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Anita M. Schafer
Sr. Paralegal

VIA OVERNIGHT MAIL

April 25, 2008

Ms. Stephanie Stumbo
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40602

Re: Case No. 2008-00100

Dear Ms. Stumbo:

Enclosed are an original and twelve copies of Duke Energy Kentucky, Inc.'s Reply Comments to the Attorney General's Comments in the above-referenced case.

Please date-stamp and return the two extra copies of comments in the enclosed envelope.

Sincerely,

Anita M. Schafer
Senior Paralegal

AMS/bsc

Enclosures

cc: Certificate of Service

**BEFORE THE
KENTUCKY PUBLIC SERVICE COMMISSION**

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In The Matter Of:

APPLICATION OF DUKE ENERGY)
KENTUCKY, INC. TO RE-INSTITUTE A) CASE NO. 2008-100
HOME ENERGY ASSISTANCE)
PROGRAM)

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COMMISSION

**DUKE ENERGY KENTUCKY, INC.'S REPLY TO THE
ATTORNEY GENERAL'S COMMENTS**

Now comes Duke Energy Kentucky, Inc., ("DE-Kentucky") and hereby respectfully submits its Reply to the Attorney General's Comments in the above-styled proceeding filed on April 21, 2008 ("Comments"). In summary, the Attorney General recommends that the Commission deny DE-Kentucky's Application to Re-Institute its Home Energy Assistance Program ("HEA Program"). In his opinion, the HEA Program is: (1) duplicative of DE-Kentucky's other low income programs;¹ (2) intended to benefit customers who have not been previously considered as low income;² (3) not necessary considering other options available to customers;³ and (4) out of line in terms of the costs of administering the program.⁴ DE-Kentucky respectfully disagrees with the Attorney General's opinion and requests that the Commission approve DE-Kentucky's HEA Program as filed.

A. DE-Kentucky's HEA Program is Not Duplicative of the Payment Plus Program.

In his Comments, the Attorney General is critical of DE-Kentucky's proposed HEA Program, inferring that it is duplicative of the Company's existing Payment Plus Program and incorrectly classifying the Payment Plus Program as a home energy assistance offering. The two

¹ Attorney General Comments at 3-4.

² *Id.* at 5.

³ *Id.* at 5.

programs are neither identical nor duplicative. As explained in the Company's Motion to Amend DSM Applications To Include Home Energy Assistance Program ("Application"), and as further discussed in the response to the Commission Staff's Data Request Number Four, Second Set, the proposed HEA Program will be operated under the umbrella Winter Care Program to provide financial assistance to qualifying low income customers to assist in paying gas and electric bills. DE-Kentucky's Payment Plus Program, however, is different and mischaracterized by the Attorney General in several respects.

First, although the Payment Plus Program was formerly known as the Home Energy Assistance Plus Program, the similarity in name does not equate to identical or duplicative programs. The design and intent of Payment Plus is remarkably different than DE-Kentucky's proposed HEA Program. The Payment Plus Program is, in fact, a Demand Side Management ("DSM") program, designed to change qualifying customers' consumption behavior through education and weatherization. Contrary to the Attorney General's opinion, the Payment Plus program is *not* merely a low income energy assistance program for hardship bill crediting. Payment Plus bill assistance funds are not awarded based solely upon income qualification and need. The bill credits are available as an incentive to foster customer participation in the educational/consumption reduction aspects of the program and are only dispersed upon program completion. Payment Plus is available on a first come first served basis for qualifying customers during the program's winter heating season operational window of October through March (unless available funds are expended earlier).⁵ The qualifying customer must proactively complete the energy efficiency education, budget counseling, and weatherization aspects of the program in order to receive the bill credits. This participation requirement is irrespective of the level of hardship or need.

⁴ Comments at 6-7.

⁵ Qualifying customers must be LIHEAP recipients, have at least \$500 00 in arrears, and have 12 months of good payment history.

Second, in his Comments, the Attorney General incorrectly states that the Payment Plus Program is listed on DE-Kentucky's website as the "Home Energy Assistance Program."⁶ Once again, the programs are different. The "Home Energy Assistance Program" listed on DE-Kentucky's website refers to the federally funded LIHEAP program administered by the Northern Kentucky Community Action Council ("NKCAC").⁷ Payment Plus *is not* listed on DE-Kentucky's website. The Payment Plus program is only offered during the winter months.

DE-Kentucky's proposed HEA Program is designed as a low income energy assistance program to assist qualifying low income customers who are in desperate need of assistance to keep their lights and heat on. Unlike other DE-Kentucky DSM programs, HEA Program dollars would be available year round to qualifying customers based purely upon need and fund availability. Therefore, the HEA program fills a gap in low income energy assistance funding limited by both seasonal and financial constraints.

B. DE-Kentucky's Proposed HEA Program is Targeted to Low Income Customers.

The Attorney General's opinion that DE-Kentucky's DSM portfolio is heavily weighted toward low income is nothing more than an opinion. DE-Kentucky and other members of the residential collaborative believe that low income customers need the assistance offered through DE-Kentucky's low income DSM offerings.

