



LEGAL AID SOCIETY

PURSUING JUSTICE RESTORING HOPE.

EILEEN L. ORDOVER
(502) 614-3125
EORDOVER@LASLOU.ORG

July 22, 2011

RECEIVED

JUL 25 2011

PUBLIC SERVICE
COMMISSION

Via USPS Express Mail

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

**Re: Case No. 2011-00134
Joint Application of Louisville Gas and Electric Company and Kentucky
Utilities Company For Review, Modification, and Continuation of Existing, and
Addition of New, Demand-Side Management and Energy-Efficiency Programs**

Dear Mr. Derouen:

Enclosed for filing in the above-captioned matter please find an original plus ten (10) copies of the Testimony of Marlon Cummings on behalf of Association of Community Ministries, Inc.

Very truly yours,

Eileen L. Ordover
Counsel for ACM

Cc: Parties of Record



COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUL 25 2011

PUBLIC SERVICE
COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS AND)
ELECTRIC COMPANY AND KENTUCKY UTILITIES)
COMPANY FOR REVIEW, MODIFICATION, AND) CASE NO.
CONTINUATION OF EXISTING, AND ADDITION OF NEW,) 2011-00134
DEMAND-SIDE MANAGEMENT AND ENERGY-)
EFFICIENT PROGRAMS)

TESTIMONY OF
MARLON CUMMINGS

ASSOCIATION OF
COMMUNITY MINISTRIES, INC.

ON BEHALF OF
ASSOCIATION OF COMMUNITY MINISTRIES, INC.

Filed: July 22, 2011

1 **Q. Please state your name, title and address.**

2 **A.** My name is Marlon Cummings and I am Treasurer of the Board of Directors of
3 the Association of Community Ministries (“ACM”). I have been appointed by the Board
4 to represent ACM in all low-income utility issues. My business address is P.O. Box
5 99545, Louisville, Kentucky, 40269.

6 **Q. Please describe ACM.**

7 **A.** ACM is a Kentucky 501(c)(3) nonprofit corporation. Its membership is comprised
8 of 15 independent community ministries that provide services to low income individuals
9 in the Louisville Metro area. The common mission for all 15 members is to provide an
10 emergency assistance network in partnership with Louisville Metro Government, local
11 congregations, and other businesses and organizations. Each Ministry serves a specific
12 geographical area to ensure that all of Louisville Metro is covered under the umbrella of
13 the ACM. Among the emergency services provided by ACM members are utility and
14 rental assistance programs.

15 **Q. Describe ACM’s activities regarding utility issues.**

16 **A.** Our member agencies provide financial assistance with utility bills to low-income
17 persons year round. Our agencies help clients negotiate payment plans with the utility
18 companies when they fall behind, and help them avoid utility disconnections. We also
19 provide emergency rental assistance to tenants whose rent includes utilities. ACM
20 agencies obtain funding from donations and local governments grants. These agencies
21 also distribute Community Winterhelp funds from January through April each year.
22 ACM utility assistance providers routinely refer customers to the federal Low Income
23 Home Energy Assistance Program (“LIHEAP”) when it is in operation. ACM was also

1 one of the joint applicants for the current Louisville Gas & Electric Company Home
2 Energy Assistance Program.

3 **Q. Describe your employment and educational background.**

4 **A.** Currently and for the past 13 years I have been Executive Director of
5 Jeffersontown Area Ministries, which is one of the member agencies of ACM and which
6 provides emergency utility and rental assistance and a variety of other social services to
7 low income residents in the Jeffersontown area. I have been on the Board of Directors of
8 ACM since 1994. I served the Jeffersontown Christian Church (Disciples of Christ), from
9 1985 until 1996, as the Family and Youth Minister. I have a Bachelor of Arts in Business
10 from Bellarmine University and received my Minister's license from the Kentucky
11 Region of the Christian Church (Disciples of Christ) in conjunction with the Lexington
12 Theological Seminary.

