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March 20, 2013

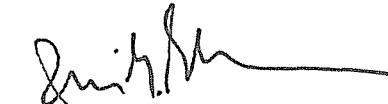
Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Blvd.
Frankfort, KY 40601

**Re: Case No. 2012-00428: Consideration of the Implementation of Smart Grid
and Smart Meter Technologies**

Dear Mr. Derouen:

Enclosed for filing in the above styled action are an original and fourteen copies of the Response of Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc. to Commission Staff's First Information Request.

Sincerely,



Iris G. Skidmore

Enclosure

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PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSIDERATION OF THE IMPLEMENTATION)
OF SMART GRID AND SMART METER) CASE NO.
TECHNOLOGIES) 2012-00428

**RESPONSE OF COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE,
BOURBON, HARRISON, AND NICHOLAS COUNTIES, INC. TO COMMISSION
STAFF'S FIRST INFORMATION REQUEST**

* * * * *

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CONSIDERATION OF THE IMPLEMENTATION)	
OF SMART GRID AND SMART METER)	CASE NO.
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**RESPONSE OF COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE,
BOURBON, HARRISON, AND NICHOLAS COUNTIES, INC. TO COMMISSION
STAFF'S FIRST INFORMATION REQUEST**

* * * * *

Comes the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (CAC), by counsel, and submits the following Response to Commission Staff's First Information Request:

Respectfully submitted,



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COUNSEL FOR CAC

DATA REQUEST 1:

Refer to the Direct Testimony of Charles D. Lanter (“Lanter Testimony”) page 2, lines 27-29. Describe the types of cost benefits that Mr. Lanter believes should be provided to the consumers to offset Smart Grid investments. Provide any examples.

RESPONSE:

Witness: Charles D. Lanter

Consumers and utilities should share in the cost benefits of Smart Grid investments. For consumers this could take the form of reduced rates or extended time between requested increases or any other form of bill credit. For example, if utilities, due to Smart Grid investments, are able to remotely read meters and save on the labor, transportation, and other expenses associated with meter reading, then that savings should be passed on to customers, once reasonable capital expenses (including reasonable return on investment) have been recovered.

DATA REQUEST 2:

On pages 3 and 4, Mr. Lanter describes the various programs operated by CAC. Identify any programs that would be harmed by cost-effective Smart Grid investments.

RESPONSE:

Witness: Charles D. Lanter

Programs would be directly harmed by Smart Grid investments where those investments serve to make utilities less affordable, thus reducing the impact of any energy assistance or energy subsidy program such as the federal Low Income Home Energy Assistance Program (LIHEAP), WinterCare Energy Fund, Kentucky Utilities Home Energy Assistance Program, and any other public or privately funded project of that nature. Similarly, where smart metering technology serves to make shutoffs more frequent or changes the timelines of such shutoffs (making them essentially instant) then Smart Grid technology essentially reduces the impacts of any energy assistance program intended to reduce shutoffs, such as the Crisis component of LIHEAP.

DATA REQUEST 3:

Identify any problems or concerns CAC has with the use of smart meters (Automated Metering Infrastructure [“AMI”] that provide for two-way communication). State whether customers should be allowed to opt out of the use of smart meters. If the response is no, explain why not. If yes, describe the circumstances or conditions under which opt out should be allowed.

RESPONSE:

Witness: Charles D. Lanter

The Council is aware of privacy concerns and data ownership issues raised by some parties regarding the use of smart meters but takes no formal position on this question. We generally believe customers should be provided with all information about how their data will be used and what will be collected. We also believe that consumers should be afforded an opt out when possible when it involves a service such as electricity where no other provider is an option.

DATA REQUEST 4:

The following questions refer to the Lanter testimony, page 5, lines 1-19, regarding who should bear the cost of Smart Grid investment.

- a. Provide the average age of transformers in Kentucky and explain how it compares to the 40 years referenced in the testimony.
- b. Identify what maintenance has been deferred.
- c. Identify the replacement failures that have occurred.
- d. Cite any Kentucky statute, regulation, reported court opinion, or Commission order that would support the assertion that regulated investor-owned utilities “are guaranteed and receive a reasonable rate of return” on their investments.
- e. Provide a detailed explanation as to how a Kentucky regulated investor-owned utility could operate without exposing its shareholders to risk.
- f. If utilities were required to return “every dollar saved by the implementation of Smart Grid devices and systems” to ratepayers after recovering reasonable capital expenditures, explain how the Commission would incentivize those utilities to invest in Smart Grid facilities.

