controlling their initial costs and maximizing the financial value of the riders associated with economic development. First, a customer may request an effective date of the rider up to 12 months after LG&E or KU first provides service to the contracted load, which will enable a participating customer to avail itself of the full benefits of the EDR. Second, a customer of whom the Applicants would ordinarily require a refundable deposit to cover part of the cost of facilities necessary to serve the customer would not have to pay such a deposit up front, but rather would pay for the cost of any revenue-unjustified facilities at the end of 15 years. This latter provision will

[4] The Kentucky Business Investment Program provides tax credits and wage assessments to certain qualifying new and existing businesses that locate or expand operations in Kentucky.

help minimize potential businesses' start-up costs and encourage them to locate in the Applicants' service territories.

The proposed EDR contains minor changes that affect how the BDR would have been applied to brownfield sites. In keeping with the Commission's directive that the term of contract for economic development tariffs should be for twice the term of the discount period,[5] the Applicants proposed to lengthen the term of contract for their EDRs to a minimum of 10 years for both Brownfield Development and Economic Development customers. The Applicants also propose to eliminate the current requirement that a brownfield site must have been vacant for two years to qualify for the BDR. The Applicants note that there has been at least one potential customer who sought to locate at a brownfield location but did not qualify for BDR due to the two-year vacancy requirement, which was part of the reason the customer chose not to locate at the site. To avoid similar problems in the future, the Applicants propose to eliminate this requirement from their new EDRs. Lastly, the Applicants propose to make their EDRs for brownfield development available to loads of 500 kW or 500 kVa or more, as is appropriate. This change is consistent with recent changes wherein many of the standard power rate schedules now utilize kVa for billing purposes.

The Applicants state the primary reason for their proposing the EDRs is that economic development benefits everyone: current customers benefit by having additional customers to help pay the fixed costs of providing electric service; the Applicants benefit by gaining new customers; and the Commonwealth benefits by

[5] *See*, Administrative Case No. 327, An Investigation into the Implementation of Economic Development Rates by Electric and Gas Utilities (Ky. PSC, Sept. 24, 1990).

gaining new jobs, capital investment, and tax revenues. The Applicants further state that businesses are increasingly seeking out these types of economic incentives when making a decision to determine where to locate new operations or whether to expand their current operations. Lastly, the Applicants maintain that several other neighboring utilities provide similar economic incentives and that the instant proposal would allow the Applicants to better compete with other electric utilities in the region and satisfy the Applicants expressed commitment to advance economic development in Kentucky.[6]

DISCUSSION

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that the proposed EDR tariffs offered by the Applicants should be approved as filed. Pursuant to KRS 278.170(1), the Commission is authorized to permit reasonable preferences and advantages as to rates and services. Similarly, KRS 278.030(3) allows a utility to make reasonable classification of its service, patrons, and rates. Pursuant to these two statutes, the Commission has authority to approve economic development and brownfield development riders.[7]

The proposed EDRs make reasonable classifications of the Applicants' rates. Similar to the current BDRs, the proposed EDRs have specific, measurable guidelines

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[6] In the case involving PPL Corporation's acquisition of the Applicants' parent company, the companies made a formal commitment to work with the Governor of the Commonwealth of Kentucky and state agencies to promote economic development in Kentucky. *See* Case No. 2010-00204, Joint Application of PPL Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, Louisville Gas and Electric Company, and Kentucky Utilities Company for Approval of an Acquisition of Ownership and Control of Utilities (Ky. PSC, Sept. 30, 2010), at Appx. C ¶ 49.

[7] *See*, *Public Service Commission of Kentucky v. Commonwealth*, 320 S.W.3d 660 (Ky. 2010).

which must be met in order to be applied. The new EDR for economic development is available to those customers locating at least 1,000 kW (or kVa) of new load in the Applicants' service territories, provided that any such customer has been qualified by the Commonwealth of Kentucky for benefits under the Kentucky Business Investment Program. Customers who qualify for the EDR are eligible to receive a declining reduction in their demand charge for a period of five years and they must enter into a service agreement which obligates them to continue taking service for five years following the incentive period. The proposed EDRs make reasonable preferences as to rates and are based upon reasonable considerations in the classification of the Applicants' qualifying customers. These specific and measurable guidelines are clearly targeted to accomplish the goals and purposes of the Riders–economic development and brownfield redevelopment resulting in job creation and capital investment.

The Commission further finds that the terms of the Applicants' proposed EDR tariffs are consistent with the guidelines set forth in Administrative Case No. 327 ("Admin. 327"). Among other things, Admin. 327 established that the length of a special contract should be at least twice the length of the incentive set forth in the contract; that EDRs should only be offered during periods of excess capacity; and that EDRs should only be offered when the discounted rate exceeds the marginal cost associated with serving the customer. The Applicants propose to lengthen the term of contract for their EDRs to a minimum of 10 years for both brownfield development and economic development. The Applicants commit that they will offer special contracts under EDR only when discounted rates would apply during times of excess supply and that they will make the required showing upon the filing of each special contract. The Applicants state that they will demonstrate with each special contract filing that the discounted rates exceed the marginal cost associated with serving the customer. They further note that their demand charges are made up of approximately 50 percent generation and transmission costs, and approximately 50 percent distribution or customer-specific costs. Thus, any customer taking under a Commission-approved special contract for EDR would necessarily be covering all marginal costs and would be making a contribution to fixed costs.

IT IS THEREFORE ORDERED that:

1. The Applicants' EDR tariffs are approved effective on and after the date of issuance of this Order.

2. Within 20 days of the date of this Order, the Applicants shall file their EDR tariffs as approved herein, showing the date of issue and that it was issued by authority of this Order.

By the Commission

ENTERED
AUG 11 2011
KENTUCKY PUBLIC
SERVICE COMMISSION

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