13 **Q. Have you previously testified before the Commission?**

14 **A.** Yes. I filed testimony in Case No. 2010-00204, *Joint Application of PPL*
15 *Corporation, E.ON AG, E.ON US Investments Corp., E.ON U.S. LLC, Louisville Gas and*
16 *Electric Company and Kentucky Utilities Company for Approval of an Acquisition of*
17 *Ownership and Control of Utilities*. I also filed testimony in the most recent LG&E base
18 rate case, Case No. 2009-00549, *Application Of Louisville Gas And Electric Company*
19 *For An Adjustment Of Electric And Gas Base Rates* on behalf of ACM, and in the
20 immediately prior LG&E base rate case, No. 2008-00252, *Application Of Louisville Gas*
21 *And Electric Company For An Adjustment Of Its Electric And Gas Base Rates* on behalf
22 of ACM and POWER, as well as in Case No. 2010-00146, *An Investigation of Natural*
23 *Gas Retail Competition Programs* on behalf of ACM; Case No. 2006-00045,

1 *Consideration Of The Requirements Of The Federal Energy Policy Act Of 2005*
2 *Regarding Time-Based Metering, Demand Response And Interconnection Service on*
3 *behalf of Metro Human Needs Alliance; and Case No. 2007-00477, An Investigation Of*
4 *The Energy And Regulatory Issues In Section 50 Of Kentucky's 2007 Energy Act on*
5 *behalf of ACM.*

6 **Q. What is the purpose of your testimony?**

7 **A.** I offer this testimony to state ACM's opposition to the Application as filed and to
8 explain why we oppose it. We also have some general recommendations for making the
9 DSM/EE program fairer to low income consumers of LG&E services.

10 **Q. Why does ACM oppose the Application?**

11 **A.** In reviewing the data available to us, we have concluded that low income
12 customers and consumers are paying far more to fund the current DSM/EE program than
13 they are receiving back in incentives and energy savings relative to other customers.
14 They are not receiving their fair share. Put another way, low income customers and
15 consumers are in effect subsidizing DSM/EE benefits and incentives that are
16 disproportionately benefitting more affluent LG&E customers.

17 **Q. What data did ACM review in reaching this conclusion?**

18 **A.** We reviewed the Application, testimony and accompanying exhibits filed by the
19 Companies in this proceeding; information provided by the Companies in response to our
20 Information Requests; and U.S. Census data.

1 **Q. Please explain the basis of ACM's conclusion that low income customers are**
2 **not receiving their fair share of DSM/EE benefits, and are in effect subsidizing more**
3 **affluent residential customers.**

4 **A.** We began by looking at the data for the ten highest poverty zip codes in Jefferson
5 County. According to the numbers that the Companies provided in response to ACM's
6 Second Request For Information, 49.3% of the LG&E customers who had at least one bill
7 paid by a third-party assistance provider during the period April 2009 – December 2010
8 lived in these zip codes. We determined that LG&E customers who live in these ten zip
9 codes make up 18.2% of LG&E's residential customers, and paid 26.8% of the residential
10 DSM/EE charges billed by LG&E from April 2009 through December 2010.¹ We then
11 looked at the specific DSM/EE residential program components for which the
12 Companies gave us zip code data, and for each component determined the percentage of
13 participating customers who lived in these ten zip codes. We found significant disparities
14 across all program components. While customers in these zip codes paid 26.8% of
15 DSM/EE charges billed during the limited period for which the Companies provided
16 DSM/EE billing data by zip code, over the life of the various DSM/EE program
17 components (through December 2010) they have constituted only 11.5% of those
18 participating in online audits and 11.3% of those receiving CFL bulbs as part of the
19 Residential Conservation Program; 15.4% of those participating in the onsite audit
20 component of the Residential Conservation program; 16.5% of those who had diagnostic
21 tests performed under the Residential HVAC Diagnostic and Tune Up Program, and

¹ This time period was chosen based upon the Companies' response to Question 2 of ACM's Second Request for Information, in which the Companies provided only that DSM/EE billing information by zip code housed within its current customer information system, commencing April 1, 2009.

1 15.6% of those who went on to have a tune-up; and 17.3% of those who had
2 programmable thermostats installed and only 3.65% of those receiving load switches
3 under the Residential Load Management Program. Participation in the Residential High
4 Energy Lighting Program was higher, with 22.1% of total CFL bulbs mailed sent to these
5 ten zip codes during the time period for which the Companies provided data.

