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Ms. Elizabeth O'Donnell
Executive Director
Public Service Commission of Kentucky
211 Sower Boulevard
Frankfort, Kentucky 40602

November 16, 2006

RE: *In the Matter of: Joint Application of Louisville Gas and Electric Company, Metro Human Needs Alliance, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program,* Case No. 2004-00304

Dear Ms. O'Donnell:

Enclosed please find an original and ten copies of proposed changes to the existing Home Energy Assistance program of Louisville Gas and Electric Company ("LG&E"). LG&E, KACA, MHNA, POWER, and the Office of the Attorney General have developed the proposed changes for immediate implementation. The parties believe that the changes are consistent with the Commission's Order of November 24, 2004 in the above-referenced proceeding, a copy of which is attached for your convenience. Should the Commission Staff disagree, however, we respectfully request a response by December 1, 2006.

If you have any questions, or need additional information, please feel free to contact me.

Sincerely,

Allyson K Sturgeon

Allyson K. Sturgeon

AKS/kmw
Enclosures

C: Lisa Kilkelly
John Benjamin
Kip Bowmar
Dennis Howard
Larry Cook

Proposed Changes to the LG&E HEA Program

Overview:

Louisville Gas & Electric Company, Metro Human Needs Alliance, People Organized and Working for Energy Reform, and the Kentucky Association for Community Action Inc., in conjunction with the Office of the Attorney General, propose a modification to the Home Energy Assistance Plan for the LG&E service territory which is known as the All Seasons Assurance Program ("ASAP"). One of the current features of the program, in which each participant receives a unique set of benefits, would change so that participants would receive benefits according to one of four benefit levels. However, no changes would be made to the concept, model, qualification criteria or administration of the ASAP Program, and the HEA charge of 10 cents per residential meter per month would remain the same. At the time of the initial application, the parties expected that the program would be able to serve approximately 900 customers. The monthly benefit amount would be a calculated fixed credit that varied by month, based on the household's income and size, the household's utility bills for the previous 12 months, an adjustment for monthly normal heating degree days, and any significant changes in utility pricing.

Description of Proposed Change:

Currently, ASAP pays each participant a year round subsidy that varies each month. ASAP calculates each participant's monthly subsidy using that participant's income, family size and weather and price corrected monthly usage for the previous twelve months.

Under the proposed change, ASAP will still pay a year round subsidy that varies each month. However, the formula to calculate the subsidy would include client's weather and price corrected annual, as opposed to monthly, usage over the previous twelve months, along with client income and family size. Need levels and client benefits would then fall into four unified groups. A client's benefits would be based on whether the formula calculated a need above one of the four thresholds: $200; $400; $700; and $1,000. All clients that reached a particular threshold would receive the same uniform benefits. That is, clients whose need level was between $200 and $399 would receive $200 in annual benefits; clients whose need level was between $400 and $699 would receive $400 in annual benefits and so forth.

The uniform benefits in each of the four groups would vary by month, and are based on average monthly benefits of clients presently on the program. The proposed four uniform benefits by month are set forth on the attached sheet.

To illustrate this change, an example of a benefit calculation under the current system and an example of a benefit calculation under the proposal are set forth.

Example of current benefit calculation:

Client Monthly income = \$600
Number of persons in household = 2
ASAP Benefits are based on the calculation that the household will pay approximately \$60 each month on its utility bill. (\$600 x 10% = \$60)

If client's weather and price corrected bill last January was \$150, they will be expected to pay \$60 as calculated above and the January benefit will be \$90.
If the client's weather and price corrected bill last March was \$70, they will be expected to pay \$60 and the March benefit will be \$10.

Example of proposed benefit calculation:

Client annual income = \$7,200
Number of persons in household = 2
ASAP benefits are based on the calculation that the household will pay approximately \$720 annually on its utility bill. (\$7,200 x 10%)

If the client's weather and price corrected annual utility bill last year was \$1,500, they will be expected to pay \$720 as calculated above and their annual need level will be \$780 (\$1,500 - \$720 = \$780). Since \$780 is above the \$700 threshold, the client would receive \$700 in annual benefits according to the monthly benefit schedule for this level.

