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BEFORE THE PUBLIC SERVICE COMMISSION

APR 21 2008

PUBLIC SERVICE
COMMISSION

In the Matter of:

APPLICATION OF DUKE ENERGY)
KENTUCKY, INC. TO RE-INSTITUTE A) CASE NO. 2008-00100
HOME ENERGY ASSISTANCE PROGRAM)

ATTORNEY GENERAL'S COMMENTS

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

I. Program Description

Duke Energy Kentucky (hereinafter the "Company") requests to reinstitute a Home Energy Assistance Program ("HEA") for the three year period encompassing 2008-2010 to be administered under the umbrella of its WinterCare program.

This program is designed to provide participants meeting the income qualification level (income between 150-200% of the federal poverty level) with a benefit of up to \$300.00 per year toward any bill arrearage.¹ The program relies on the Northern Kentucky Community Action Council ("NKCAC") intake process to facilitate participation and distribution of funds under the program.

The Company estimates that approximately 32,000 customers within its territory may qualify for services under the program.² The proposed program will collect funds from all residential gas and electric customers and proposes that residential customers will be charged

¹ See the Company's Motion to Amend its DSM application, page 1, paragraph 2.

² See Company Responses to the Supplemental Data Requests of the Attorney General, No. 4.

\$0.10 per account per month. Customers who have combined gas and electric service would be charged \$0.20 per month. As of December 31, 2007, there were 20,344 gas only customers, 58,840 electric only customers and 75,303 customers receiving both gas and electric services from the Company.³ This fee is expected to annually generate approximately \$24,413.00 from gas only customers, \$70,608.00 from electric only customers, and \$180,727.00 for combined service customers, for a total of \$275,478.00.⁴ Out of these funds, the Company estimates that approximately \$41,000.00 would be spent on administrative costs for NKCAC.⁵ The Company states that the proposed program is in response to a request from NKCAC.⁶ In justifying the need for the proposed program, the Company states it “is concerned that, with high energy costs, low income customers may need additional assistance to be able to pay their energy bills during the next few years.”⁷

III. Attorney General’s Comments

While the Attorney General’s office generally supports cost effective low income energy assistance programs, for the reasons outlined herein, his office does not support the proposed program and, therefore, does not recommend that the program be approved by the Commission.

Traditionally, Home Energy Assistance programs have targeted those households at or below the income range of 130-150% of the Federal Poverty Level. Government sponsored programs, such as the LIHEAP program, were instituted as a result of the legislative process and provide payment assistance to participants using funds collected from taxpayers. Utility

³ See the Company’s Motion to Amend its DSM Application, page 2, paragraph 5.

⁴ See the Company’s Motion to Amend its DSM Application, page 3, paragraph 5.

⁵ See Company Responses to the Data Requests of Commission Staff, No.3, Part f.

⁶ See Company Responses to the Data Requests of Commission Staff, No. 2.

⁷ See the Company’s Motion to Amend its DSM Application, page 2, paragraph 3.

sponsored programs have utilized funds collected from residential ratepayers, such as the applicant's current Payment Plus (formerly Home Energy Assistance Plus) program, and have combined weatherization services with a payment (either a lump sum or monthly) toward a participant's arrearage. The utility sponsored programs have been typically offered separately from a company's Demand Side Management portfolio, however, the Company has listed its current HEA program, under its DSM offering in Case No. 2007-00369 and claims energy savings resulting from the weatherization services as an incentive to receiving the payment benefit.

The Company's existing home energy assistance program is described in detail as part of its filing in Case No. 2007-00369. The current program is titled the "Payment Plus Program" (formerly the Home Energy Assistance Plus Program), however it is listed on the Company's website as the Home Energy Assistance Program. This program provides budget counseling, weatherization services and dispenses the collected ratepayer funds through the NKCAC and is targeted toward low income customers at or below 150% of the federal poverty level. While the Company may assert that this program should be part of its DSM portfolio due to the claimed energy savings, this program is more properly described as its home energy assistance program. The Attorney General's comments regarding that program are part of the record in Case No. 2007-00369.

With this application, the Company proposes to add an additional low income program with an expanded scope to target households with significantly higher than traditional income levels. Under the proposed program, the Company would target those households between 150-200% of the federal poverty level and provide a payment benefit toward any arrearage. From the Company's responses to data requests, this range corresponds to a level of income of between

\$15,315.00 - \$20,420.00 per year for a single person household and a level of income is \$30,975.00 - \$41,300.00 per year for a four person household.⁸ The Company acknowledges that the possibility of overlap exists between this program and other assistance programs; however this program would not prohibit participants from receiving benefits under this program in addition to those received under other programs.⁹

By targeting customers with incomes between 150 – 200% of the federal poverty level, this proposal breaks from the typical program approved by the Commission and provides benefits to those customers who have, to this point, not been typically considered as low income. Although the Attorney General noted in his comments in Case No. 2007-00369 that the Company's DSM portfolio was already heavily weighted toward low income customers, this proposal would expand the Company's low income programs even further. In fact, from the Company's responses it appears that with 32,000 customers potentially eligible¹⁰ out of the Company's approximately 154,000 total Kentucky residential customers, nearly 21% of the Company's Kentucky residential customer base would be eligible for some form of payment assistance under this or another program.¹¹

The Company states that its proposed program is in response to a request from NKCAC¹² and notes that according to NKCAC, federal and state funding for heating assistance was expended earlier this past heating season resulting in a significant shortfall in funding for low-income energy assistance programs. It is stated that funds were expected to be depleted by the

⁸ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 6.