RESPONSE:

Witness: Charles D. Lanter

- a. The point made was in reference to the average age of transformers in the United States. The Council does not possess information which would accurately provide an average age of transformers within Kentucky.
- b. If a transformer’s age is greater than 40 years and its designed lifespan was 40 years then it stands to reason the delay of its replacement is a deferred capital expense.
- c. This statement was intended to convey the failure to maintain and replace transformers. The wording might have been unclear.
- d. The Council would point out KRS 278.030 which states that utilities “may demand, collect and receive fair, just and reasonable rates for the services rendered or to be rendered by it to any person.” It has been our experience that most regulated utilities do demand and collect that reasonable return and the Commission has supported their requests, approving rate adjustments and associated settlement agreements.
- e. See Response to 4d.
- f. In the statement that “every dollar saved by the implementation of Smart Grid devices and systems” should be returned to ratepayers, the utility’s ability to receive a reasonable rate of return on that investment was implied. That return should be sufficient incentive for Smart Grid investment. If a utility already makes a reasonable profit on an expenditure it should not also be permitted to keep additional profit in the form of all costs savings that expenditure generates. While that may be unusual for an unregulated market, it is the price an Investor Owned Utility should have to pay for being granted regulated monopoly status in a market.

DATA REQUEST 5:

Refer to the Lanter Testimony, page 5, lines 21-40 regarding Time of Use (“TOU”) rates.

- a. Explain how implementation of TOU rates should be limited.
- b. Provide in detail the support for the statement that “...Smart Grid investments rely in part on Time of Use rate structures to recoup investment costs...”

RESPONSE:

Witness: Charles D. Lanter

- a. Customers are best able to take advantage of TOU rates when they have flexible schedules and access to advances in technology such as high efficiency appliances with time settings (some still in development in response to the developing TOU rate market nationally). Customers with low-incomes are least likely to be able to take advantage of these two resources. For example, they may work late shifts, or are seniors or disabled persons with medical needs involving their consumption. For example, a senior citizen utilizing an oxygen pump cannot choose to utilize that pump when rates are cheapest and to shut it off when more expensive rates are in effect. Meanwhile, more affluent customers have this flexibility and access to devices currently, and not yet readily available to help manage consumption. Under these scenarios, costs are essentially shifted within a rate class from affluent customers to customers with low-income. To this end, TOU rates should be limited in their implementation to allow customers to opt out if they are unable to benefit from the rate structure, i.e., seniors, families working a third shift, or TOU rates should be an opt-in program. In either cases, rates should be structured carefully to ensure that one group of customers within the rate class, those not on TOU rates, is not subsidizing another group, those on TOU rates.
- b. As stated by the Council and the Attorney General in joint comments filed in Case No. 2008-000408, in order to achieve maximum savings from the Smart Grid investments it will be necessary for a large number of customers to agree to be placed on TOU rates. Among the stated advantages of Smart Meters is the use of TOU rates to incentivize reduction of peak load through timed price signals. If few or no customers have agreed to or been forced onto TOU rates then that significant savings created by Smart Meters through reduced peak demand is lost. In fact, the California Public Utilities Commission has allowed regulated utilities to charge customers an “opt-out” fee if they choose not to have a Smart Meter installed on their home.

DATA REQUEST 6:

The following questions refer to the Lanter Testimony, page 6, lines 1-16 regarding the utilities' ability to remotely disconnect customers.

- a. Explain how the ability to remotely disconnect could increase shutoffs.
- b. Assuming that the terms and conditions under which utilities are able to remotely disconnect are set forth in each utility's tariff, explain whether Mr. Lanter suggests that these terms and conditions will be changed to accommodate Smart Grid applications or that utilities will not comply with their existing tariff provisions with regard to disconnection of service.

RESPONSE:

Witness: Charles D. Lanter

- a. The ability to remotely disconnect customers for non-payment is made easier and cheaper for the utility by Smart Grid investments. The "down time" created by the time the order is delivered and the time it is executed on site (which in some cases can take a full day or more) is time that customers with low-income currently have to try and secure additional resources and get that to the utility before the shutoff occurs. Such last minute avoidance is common, especially during the LIHEAP Crisis season, when millions of dollars of federal energy assistance is distributed in Kentucky (January through March). The ability to remotely disconnect will certainly increase shutoffs by making them essentially simultaneous with the shutoff date and time.
- b. Utilities will certainly comply with existing tariff provisions and/or any changes made to accommodate Smart Grid applications. That is why the Council is concerned. Such compliance will lead to increased shutoffs by eliminating the final hours when many customers with low-income are able secure to last-minute assistance. Such effects should be considered when adjusting terms and conditions at the time the ability to disconnect remotely is granted.

DATA REQUEST 7:

The following questions refer to the Lanter Testimony, page 6, lines 29-37 regarding the discussion of the customer charge. In addition to its belief that a higher customer charge reduces a customer's incentive to pursue conservation, state whether CAC also believes that a higher customer charge provides the customers with erroneous price signals.

RESPONSE:

Witness: Charles D. Lanter

Absolutely. If the desired outcome is reduced consumption, often the case especially regarding customers with low-incomes, then a rate structure where a higher percentage of the monthly bill is fixed regardless of consumption provides those customers with erroneous price signals.