Rationale for the proposed change:

ASAP is premised on a strong belief in the concept of matching benefit level to actual need. In administering the current program it has become apparent that the accuracy of the benefit is only as good as the input data. The ASAP client population tends to move a lot and have their utilities shut off, especially before joining the program, which is the time frame on which the usage data is based. Thus, the usage data may have gaps or unusual monthly figures that result in irregular individualized benefits. As a result, many times the advantages of individualized benefits are lost in the computer calculations due to irregular input usage data.

The ASAP program administrators have been studying the development of a simplified formula that still matched benefits to actual need. They looked for one simple qualifying criterion, such as income level, family size or poverty level, but found upon analysis of these criteria that none of these alone could predict the level of assistance needed. In addition it became obvious that previous utility usage was a critical input needed to determine needed benefits.

The program administrators found that the current criteria that considers income level, family size and previous utility usage were all necessary in determining levels of assistance needed, but calculating benefits on a monthly basis was too complex and added little benefit. They concluded that altering the benefit formula to utilize annual rather than monthly data would help even out some of the irregularities and would also be simpler. They also found that the current practice of using different formulas for calculating benefits for electric only, gas only and combined customers separately was unnecessary, if four different benefit thresholds are used. The program will continue to track funds from electric and gas pools separately, to ensure there is no cross-subsidization.

Benefits of the proposed change:

The parties believe that the proposed changes will:

- Make the program easier to administer
- Make the program easier for clients to understand
- Make client training sessions easier and smoother
- Speed up the intake and recertification process
- Give the parties some time to implement and assess these changes so that they can be considered in future filings

Proposed Uniform ASAP Benefits

	$200 Annual Benefit	$400 Annual Benefit	$700 Annual Benefit	$1,000 Annual Benefit
January	$35.00	$70.00	$125.00	$175.00
February	$25.00	$50.00	$85.00	$120.00
March	$20.00	$40.00	$70.00	$95.00
April	$15.00	$30.00	$50.00	$70.00
May	$15.00	$30.00	$50.00	$70.00
June	$10.00	$20.00	$40.00	$60.00
July	$10.00	$20.00	$40.00	$60.00
August	$10.00	$20.00	$40.00	$60.00
September	$15.00	$25.00	$40.00	$60.00
October	$15.00	$30.00	$50.00	$70.00
November	$20.00	$40.00	$70.00	$100.00
December	$10.00	$25.00	$40.00	$60.00
	$200.00	$400.00	$700.00	$1,000.00

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY, METRO HUMAN NEEDS ALLIANCE, INC., PEOPLE ORGANIZED AND WORKING FOR ENERGY REFORM, AND KENTUCKY ASSOCIATION FOR COMMUNITY ACTION, INC. FOR THE ESTABLISHMENT OF A HOME ENERGY ASSISTANCE PROGRAM	)	CASE NO. 2004-00304

O R D E R

On July 30, 2004, the Louisville Gas and Electric Company ("LG&E"), Metro Human Needs Alliance, Inc. ("MHNA"), People Organized and Working for Energy Reform ("POWER"), and the Kentucky Association for Community Action, Inc. ("KACA") (collectively "Joint Applicants") filed an application seeking approval of the specific parameters and details, including the administrative budget, for a Home Energy Assistance ("HEA") program in LG&E's service territory.

The application was filed to implement the terms of the Partial Settlement Agreement, Stipulation and Recommendation ("Partial Settlement and Stipulation") that was filed in the LG&E rate case and approved by the Commission on June 30, 2004.[1] All parties to the LG&E rate case unanimously agreed to the general concept of having a 10-cent per month residential meter charge to fund the HEA program for 3 years in the LG&E service territory. They further agreed that the HEA program would

[1] Case No. 2003-00433, An Adjustment of the Gas and Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company.

commence on October 1, 2004 and would be operated by existing social service providers with experience in operating low-income energy assistance programs. The providers would be entitled to recover their actual operating expenses not to exceed 10 percent of the total HEA funds collected.

The Commission's approval in Case No. 2003-00433 encompassed only the general concepts of the HEA program as specifically set forth in the Partial Settlement and Stipulation. All of the specific details of the HEA program were required to be subsequently filed and approved by the Commission. Further, all parties to the LG&E rate case unanimously agreed that no money was to be distributed to the social service providers to implement the HEA program until the specific details and budgets of the programs had been approved by the Commission.