The Attorney General is also critical of DE-Kentucky's proposed HEA Program claiming that the program has an "expanded scope to target households with significantly higher than traditional income levels."⁸ The Attorney General's opinion that customers falling in the income range of 150% to 200% of the federal poverty level as "significantly higher than traditional income levels" is irrelevant. As explained in DE-Kentucky's response to the Attorney General's Supplemental Data Request Number 6, according to the 2008 Health and Human Services Federal

⁶ Comments at 3.

Poverty Guidelines, households at 200% of the federal poverty level are considered low income under Federal Guidelines. Simply because existing energy assistance programs are not available to customers at this particular low income level, does not support the Attorney General's belief that such customers do not need assistance. State and Federal assistance programs are available for households at the 200% of the federal poverty level in areas such as health care. For example, Kentucky's Children's Health Insurance Program ("K-CHIP") is available for households between 151% and 200% of the federal poverty level.⁹

The Attorney General's claim that nearly 21% of DE-Kentucky's residential customer base would be eligible for assistance is misleading. Simply because a household is eligible for such assistance, does not mean that the funds will be available in the time of need or that the funding will be adequate to assist all eligible customers. The income guidelines are there to manage the limited quantity of funds giving deference to the actual level of need to avert the energy crisis (e.g. disconnection) up to a specified amount. Income levels are not merely a threshold to receive funds.

In his Comments, the Attorney General is correct in his statement that Kentucky limits LIHEAP benefits to customers at or below 130% of the federal poverty level.¹⁰ The Attorney General is also correct that Payment Plus program dollars will not be available until the fall of 2008.¹¹ However, the Attorney General's conclusion that those other payment options exist for DE- Kentucky's customers is incorrect. As explained in DE-Kentucky's February 11, 2008 Motion to Amend its DSM Application to Include Home Energy Assistance Program, the HEA Program funds would be available to customers up to 200% of the federal poverty level.¹²

⁷ <http://www.duke-energy.com/kentucky/special-assistance/home-energy.asp?sec=content>

⁸ *Id* at 3.

⁹ See <http://www.ukcpr.org/Publications/DP2006-01.pdf>

¹⁰ Attorney General Comments at 5.

¹¹ *Id*

¹² Application to Amend, Case No 2007-369, (February 11, 2008 at 2)

Accordingly, the proposed HEA Program not only fills in the gap left by the lack of federal funding in LIHEAP, but also for gaps in fund availability for other programs. Moreover, the HEA Program dollars reach out to an additional level of low income residential customers between 150% and 200% of the federal poverty level who, as conceded by the Attorney General, have no other Commission approved energy assistance program available.¹³

C. Billing Options Do Not Avert a Customer's Energy Crisis.

In support of his opinion that DE-Kentucky's proposed HEA Program should be disallowed, the Attorney General is quick to point out that DE-Kentucky offers several billing options for customers.¹⁴ While DE-Kentucky is proud to offer its customers billing alternatives including payment arrangements for arrearages, budget billing, and adjustable due dates, the Company is the first to recognize that those options do not always provide a feasible solution for low income customers who are either facing disconnection or are already disconnected. If a low income customer is unable to make the minimum payment necessary to maintain service due to an accrued arrearage, absent energy assistance dollars, payment arrangements and budget billing are of no use.

D. NKCAC's Costs of Administering the HEA Program are not Duplicative.

Despite the Attorney General's allegations of improper cost allocation, there is simply no evidence that NKCAC has done anything but administer DE-Kentucky's DSM programs in an efficient and fiscally responsible manner. NKCAC allocates its employees time spent administering various programs to those specific programs. State and Federal funding guidelines prevent NKCAC from using federal dollars to operate anything other than the respective State or Federally Funded programs. To put it another way, to maintain its funding, NKCAC must be ever mindful of proper allocation of cost administering various programs. There is simply no evidence,

¹³ See Attorney general Comments at 4.

¹⁴ *Id* at 5-6.

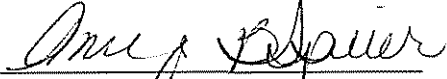
other than allegation and speculation that NKCAC is improperly administering DE-Kentucky's current DSM Programs. Similarly, there is no evidence that NKCAC will not continue to properly account for its time in administering any future programs.

CONCLUSION

For the reasons outlined herein above, DE-Kentucky respectfully requests the Commission approve DE-Kentucky's Application as filed.

Respectfully submitted,

DUKE ENERGY KENTUCKY, INC.

By: 

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CERTIFICATE OF SERVICE

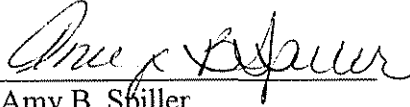
I hereby certify that a copy of the foregoing filing was served on the following via ordinary United States mail, postage prepaid, this 25th day of April, 2008:

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