⁹ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 10.

¹⁰ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 4.

¹¹ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 4.

¹² See Company Responses to the Data Requests of Commission Staff, No. 2.

end of January 2008.¹³ The shortfall in funding referenced by the Company refers to the LIHEAP program funds.¹⁴ Emergency legislation proposed by the relevant agencies to provide additional LIHEAP funding at both the federal and state level was not passed. The Company further notes that its Payment Plus program will not start distributing funds until Fall 2008.¹⁵ While the aforementioned reasoning is used to support approval of the proposed program, it does not appear that the program addresses this problem as LIHEAP recipients are clearly out of the income ranges who would be served by the proposed program. (Kentucky limits LIHEAP benefits to those parties having incomes at or below 130% of the federal poverty level, (*See <http://chfs.ky.gov/dcbs/dfs/LIHEAP.htm>*). In regard to the referenced shortfall, it would appear that the Company and the relevant agencies would be better served by voicing their concerns to the appropriate legislative bodies for action with regard to the LIHEAP program funding.

However, with the Company's stated concerns regarding budget cuts for low income programs, it seems counterintuitive for the Company to propose a program that expands the typical definition of low income and collect funds to serve a whole new income range of customers, that have not been served in the past, to the exclusion of those already appropriately classified by state agencies as low income. It is simply not clear from the application that such a significant expansion is necessary or warranted as other payment options exist for the Company's customers.

The Company notes that it currently provides customers the option of executing a bill payment agreement once every 12 months which allows customers to divide a current balance

¹³ See Company Responses to the Data Requests of the Attorney General, No. 1.

¹⁴ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 3.

¹⁵ See Company Responses to the Data Requests of the Attorney General, No. 1.

over a period of three (3) months.¹⁶ Further, customers are provided with two options under the Company's budget billing program. The first option is the typical annual billing which provides equal billing for eleven (11) months with a "true-up" payment in the twelfth (12) month. The second option, the quarterly plan, allows for equal billing for three (3) months with a billing adjustment occurring if a customers' usage varies more than 10% from the amount billed.¹⁷ The Company states that this option is designed to allow customers to reduce the impact of a large "true-up" payment. Finally, the Company offers customers the option to adjust their billing due date to align their bill payment with their "pay" dates. The Company states that this option allows those on a fixed income the ability to align their payment with the date they receive their income.¹⁸

While it is expected that the Company will argue that the program would assist those facing unexpected illness, job loss, etc., clearly other options exist for customers facing circumstances which could lead to a temporary arrearage without the need to further collect and distribute ratepayer funds.

The Company has stated that the intake and processing will be accomplished by NKCAC¹⁹ however, the Application does not contain a breakdown of the administrative expenses associated with the program other than to state that 90% of the funds would be used for staff salaries and benefits and 10% would be used for consumable costs such as paper, printer/copier and IT costs.²⁰ The Attorney General notes that program expenses associated with employee salaries and benefits seem out of line considering that NKCAC already administers

¹⁶ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 11.

¹⁷ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 11.

¹⁸ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 11.

¹⁹ See Company Responses to the Data Requests of Commission Staff, No.3, Part f.

²⁰ See Company Responses to the Supplemental Data Requests of the Attorney General, No. 1.

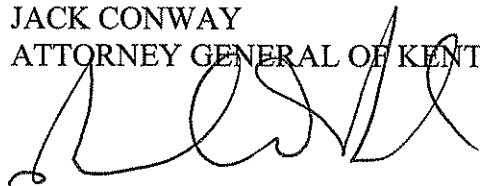
other programs for the Company. Simply put, with the tight budgets of both individuals and governments, there does not appear to be justification in the application to support additional expenses for salaries and benefits since these expenses may be common to the Company's other programs. The Attorney General suggests that should the Commission approve the proposal that it closely examine these expenses as the possibility exists that they are duplicative.

IV. Conclusion

The Attorney General notes that his comments in Case No. 2007-00369 recommended that the Company's Payment Plus program be modified to remove ratepayer funding for budget counseling and his office still recommends that measure as being appropriate. However, the Commission should allow the Company only one version of a low income energy assistance program, regardless of how that program is titled by the Company. Therefore, should the Commission continue the Payment Plus program, with or without the incorporation of the recommendations of the Attorney General, then the Attorney General recommends the Commission deny the Company's application in this matter.

Respectfully submitted,

JACK CONWAY
ATTORNEY GENERAL OF KENTUCKY




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CERTIFICATE OF SERVICE AND NOTICE OF FILING

I hereby give notice that this the 21st day of April, 2008, I have filed the original and ten copies of the foregoing Attorney General's Comments with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 and certify that this same day I have served the parties by mailing a true copy of same, postage prepaid, to those listed below.

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