LG&E's HEA program focuses on providing a year-round subsidy based on a "modified fixed credit" payment that does not fluctuate with changes in energy usage. The Joint Applicants previously administered a low-income subsidy program in LG&E's service territory from 1993 to 2003. Known as the All Seasons Assurance Plan ("ASAP"), that prior program was also based on a modified fixed credit payment, and the Joint Applicants propose to again use the ASAP program as LG&E's HEA program. ASAP was created and administered by the Affordable Energy Corporation ("AEC") and AEC is again proposed to administer ASAP as LG&E's HEA program. The Joint Applicants expect to serve approximately 900 low-income households in LG&E's service territory.

The specific details of LG&E's HEA program as filed on July 30, 2004 include the following items:

- Program participants will be active LG&E customers with gross incomes at or below 110 percent of the then-effective federal poverty guidelines. Participants must attend an orientation session and apply for available weatherization programs and accept services if eligible and available.

- Participants must be enrolled in the Federal Low Income Home Energy Assistance Program ("LIHEAP"), have a minimum monthly income of $100, carry an arrearage of no more than $1,000,[2] and must qualify for at least $25 in annual HEA benefits.[3]

- The subsidy benefit will be a calculated fixed credit that varies by month. The calculations are based on the household's income and size, the household's utility bills for the 12 previous months, an adjustment for monthly normal heating degree days, and any significant changes in utility pricing. AEC's computer software will determine each subsidy benefit through a six-step process.[4]

- AEC will operate the HEA program and be responsible for the general policy of ASAP, staffing, monitoring program implementation, financial oversight, programmatic oversight, contracting for services, program operation decisions, communications with LG&E, financial audits, and the January 1, 2007 program assessment.

- AEC will notify partnering agencies previously utilized by AEC of the opening of ASAP intake and of referral procedures. Previous partnering agencies include the Metro Louisville Community Action Partnership, Community Action Programs in other counties, other emergency assistance providers, and transitional housing programs.

- MHNA will provide administrative support services through a contract with AEC. MHNA will provide office space, staff supervision, bookkeeping services, and clerical support.

- LG&E will bill the 10-cent per residential meter per month HEA program charge on customers' bills, provide necessary program data to AEC, and provide the funds to cover administrative costs. HEA program charges will be separated into electric and gas funds.

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[2] The Joint Applicants propose that the arrearage could go up to $1,500 on a case-by-case basis. See LG&E's Joint Application at 5.

[3] Brown Kinloch Testimony at 7-8.

[4] LG&E's Joint Application at 6-7.

To ensure that LG&E's HEA program is available throughout its service territory, the Joint Applicants have allocated the expected 900 participants over the counties in the service territory based on the number of LG&E customers in each county. The Joint Applicants indicated that if the number of eligible participants in a particular county exceeded this pro rata allocation, a waiting list will be developed.[5] Participants may be removed from the program for numerous reasons, including a default on the LG&E bill, failure to apply and qualify for the LIHEAP subsidy, and refusal of energy conservation education and/or weatherization services.[6]

The Joint Applicants also propose to file a comprehensive program assessment ("HEA Assessment") with the Commission by January 1, 2007.[7] This assessment is to ensure that LG&E's HEA program is meeting its established goals and expected program outcomes. The expected program outcomes include a reduction in the need for LIHEAP Crisis Assistance; a reduction in arrearages; a reduction in the loss of service due to non-payment; and an increase in energy savings in combination with weatherization programs. The Joint Applicants also propose to annually audit the financial records of LG&E's HEA program using a third-party independent auditor, in accordance with Office of Management and Budget Circular No. A-133 ("OMB A-133") auditing standards.

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[5] Response to the Commission Staff's First Data Request dated September 7, 2004, Items 10 and 11.

[6] LG&E's Joint Application at 11-14.

[7] This date is based on the commencement date of October 1, 2004 for the HEA program. The Partial Settlement and Stipulation provides that the HEA Assessment is to be filed with the Commission within 90 days of the conclusion of the second year of the HEA program.

