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August 30, 2006

VIA HAND DELIVERY

Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: ***Consideration of the Requirements of the Federal Energy Policy Act of 2005 Regarding Time-Based Metering Demand Response and Interconnection Service***
KPSC Case No. 2006-00045

Dear Ms. O'Donnell:

Enclosed please accept for filing the original and ten copies of Louisville Gas and Electric Company's and Kentucky Utilities Company's Joint Post-Hearing Brief in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions or need any additional information, please contact me at your convenience.

Very truly yours,

W. Duncan Crosby III

WDC/ec
Enclosures
cc: All parties of record

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSIDERATION OF THE REQUIREMENTS OF THE FEDERAL ENERGY POLICY ACT OF 2005 REGARDING TIME-BASED METERING, DEMAND RESPONSE AND INTERCONNECTION SERVICE	)	**CASE NO: 2006-00045**

JOINT POST-HEARING BRIEF OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY

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Filed: August 30, 2006

I. SUMMARY

Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively, "the Companies") welcome and appreciate the opportunity to participate in this proceeding, sparked by the Energy Policy Act of 2005 ("EPAct 2005") and concerning proposed standards for two important topics: time-based rates and smart metering ("EPAct 2005 Section 1252") and interconnection ("EPAct 2005 Section 1254"). Because they believe there is insufficient data at this time to support a statewide and mandatory standard concerning time-based rates and smart metering, the Companies at this time oppose such a standard. Concerning an interconnection standard, however, the Companies are not opposed to such a standard based on IEEE 1547, as contemplated in EPAct 2005 Section 1254.

II. INTRODUCTION

Before proceeding to their statements about these topics, the Companies ask the Commission to recall the last time it engaged in a similar kind of proceeding, Administrative Case No. 203,[1] which addressed several standards the Public Utilities Regulatory Policies Act of 1978 ("PURPA") required state commissions to consider. In its final order in that proceeding, the Commission carefully considered the position of each utility concerning a number of standards, accepting some with modification, such as the PURPA requirement that utilities adopt time-of-day rates, and rejecting others.[2] In the case of the PURPA time-of-day rate standard, for example, the Commission created a four-part implementation plan that essentially operated as a two-year pilot program to determine the cost-effectiveness of such rates. It was a moderate and

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[1] *In the Matter of the Determinations with Respect to the Ratemaking Standards Identified in Section 111(d)(1)-(6) of the Public Utility Regulatory Policies Act of 1978*, Administrative Case No. 203.
[2] *Id.*, Order (February 28, 1982).

well-reasoned approach to implementing a standard about which there was little data about its cost-effectiveness.

This proceeding is essentially an extension of Administrative Case 203; EPAct 2005 amends the same PURPA that was the subject matter of Administrative Case 203. Just as in that case, in this proceeding the Commission has the authority to accept, reject, or modify the PURPA standards proposed by Sections 1252 and 1254 of EPAct 2005.[3] The Companies request that the Commission use its authority to issue a final order in this proceeding (1) rejecting the Section 1252 time-based rate and smart metering standard on the ground that there exists insufficient data to impose such a standard at this time, and (2) accepting the Section 1254 interconnection standard based on IEEE 1547, with which the Companies' current interconnection standards already comply.

III. ARGUMENT

A. The Companies Oppose a Statewide and Mandatory Time-Based Rate and Smart Metering Standard (EPAct 2005, Subtitle E, Section 1252)

1. The Commission Should Decline to Impose a Statewide and Mandatory Time-Based Rate and Smart Metering Standard Because Insufficient Data Exists to Create a Workable Standard.

Although the Companies appreciate the opportunity that the Commission and the Energy Policy Act of 2005 have provided to discuss time-based rates and smart metering, they believe there is at present insufficient data concerning such rates and metering, particularly for small commercial and residential customers in Kentucky, to allow for the creation of a statewide and mandatory standard of any kind.[4] Due to this lack of data concerning the demand response effect of incremental time-based rate programs beyond those the Companies currently offer, as well as

[3] *See* 16 U.S.C. § 2621(a)-(c).
[4] *See* Testimony of Kent W. Blake at 2-3.

insufficient data concerning the cost-effectiveness of such programs, the Companies are opposed to any statewide and mandatory standard or set of standards concerning smart metering, time-based rates, or demand response programs.[5] As discussed further below, the Companies have doubts as to whether a statewide standard would likely be workable at any time in the future, but if so, significant pilot program data would be required for determining the minimum requirements that would provide the most cost-savings to utilities and their customers across Kentucky's varying service territories. Because the required data simply do not now exist, the Companies oppose creating a statewide and mandatory time-based rate and smart metering standard.

