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COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE  
COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS )  
AND ELECTRIC COMPANY AND KENTUCKY )  
UTILITIES COMPANY FOR APPROVAL OF ) CASE NO. 2007-00067  
THEIR PROPOSED GREEN ENERGY RIDERS )

ATTORNEY GENERAL'S COMMENTS

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, and tenders the following comments in the above-styled matter.

**I. Summary of Plan**

Louisville Gas & Electric Company and Kentucky Utilities Company (hereinafter jointly referred to as "Petitioners") seek Commission approval of a plan to purchase green energy certificates ("GEC"). Most of the energy produced under the GEC would come from renewable sources such as wind, biodiesels or landfill gas-fired CTs. In order to fund this new initiative, Petitioners will seek voluntary payments from customers that will go toward the purchase of GECs. Small customers (those in rates RS or GS) who are not in arrearage will be allowed to make contributions in blocks of 300 kWh @ \$5 /each, which the company will apply toward the purchase of a GEC. These customers will be allowed to purchase as many blocks as they wish. All other customers will be allowed to purchase in blocks of 1,000 kWh @ \$13 /each, again in as many blocks

as they wish. Small customers may withdraw at any time; however, all other customers are obligated to remain in the program for at least one year.

Purchases will appear as a line-item on the monthly bills of participating customers.

A portion of the contributions (25% of contributions from the small customers; 4% from all other customers) will go toward program enrollment and incentivizing participation. Petitioners advise that their prospective program will be modeled after other programs already in place at many other IOUs around the country, and that it will meet "Green-E" certification standards.

Petitioners will retain the services of a contractor (Three Phases Climate Solutions; hereinafter: "TPCS") to find the alternative energy sources, to procure the GECs, manage accounting, and ensure adherence to Green-E standards.

Petitioners themselves are not at the present time prepared to enter the alternative energy market, because it is not economically feasible to use alternative fuels in their existing fleet. Thus TPCS will seek the alternative energy supplies from external generation providers. However, Petitioners do have longer range plans to eventually enter the alternative energy market. If and when Petitioners elect to do so, at least a portion of the revenues from this voluntary program would go toward the procurement of renewable fuels and associated technologies.

It is the intent of both Petitioners and TPCS to seek actual renewable generating sources as close to the Petitioners' home service territories as possible.

Customers will be advised that the actual source of renewable power may not be located in the service territory, and thus any environmental benefit may not accrue within the actual service territory.

At least for the time being, no portion of participating customers' contributions will go toward the costs that TPCS incurs in administering the contract. However, Petitioners stated in the March 13, 2007 informal conference held in this matter that as of now, they do intend to include a maximum of \$50,000 of these costs as above-the-line costs subject to recovery in their next rate cases (of that \$50,000, up to \$10,000 would go toward the companies' computer programming -related costs, with the remainder going toward TPCS' administrative costs). Even though Petitioners do intend to seek rate recovery for this portion of their costs, they would not be creating a deferred account or regulatory asset.

If the plan is approved, Petitioners will provide periodic accounting updates to the Commission, which will also track the number of GECs purchased.

## **II. Attorney General's Comments**

From a general perspective, the Attorney General applauds Petitioners' initiative, subject to the following provisos.

First, the Attorney General believes it would be helpful to refer to at least one existing program of a similar nature and draw comparisons to it before the Commission considers approval of the instant application. Eastern Kentucky

Power Cooperative ("EKPC") has an existing green power pricing program called "EnviroWatt." EKPC passes on a 2.8 cent per kWh cost adder for the EnviroWatt program, which appears to be approximately twice the national average. Most of that 2.8 cent / kWh adder consists of administrative costs. Further, there appears to be little Commission oversight of the EnviroWatt program.

The Attorney General believes that generally speaking, ratepayers want administrative costs to be reduced to the greatest extent possible, so that the extra money they are paying can be maximized toward investment in renewable resources, rather than simply being reinvested in a utility's public relations efforts. In the event the Commission approves Petitioner's plan, the Attorney General also urges the Commission to require periodic accounting updates of the Plan, and to maintain oversight to ensure its effectiveness. The Attorney General believes that when compared with EKPC's EnviroWatt program, the Petitioner's proposed cost pass-throughs are more reasonable, and are more in-line with costs for similar programs on a national basis. Lower cost pass-through levels should enhance customer acceptance and participation.