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), sought and was granted intervention in this case. The Commission established a procedural schedule that included one round of discovery.

On September 30, 2004, the Commission authorized LG&E to begin collecting the monthly 10-cent per residential meter charge to fund its HEA program, but found the record insufficient to support approval of the program details. The Commission noted that a comparison of the HEA program proposed by LG&E and the HEA program proposed by the Kentucky Utilities Company ("KU") revealed significant differences.[8] The Commission found that the record was insufficient to justify approving the specific details of the HEA programs which differed significantly between the LG&E and KU service territories.[9] The Commission further found that no evidence had been presented to demonstrate that low-income customers in the service territories of LG&E and KU had vastly dissimilar characteristics sufficient to justify vastly dissimilar HEA programs. The Commission concluded that the Joint Applicants should have an

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[8] The Partial Settlement and Stipulation included the establishment of an HEA program for both LG&E and KU. The KU HEA program was filed as Case No. 2004-00303, Joint Application of Kentucky Utilities Company, Kentucky Association for Community Action, Inc., and Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. for the Establishment of a Home Energy Assistance Program.

[9] Three specific differences were noted in the September 30, 2004 Order. They were (1) the LG&E HEA program provided a year-round subsidy while the KU HEA program provided a 7-month subsidy; (2) LG&E's HEA program would subsidize arrearages while KU's HEA program would not subsidize a participant's arrearage; and (3) LG&E's HEA program provided a variable subsidy that was calculated on the basis of each participant's unique circumstances while KU's HEA program provided a fixed subsidy to each participant.

opportunity to supplement the record in this case, or otherwise demonstrate why the specific parameters and details of the two HEA programs should not be identical.[10]

LG&E, MHNA, and POWER filed supplemental testimony on October 19, 2004. LG&E estimated that if the LG&E HEA program was required to mirror the KU HEA program, the costs would be $15,000 and would delay customers receiving benefits by as much as 4 to 6 weeks. LG&E noted that the low-income assistance agencies in its service territory had focused on the unique demands of the low-income populations for many years. LG&E stated that in an effort to keep administrative costs to a minimum and implement the HEA program as quickly as possible, the Joint Applicants and the AG agreed that existing infrastructures of the participating low-income assistance organizations should be utilized.[11]

MHNA and POWER stressed that ASAP was specifically designed to interface with the customer accounting and billing systems in place at LG&E, which helped lower the administrative costs of ASAP.[12] MHNA and POWER explained that ASAP's year-round payments essentially achieved the same result as KU's 7-month HEA payments because ASAP's monthly subsidy varies each month, depending on need.[13] Concerning arrearages, MHNA and POWER stressed that only half of a participant's arrearage is paid under ASAP, with the rest paid by the participant. MHNA and

[10] The September 30, 2004 Order scheduled an informal conference for October 12, 2004 to allow the parties to discuss the issues and develop a procedural schedule.

[11] Cockerill Testimony at 2-3.

[12] Brown Kinloch Testimony at 12-13.

[13] Id. at 16-17.

POWER argued that for ASAP to operate smoothly and efficiently, due to the interaction with LG&E's billing system, arrearages must be paid in full. Other assistance agencies in LG&E's service territory to date have not indicated that funds would be available to address the arrearage problem. Based on the absence of other funds to pay arrearages and the belief that eliminating arrearages was beneficial to the ASAP program, MHNA and POWER concluded that an arrearage component was needed in the ASAP program.[14]

MHNA and POWER contended that the differences in the LG&E and KU HEA programs reflect the realities in each service territory. They noted that the LG&E and KU computer and billing systems that the HEA programs must interface with are different. They also noted that LG&E is a combined gas and electric utility, whose customers are primarily combined customers centralized in one county, while KU is an electric only utility serving customers in 77 counties.[15] MHNA and POWER stated that it would not be easy to modify ASAP to match the KU HEA program and that it would probably be easier to start over rather than try to modify ASAP. MHNA and POWER estimated that it could cost up to $50,000 to start over and it would be difficult to modify ASAP in time for use during this heating season.[16]

The AG filed comments on October 25, 2004, and stated that he had fully participated in the negotiations that had resulted in the establishment of the terms under which LG&E's HEA program is to be initiated and administered. He expressed his belief

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[14] Id. at 18.