2. The Commission Should Decline to Impose a Statewide and Mandatory Time-Based Rate and Smart Metering Standard Because Kentucky's Service Territories Are Too Varied for a Single Standard to Function Well.

Again, at least at this time, when the Commission does not possess sufficient Kentucky-specific data to craft an effective minimum standard for time-based rates and smart metering, the Companies urge the Commission not to impose such a standard, particularly because Kentucky's different service territories are so varied in ways relevant to time-based rates and smart metering.[6] The Companies believe certain kinds of smart metering, time-based rates, and demand response programs will likely function better or worse in certain areas of Kentucky than others depending on logistical challenges, consumption patterns, and other issues that vary from area to area and utility to utility.[7] Without first studying the effects of different kinds of time-based rates and smart metering in various service territories to determine if a statewide standard of any kind is workable given the relevant differences between service territories, any such

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[5] *Id.*
[6] Testimony of Kent W. Blake at 3; T.E. 20.
[7] *Id.*

standard would at best result in sub-optimal cost savings, and may result in net cost increases. This concern is another reason the Companies oppose a time-based rate and smart metering standard.

3. <u>In Lieu of a Statewide and Mandatory Standard, Utilities' Engaging in Their Own Time-Based Rate and Smart Metering Pilot Programs May Gather Useful Data About Which Such Rates and Meters Work Best in Kentucky</u>.

In lieu of creating a mandatory standard or set of standards at this time, the Companies believe that pilot programs, such as the one LG&E is currently planning, may prove useful for gathering data to inform any future decisions the Commission might wish to make concerning these issues. As described in the Companies' responses to data requests and testimony before the Commission, LG&E currently has designed an EPAct 2005-compliant pilot program to use smart meters with demand response capabilities (i.e., load control functions) to implement a time-based rate structure with a critical peak pricing component.[8] LG&E believes that this time-based rate, smart metering, and demand response structure, coupling time of use pricing (i.e., critical peak pricing) with load control devices, may prove to be cost-effective for LG&E and its customers; however, LG&E and KU cannot affirmatively draw any conclusions until they implement the pilot program and collect and analyze data from it.[9] Nonetheless, data that pilot programs produce may aid the Commission in determining at some point in the future if a more uniform standard would be beneficial to the Commonwealth.

[8] *See* Testimony of Kent W. Blake at 3-4; Testimony of Gregory Fergason at 6-7.
[9] *See* Testimony of Kent W. Blake at 4.

B. <u>The Companies Are Indifferent to an Interconnection Standard Based on IEEE 1547 But Retain Some Concerns About Incremental Implementation of Distributed Generation (EPAct 2005, Subtitle E Section 1254)</u>

1. <u>The Companies Are Indifferent to an Interconnection Standard Based on IEEE 1547 Because the Companies' Current Interconnection Standards Are Based on IEEE 1547</u>.

The Companies are not opposed to a mandatory interconnection standard of the kind EPAct 2005 Section 1254 contemplates, incorporating the standards contained in IEEE 1547. As the Companies stated in their Response to Commission's Order dated February 24, 2006, Interconnection Question No. 1, the Companies already have on file several tariffs, such as those concerning Small Qualified Facilities and Large Qualified Facilities, involving interconnection to the Companies' distribution system. These current interconnection standards of the Companies are based on IEEE 1547 and could be modified to specify requirements for all types of interconnections, even small capacity interconnections such as net metering.[10] According to their standards, the Companies have willingly interconnected customer generation on request, generally for the purpose of co-generation or to accommodate closed-transition (make before break) standby generation.[11] Thus, the Companies' have no objection to an interconnection standard based on IEEE 1547.

2. <u>The Companies Retain Some Cost, Reliability, and Safety Concerns About Incremental Implementation of Distributed Generation</u>.