6 **Q. Did ACM look at any other numbers in concluding that low income**
7 **customers are not receiving their fair share of DSM/EE benefits, and are in effect**
8 **subsidizing more affluent residential customers?**

9 **A.** Yes. We also looked companywide at DSM/EE charges paid, and program
10 participation by, customers who had at least one LG&E bill paid by a third-party
11 emergency assistance provider for these same time periods. We found that recipients of
12 third-party assistance paid 10% of the residential DSM/EE billings but over the life of
13 these programs (through December 2011) have constituted 2.1% of those receiving
14 diagnostic tests and 3.1% of those receiving tune-ups under the HVAC Tune-up Program;
15 7.6% of those receiving switches and 4.9% of those receiving thermostats under the
16 Residential Load Management Program; and 12.7% of those obtaining on-site audits
17 under the Residential Conservation Program. Our review was limited to those programs
18 for which the Companies provided us with data regarding participation by recipients of
19 third-party assistance.

1 **Q. Based upon your experience and that of other ACM member agencies, are all**
2 **low-income LG&E customers who cannot afford to pay their energy bills able to**
3 **obtain third-party assistance, whether from an ACM member, the LIHEAP**
4 **program or elsewhere?**

5 **A.** No. Historically need has outstripped community resources, and that trend
6 continues. Many people who meet financial eligibility requirements for various
7 programs providing utility assistance therefore go without help.

8 **Q. Is it likely then, that there are many LG&E customers who face financial**
9 **difficulties at least as great as those who received third party assistance, but whose**
10 **payment of DSM/EE residential charges is not reflected in the 10% figure you**
11 **previously stated?**

12 **A.** Yes.

13 **Q. Are there any other ways in which low-income LG&E customers will**
14 **subsidize incentives for more affluent customers if the Application is approved?**

15 **A.** Based on my experience with clients at Jeffersontown Area Ministries and that of
16 other ACM member agencies, few if any low-income customers will be able to take
17 advantage of the cash incentives to be offered as part of the new Residential Incentives
18 Program, the Home Energy Performance Program (“HEPP”) to be added to the
19 Residential Conservation Program, or even the Refrigerator Removal Program. Our
20 clients lack the financial resources to implement the energy savings measures necessary
21 to qualify for the cash incentives that will be available under HEPP, but will be required
22 to contribute towards the cost of HEPP’s \$500 and \$1,000 incentive payments
23 nonetheless. Similarly, low-income customers will be required to pay for the cost of

1 incentive payments under the Residential Incentives Program, despite being largely
2 unable to purchase the new Energy Star appliances, HVAC equipment or window films
3 that will entitle more affluent customers to cash rewards. Finally, our clients generally do
4 not have secondary refrigerators or freezers for which they might receive cash incentives
5 under the new Refrigerator Removal Program.

6 **Q. Does the expanded WeCare Program not address these inequities?**

7 **A.** ACM greatly appreciates the increased resources to be put into WeCare.
8 However, this is not sufficient to right the inequities discussed above. In addition, certain
9 aspects of WeCare eligibility requirements and program administration operate to
10 exclude financially eligible consumers of LG&E services from the program. For
11 example, under LG&E's current rules, tenant customers who live in buildings with more
12 than eight units are not eligible for any weatherization services through WeCare. Tenants
13 who pay for their gas and electricity and DSM/EE costs by paying higher rents to a
14 landlord, which then maintains LG&E service in its name, are excluded from WeCare
15 altogether. By way of further example, LG&E's reliance on phone calling to prior
16 recipients of LIHEAP assistance as its primary proactive outreach strategy for connecting
17 low-income customers to WeCare services misses the many financially eligible low-
18 income customers who are struggling financially and need the WeCare services that they
19 are helping to fund through their DSM/EE charges, but have not received the LIHEAP
20 assistance that is available to only a finite number of individuals each season.

1 **Q. Are there any additional concerns that have contributed to ACM's**
2 **opposition to the Application before the Commission in this matter?**

3 **A.** Because clients are struggling to make ends meet, any increase in the cost of
4 utility service is of grave concern. According to the Companies, if this Application is
5 approved, the combined monthly DSM/EE charge for an LG&E customer using 1,000
6 kWh and 70 Ccf will increase to \$6.97 from the current \$3.23. This comes on the heels
7 of the base rate increase approved July 30, 2010 in Case No. 2009-00549, the bill impact
8 of which was calculated to be \$7.04 for the average LG&E electric customer and \$3.62
9 for the average gas customer.. In addition, according to testimony filed in Case No.
10 2011-00162, *The Application of Louisville Gas and Electric Company for Certificates of*
11 *Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for*
12 *Recovery by Environmental Surcharge*, a residential customer using 1,000 kilowatt hours
13 per month can expect a monthly bill increase of \$1.96 in 2012, increasing to \$16.33 in
14 2016, reflecting a 19.2% increase.