[15] Id. at 19.

[16] Id. at 20.

that the LG&E HEA program was designed to achieve the intended benefits at the least cost, while recognizing that the LG&E and KU service areas have different programs and facilities in place to administer individual HEA programs. The AG also expressed the belief that the low-income assistance agencies serving in the LG&E and KU service territories do not have the ability to implement the same or nearly the same program in both service territories without substantial additional administrative cost.[17]

Based on the evidence of record, the Commission finds that the differences in the proposed LG&E and KU HEA programs are due to incompatible billing and accounting systems at the two utilities and incompatible computer software at the low-income assistance providers in each service territory, not due to different demographic characteristics of potential HEA participants. While the Joint Applicants have noted specific advantages to modeling the LG&E HEA program to operate using ASAP, they have made only general statements about the differences in the types of utilities and rural versus urban customers.

However, the Commission is persuaded at this time by the Joint Applicants' arguments that modifying LG&E's proposed HEA program would result in delaying its implementation beyond this year's heating season. The Commission believes it is desirable for LG&E's HEA program to be implemented as soon as possible, even though its differences from KU's HEA have not been justified by any demographic characteristics of potential HEA participants. Therefore, the Commission finds that, subject to the modification discussed below, all other program details of LG&E's HEA

[17] AG's Comments at 2.

program should be approved and the commencement date of the program should be December 1, 2004.

The one modification that the Commission finds necessary is the level of arrearage payments. The Joint Applicants proposed a level of $1,000, which could be as high as $1,500 on a case-by-case basis. The inclusion of an arrearage component appears to be necessitated by LG&E's accounting and billing systems rather than the needs of the HEA participants. During the prior operation of ASAP the arrearage limit was $700, while the limit during the 2002 pilot program was $1,000. The Joint Applicants stated that the arrearage level could be lower than $1,000, based upon what was experienced by the current applicants.[18] Based on this evidence, the Commission finds that the Joint Applicants have not adequately explained why the arrearage limit should be $1,000 or why that limit could be raised up to $1,500 on an individual case basis. Consequently, the arrearage limit for inclusion in the LG&E HEA program should be no more than $700, with no exceptions.

The Joint Applicants have stated that the HEA program will be audited annually by a third-party independent auditor in accordance with the OMB A-133 auditing standards. Due to our concerns that LG&E and KU are offering different HEA programs, and recognizing there are 14 counties in Kentucky in which both LG&E and KU provide service, the Commission will require additional information to be filed in conjunction with the annual audits. The additional information should include the summaries of interviews with both those persons dealing directly with potential HEA

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[18] Response to the Commission Staff's First Data Request dated September 7, 2004, Item 7.

participants to identify any problems in implementing LG&E's HEA program, and those persons working in the 14-county "overlap" area to identify any problems in administering two different HEA programs.

As noted previously, the Partial Settlement and Stipulation requires an HEA Assessment be prepared and filed with the Commission within 90 days of the conclusion of the second year of the HEA program. Since we have now determined that the HEA commencement date should be December 1, 2004, that assessment will be due no later than February 28, 2007. The Joint Applicants have described the issues that they propose to address in the HEA Assessment. The Commission finds those issues to be reasonable, but the HEA Assessment also needs to address these supplemental issues:

<u>Availability</u>. LG&E's electric service territory covers 9 counties in Kentucky, while it provides gas service in 17 counties. The Joint Applicants have proposed to allocate the expected 900 participants among the counties in LG&E's service territory based on the number of LG&E customers in each county. The HEA Assessment should address whether this approach made the HEA program clearly available to customers in all counties served by LG&E.

<u>Cross-subsidies</u>. As noted previously, LG&E is a combined gas and electric utility. The Partial Settlement and Stipulation requires LG&E's HEA program to segregate the funds collected into a gas HEA fund and an electric HEA fund. The HEA Assessment should address whether there were cross-subsidies between LG&E's gas customers and its electric customers.

Participant Benefits. The Joint Applicants proposed to evaluate the HEA program based on a set of expected outcomes relating to a reduction in the need for LIHEAP Crisis Assistance; a reduction in arrearages; a reduction in the loss of service due to non-payment; and an increase in energy savings in combination with weatherization programs. The HEA Assessment should also analyze the movement of participants in and out of the HEA program to determine if benefits to the participants are short-term or long-term in nature.