Although not opposed to an interconnection standard per se, the Companies do have cost, reliability, and safety concerns with respect to the incremental implementation of distributed generation. Utilities and their customers should not have to bear costs of distributed generation beyond any actual, realized cost savings, particularly given the questionable availability of distributed generation and the safety hazards such generation poses, such as energizing lines

[10] *Id.* at 5.
[11] Testimony of Michael Leake at 2.

when linemen are working and believe a line to be de-energized.[12] To address these concerns, first, with respect to cost, distributed generation should not be subsidized beyond avoided cost through rate incentives and all associated costs of interconnection should be assigned to the customers requesting interconnection.[13] This includes costs for system impact studies, facility improvements, and special equipment, as well as any ongoing costs associated with managing the interconnection.[14] Second, because the availability and reliability of customer owned generation at the time of critical need is questionable, utilities should not be required to incorporate interconnected generation into their system resource plans due to its questionable availability.[15] Third and lastly, in order to make safer interconnected generation, other requirements might include setting limitations on the maximum size of interconnected resources, establishing minimum technical standards for protective equipment, control and metering, defining timelines for various steps involved in the interconnection process, and setting standards for inspection and maintenance of customer and utility owned protective equipment.[16]

C. Sierra Club Comments

1. Sierra Club's Misleading Comments Focus on Issues Irrelevant to Establishing an Interconnection Standard.

Sierra Club makes a series of unfounded attacks against utilities generally, and the Companies specifically, concerning, in large part, their compensation for energy provided by qualified facilities ("QFs"), a topic irrelevant to these proceedings.[17] Sierra Club makes clear it wants more money paid to QFs, but makes no credible argument that utility customers will

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[12] Testimony of Kent W. Blake at 5-7; Testimony of Michael Leake at 1-2, 4-5.
[13] Testimony of Kent W. Blake at 5-6; Testimony of Michael Leake at 1-2.
[14] Testimony of Kent W. Blake at 5-6; Testimony of Michael Leake at 1-2, 4-5.
[15] Testimony of Kent W. Blake at 5-6; Testimony of Michael Leake at 1-2.
[16] Testimony of Michael Leake at 1-2.
[17] Sierra Club references in its remarks the Companies' filed and approved QF tariffs, but these tariffs are relevant to these proceedings. QFs, like other alternative sources of energy, would be considered as potential resources in resource planning proceedings.

benefit from paying unnecessarily high rates. Instead, Sierra Club seeks to advance its social policy agenda on the backs of ratepayers, a proposal the Commission ought to reject outright. Because compensation for QFs is an issue wholly irrelevant to this proceeding, the Commission should disregard Sierra Club's assertions.

Sierra Club does address one relevant topic in its remarks by erroneously alleging that utilities have "erected . . . a plethora of idiosyncratic interconnection policies, restrictions and requirements that vary from one service territory to the next," all to limit the interconnection of distributed generation.[18] Sierra Club further accuses utilities of complicating DG interconnection with "numerous artificial barriers" such as "requirements for safety equipment and custom engineering analyses that [are] unnecessarily costly and duplicative."[19] The Companies' response is simply that it has not raised any "artificial barriers" to distributed generation, and in this proceeding is not opposed to a uniform interconnection standard based on IEEE 1547 – the same standard upon which the Companies' current interconnection standards are based.

IV. CONCLUSION

The Companies urge the Commission to maintain its focus on those issues set out in the Order initiating this proceeding and set out in Sections 1252 and 1254 of EPAct 2005: time-based rate and smart metering and interconnection standards. Concerning these issues, there is not enough data to create a wise and workable time-based rate and smart metering standard at this time, and the Companies do not oppose an interconnection standard based on IEEE 1547 because the Companies currently base their interconnection standards on IEEE 1547. The Companies therefore request that the Commission use its authority under PURPA to issue a final

[18] Sierra Club Comments at 2.
[19] *Id.*

order in this proceeding (1) rejecting the Section 1252 time-based rate and smart metering standard on the basis that there exists insufficient data to impose such a standard at this time, and (2) accepting the Section 1254 interconnection standard, with which the Companies believe they are already in compliance.

Dated: August 30, 2006

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that an original and ten copies of this Joint Post-Hearing Brief was hand delivered on the 30th day of August 2006 to Elizabeth O'Donnell, Executive Director, Kentucky Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601, and that a copy was mailed, via U.S. Mail, postage prepaid, to:

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