15 Given this environment, ACM clients will need to reduce their energy usage in
16 order to achieve and maintain financial stability. It is therefore critical that LG&E's
17 overall DSM/EE program afford low-income consumers meaningful and equitable
18 opportunities to benefit.

19 **Q. Does this need to reduce energy usage apply to all struggling clients, or only**
20 **those who have LG&E service billed directly to them?**

21 **A.** It applies to all. For those who are LG&E customers, lower usage means lower
22 energy bills. For those whose energy usage is paid for through rent, lower usage means

1 lower energy bills for the property owner, who then need not raise rents to the degree that
2 would otherwise be the case.

3 **Q. What are ACM's general recommendations for making the DSM/EE**
4 **program fairer to low-income consumers of LG&E services?**

5 **A.** Because high poverty areas and low-income customers are not receiving back in
6 DSM/EE program benefits and incentives a fair share of what they are paying to fund the
7 DSM/EE program, LG&E should make adjustments in both its funding allocations
8 among program components and the design and delivery of those program components
9 most likely to provide meaningful benefit to high poverty areas and low-income
10 consumers. For example, a greater proportion of the overall program budget should be
11 allocated to WeCare; LG&E should partner with community-based organizations to
12 develop programs to proactively identify and reach out to WeCare-eligible customers
13 with high usage and connect them to WeCare services; and a supplemental DSM/EE
14 program component should be developed to address weatherization and other energy-
15 savings needs in the homes of (1) financially eligible low-income LG&E customers who
16 are tenants in buildings with more than eight (8) units, and (2) financially eligible low-
17 income tenants who pay their energy costs through rent.

18 By way of further example, as I previously stated, in reviewing LG&E's data
19 ACM found a relatively high participation rate in the Residential High Energy Lighting
20 Program ("RHEL") within the ten high-poverty zip codes in Jefferson County. This
21 suggests that CFL bulb distribution is of high interest and value to low-income
22 customers, and so has promise as part of a strategy for making the overall DSM/EE
23 program fairer to low-income consumers. LG&E might modify the RHEL program to

1 incorporate direct distribution of CFL bulbs to low-income consumers at the community
2 level, in collaboration with community-based agencies, and consider continuing at least
3 this aspect of an RHEL program through 2017.


4 These are examples of measures that might reduce the inequities inherent in both
5 the current DSM/EE program and the modified program for which the Companies are
6 seeking Commission approval. ACM would be interested in working with LG&E to
7 strategize about these or other appropriate measures for ensuring that low-income
8 customers receive a fair share of DSM/EE benefits and are no longer in effect subsidizing
9 benefits and incentives for more affluent customers.

10 **Q. Does that conclude your testimony?**

11 **A. Yes.**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Testimony of Marlon Cummings on Behalf of Association of Community Ministries was served on the following parties on the 22nd day of July, 2011 by United States mail, postage prepaid.


Eileen L. Ordo

Lonnie Bellar
Vice President, State Regulation & Rates
LG&E and KU Services Company
220 West Main Street
Louisville, KY 40202

Iris G. Skidmore
Bates & Skidmore
415 West Main Street
Suite 2
Frankfort, KY 40601

Rick E. Lovekamp
Manager, Regulatory Affairs
LG&E and KU Energy LLC
220 West Main Street
Louisville, KY 40202

Allyson K. Sturgeon
Senior Corporate Attorney
LG&E and KU Services Company
220 West Main Street
Louisville, KY 40202

Kendrick R. Riggs
Stoll Keenon Ogden, PLLC
2000 PNC Plaza
500 West Jefferson Street
Louisville, KY 40202

David J. Barberie
Leslye M. Bowman
Director of Litigation
Department of Law
200 East Main Street
Lexington, KY 40507

David Brown
Stites & Harbison
1800 Aegon Center
400 West Market Street
Louisville, KY 40202

Tom Fitzgerald
Kentucky Resources Council
PO Box 1070
Frankfort, KY 40602

Lawrence W. Cook
Assistant Attorney General
Office of the Attorney General Utility &
Rates
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204