Two HEA Programs. As discussed previously, the HEA programs proposed by LG&E and KU include significant differences which are not due to the demographic characteristics of potential HEA participants in each service territory. The HEA Assessment should address the development of "mirror-image" HEA programs for the LG&E and KU service territories, and should include an analysis of the demographic characteristics of the HEA participants in each territory.

Arrearages. One of the expected outcomes of the HEA program is a reduction in arrearages. LG&E's HEA program, as modified herein, includes up to $700 for the payment of arrearages from HEA funds. The HEA Assessment should evaluate the impact of not including arrearages in the HEA program and the effectiveness of this approach, without regard for the requirements of LG&E's accounting and billing systems.

LG&E's Contribution to the HEA Program. In the June 30, 2004 Order in Case No. 2003-00433, the Commission noted that it has urged utilities that will be the beneficiaries of assistance programs to be financial contributors to those programs. We stated that a utility that is at least partially funding an assistance program has a greater incentive to monitor the program expenditures and would be in a better position to assure its ratepayers that the funds are being spent in the most efficient manner. While expressing our disappointment at that time that LG&E had chosen not to be a financial contributor to the HEA program, we expressed the expectation that, in any event, LG&E needed to actively monitor the implementation, operation, and expenditures of the HEA program.[19]

LG&E was asked in this proceeding whether it had reconsidered its refusal to contribute financially to the proposed HEA program. LG&E stated that it had reconsidered the issue, but again decided not to contribute financially to the HEA program, although it will continue its support of other assistance programs.[20] LG&E's voluntary support of other assistance programs is commendable, but it differs significantly from what LG&E's residential customers are asked and required to do. Those customers are also given the option to support other assistance programs, but are required to pay the HEA charge. The Commission well recognizes that we have no authority to require LG&E to fund its HEA program, but we continue to believe that LG&E should do so. LG&E is the direct beneficiary of this HEA program, as the funds collected from residential ratepayers are applied to otherwise uncollected utility bills, and it should be willing to set an example as a good corporate citizen by making a financial contribution to this program.

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[19] Case No. 2003-00433, June 30, 2004 Order at 71.

[20] Response to the Commission Staff's First Data Request dated September 7, 2004, Item 3.

Concerning the need to actively monitor the implementation, operation, and expenditures of the HEA program, LG&E indicated that it will be reviewing reports on HEA program activities, results, and budget updates; it will be evaluating and reporting HEA program results; and it will be providing regular reports to AEC to assist in the production of quality data in order to determine relevant statistics on the HEA program.[21]

These monitoring activities do not appear to reflect "active" monitoring of the implementation, operation, and expenditures of the HEA program. The activities described by LG&E generally deal with "after-the-fact" reviews of the HEA program, rather than the "up-front" involvement in the HEA program that the Commission was expecting.

Consequently, the HEA Assessment should include a review of LG&E's involvement in the HEA program and an explanation of how this level of involvement has resulted in the active monitoring of the HEA program. LG&E should also reconsider its refusal to contribute financially to its own HEA program.

IT IS THEREFORE ORDERED that:

1. LG&E's HEA program as described in the joint application and as modified herein to a maximum arrearage payment of $700 is approved, with a commencement date of December 1, 2004.

2. LG&E is authorized to begin expending the HEA funds collected under the 10-cent per residential meter charge.

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[21] Id., Item 8(b).

3. The annual audit reports of the HEA program consisting of the financial audit and the interview summaries discussed in the findings above shall be filed with the Commission within 10 days of their completion.

4. The HEA Assessment shall be filed with the Commission no later than February 28, 2007 and shall address the issues outlined in the Joint Application and the supplemental issues discussed in the findings above.

5. Subject to the filing of a timely petition for rehearing pursuant to KRS 278.400, this case is closed and any future filings shall be maintained in LG&E's general correspondence file or docketed as a new case.

Done at Frankfort, Kentucky, this 24th day of November, 2004.

By the Commission

ATTEST:

Robert A. Amato for the

Executive Director