DATA REQUEST 8:

As a party to Kentucky Utilities Company's ("KU") most recent rate case, 2012-00221, CAC was a signatory in that case to the unanimous settlement, which was accepted by the Commission and which included an increase in KU's residential customer charge of approximately 26.5 percent. On pages 7-11 of the order accepting the settlement, the Commission discussed the residential customer charge and demonstrated, at different usage levels, that the difference in a customer's bill with no increase in the customer charge and with the increase contained in the settlement was minimal. Given those results and Mr. Lanter's acknowledgement that the rate changes he discusses reflect a "slow shifting of rate structures to higher fixed customer charges," explain how he determined that such rate structures cause customers to "lose their incentive to conserve..."

RESPONSE:

Witness: Charles D. Lanter

While the Commission rightly found that the difference in a customer's bill was minimal in that case, there was still a difference. The shift in structure sends the wrong message to consumers, however minimal. A small change in this case, a small change in the next case, and a small change in the case after that will lead to an unbalanced shift over time. The Council was not attempting to point out any one specific case where this has become a problem; only that it does represent at least a small change in rate structure that appears to be a trend.

Also, as Commission Staff is aware, any settlement reflects compromise on the part of all parties to a case.

DATA REQUEST 9:

State whether CAC has any objection to the voluntary use of prepaid meters.

RESPONSE:

Witness: Charles D. Lanter

Yes. The Council is concerned about prepaid meters in any and all form because their deployment, even on a voluntary basis, represents a slippery slope likely to lead to mandatory use (especially for certain customer classes) or to an “opt-out” provision which in some jurisdictions has required customers to pay an opt-out fee to the utility.

It is impossible for the Commission to regulate individual transactions so allowing the utilities to “sell” their customers on the benefits of prepaid metering could result in a communications disaster. Reference the Columbia Gas Choice program (Case No. 2010-00233) and the ongoing debate regarding whether communications with customers have been fair and complete. If a utility calls a senior citizen or customer with low-income and explains the prepaid meter in such a way that the customer does not feel he or she has an option or that doing so would somehow please the utility, then that customer has been indirectly coerced. For these reasons we object to prepaid metering in all forms.

DATA REQUEST 10:

With reference to Mr. Lanter's summary of his position regarding Smart Grid Investments, explain why Smart Grid investment should be treated differently than any other utility investment in its infrastructure

RESPONSE:

Witness: Charles D. Lanter

At this point, Smart Grid investment in some cases utilizes unproven technologies representing a higher risk to consumers that promised benefits will not be achieved. The Council believes that our organization does not have enough information yet on some of these developing technologies to adequately determine whether they are worth that risk. Presumably the utilities share some of that hesitation or they would already be pushing for Smart Grid investments without much incentive.

The Council also believes they should be treated at least somewhat differently where the investments could be considered optional. It is not necessary, for example, to replace a meter on a home with a "smart meter." An aging meter could just as easily be replaced with a standard one-way meter.

DATA REQUEST 11:

State whether CAC believes that customer information and other information that can be gathered from smart meters belongs to the customer or the customer's energy provider.

RESPONSE:


Witness: Charles D. Lanter

The Council believes there should be a wall of separation between the utility and the consumer where only the most necessary information can pass. The utility has obvious information needs such as consumption amounts in order to conduct business. However, when and how electricity is consumed is not yet necessary in order for the utility to conduct business and provide a service to the consumer. The utility is a monopoly – customers do not have a right to switch service providers because they are uncomfortable with the exchange of information.

Allowing customers to opt-in for an exchange of information would be acceptable where the terms are presented in a clear and simple manner for any reasonable customer to understand. However, the Council would oppose requiring customers to opt-out of that exchange.

VERIFICATION

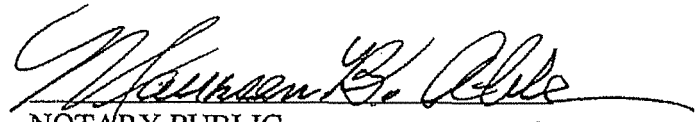
I prepared the foregoing responses on behalf of CAC and I affirm that they are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.



CHARLES D. LANTER

COMMONWEALTH OF KENTUCKY)
COUNTY OF FAYETTE)

Subscribed to and sworn to before me by Charles D. Lanter on the 15th day of March, 2013.



NOTARY PUBLIC
My commission expires: 6/25/13

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2013, a true and accurate copy of the Response of CAC to Commission Staff's First Information Request was served by United States mail, postage prepaid, to the following:

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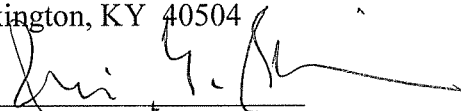
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