Second, the TPCS contract requires Petitioners to pay \$12.50 / mWh of GECs, but it does not state what TPCS will pay for the GEC. It thus appears that TPCS could pay far less for the GECs than the Petitioners end up paying TPCS. While the Attorney General recognizes that TPCS is entitled to at least some

incentive, nonetheless moneys consumers pay should to the extent possible go toward renewables, and not into a broker's pocket.

Third, the Attorney General believes many ratepayers would be concerned that the GECs may come from anywhere. Participating customers will have at least somewhat of an expectation that any environmental benefits from the green power for which they pay extra amounts be developed within Petitioners' service territories. Erecting windmills in Illinois or Tennessee does little to spur development of renewables within Petitioner's service territories. Stated another way, the environmental benefit should accrue in the territory from which funding was derived.

Fourth, the Attorney General's comments should not be construed in any manner as acquiescing to the inclusion of any administrative costs in a future rate case. The Attorney General urges that in any order approving the plan or any portion thereof, the Commission also adopt a provision which would: (a) preclude Petitioners from creating a deferred account or regulatory asset from which they could seek cost recovery in any future rate cases; and (b) cap any costs subject to recovery in a future rate case would at \$50,000.

Lastly, the Attorney General urges that the Commission require Petitioners to forthrightly and plainly advise their ratepayers that any contributions toward GECs will not be returned, and that environmental benefits may accrue outside of the companies' service territories.

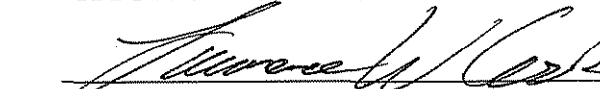
### III. Suggested Modifications to Contract

The Attorney General believes the following modifications should be made to Petitioner's contract with TPCS:

- 1) Petitioners should enter a commitment that when the program reaches a certain level of participation, they will use money from the Green Power adder to develop their own renewable energy projects that produce actual renewable energy on their system, instead of paying for it to be produced elsewhere;
- 2) Indicate that Petitioners will pay the cost of the GECs, up to a \$12.50 cap, and not simply give TPCS the potential for a windfall profit by buying GECs at below the \$12.50 price, then reselling them to LG&E;
- 3) The Scope of Services should be modified to ensure that contributions from Petitioner's participating customers are being used to develop local renewables, if at all possible. A rank-order hierarchy for the purchase of GECs should be added to this item, in the following manner:
  - a) GECs generated within the LG&E/KU service territory, and if not available, then,
  - b) GECs generated within the Commonwealth of Kentucky, and if not available, then,
  - c) GECs generated in a state contiguous to Kentucky.

Respectfully submitted,

GREGORY D. STUMBO  
ATTORNEY GENERAL

A handwritten signature in cursive script, appearing to read "Lawrence W. Cook", is written over a horizontal line.

DENNIS G. HOWARD, II  
LAWRENCE W. COOK  
ASSISTANT ATTORNEYS GENERAL  
1024 CAPITAL CENTER DRIVE,  
SUITE 200  
FRANKFORT KY 40601-8204  
(502) 696-5453  
FAX: (502) 573-8315


*Certificate of Service and Filing*

Counsel certifies that an original and ten photocopies of the foregoing were served and filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; counsel further states that true and accurate copies of the foregoing were mailed via First Class U.S. Mail, postage pre-paid, to:

Rick LoveKamp  
Kentucky Utilities Company  
c/o Louisville Gas & Electric Co.  
P. O. Box 32010  
Louisville, KY 40232-2010

Hon. Allyson K. Sturgeon  
Attorney at Law  
E.ON U.S., LLC  
P.O. Box 32030  
Louisville, KY 40232

this 20 day of April, 2007

  
Assistant Attorney General

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