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PUBLIC SERVICE
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Jeff R. Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: Response to Louisville Gas and Electric Company and Kentucky Utilities Company's February 25, 2015 Letter in Case No. 2014-0003

Dear Mr. Derouen,

On February 25, 2015, Louisville Gas and Electric Company and Kentucky Utilities Company (collectively, the "Companies") filed a letter with the Commission concerning their obligation to commission an industrial potential or market-characterization study ("Industrial Study" or "Study") pursuant to the Commission's November 14, 2014 Order in Case No. 2014-00003 ("Order").¹ Order at 30. Wallace McMullen and the Sierra Club (collectively, the "Sierra Club") look forward to the initiation of this important study and respectfully submit this brief response to address the Companies' proposed timeline for initiating the Commission-ordered Study, which appears to be driven by a concern regarding the applicability of the opt-out provision contained in KRS 278.285(3).

In their February 25 letter, the Companies informed the Commission that their contract with Cadmus requires them to secure Commission approval to recover the Industrial Study's cost through the Companies' DSM Cost Recovery Mechanisms before work can begin on the Study. Letter at 2. Because no industrial DSM-EE charges currently exist, the Companies stated that they need to file an application for industrial DSM-EE charges, along with necessary tariff changes for implementing the charges. *Id.* The Companies further stated that they met with their Energy Efficiency Advisory Group on February 11, 2015 to discuss the Study and cost recovery issues, that "the DSM-EE opt-out right prescribed in KRS 278.285(3)" was among the topics discussed, and that additional meetings are necessary before the Company drafts a cost recovery application and related tariff revisions. *Id.* The Companies did not provide a specific timeframe for its cost recovery filing but the letter suggests that the Companies will not file for several months. *Id.* According to the contract terms revealed in the letter, this means that the Company will not initiate the Industrial Study for at least several months.

¹ The Commission directed the Companies to commission an Industrial Study within three months of the Order and to file it within 30 days of the date the Study is completed and finalized. Order at 32.

Sierra Club appreciates the importance of customer and stakeholder dialogue with the Companies, and takes no position in this letter on a specific method of cost recovery. However, Sierra Club is concerned about the anticipated timeline for the Study. Sierra Club agrees with the Companies that stakeholder and customer representative meetings will be “necessary to ensure that the Industrial Study succeeds” and that Cadmus will need to engage with customers to “understand their processes, facilities, and existing DSM-EE efforts.” Letter at 2. But these outreach efforts should not hold up the initiation of the study, as the Companies propose; to the contrary, these efforts are critical components of the Study itself.

The Companies’ proposed cost recovery filing and Study timeline appears to be driven by a discussion that occurred during the February 11 Energy Efficiency Advisory Group meeting concerning “the DSM-EE opt-out right prescribed in KRS 278.285(3).” *Id.* While the Companies did not describe the specifics of the discussion, the letter implied that the discussion may have addressed whether an industrial customer can opt out of paying its costs related to the Industrial Study under KRS 278.285(3). The statute does not provide for this type of exclusion. KRS 278.285(3) allows qualifying individual industrial customers to opt out of programs, not a potential or market characterization study, as discussed more fully below. Sierra Club offers its position here on this issue to the extent a disagreement exists.

KRS 278.285(3) addresses the assignment of costs of demand-side management programs. The statutory provision provides, in full:

The commission shall assign the cost of demand-side management programs only to the class or classes of customers which benefit from the programs. The commission shall allow individual industrial customers with energy intensive processes to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs if the alternative measures by these customers are not subsidized by other customer classes. Such individual industrial customers shall not be assigned the cost of demand-side management programs.

KRS 278.285(3).

As the Commission explained in its Order in this case, the opt-out provision in KRS 278.285(3) “presumes the existence of a program out of which to opt.” Order at 30. Thus, it can only apply when a program exists. Specially, “[o]nce a program is in place, KRS 278.285(3) employs a two-part analysis to enable an individual industrial customer to opt out. First, the industrial customer must be an energy-intensive customer, and second, the energy-intensive customer must have adopted cost-effective energy-efficiency measures.” *Id.*

The Companies currently do not offer any industrial programs. In requiring the Companies to commission an energy-efficiency study for its industrial customers, the Commission did not direct the Companies to offer a particular program (nor did it even suggest consideration of a particular program). *Id.* There currently are no programs “out of which”

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industrial customers can opt. *Id.* For this reason, the opt-out provision does not apply to the Study and should not hold up the start of the Study.

The Companies have approximately 3,345 industrial electric customers that make up roughly 30 percent of the Companies' load. Order at 27. This is why the Industrial Study is important, and why the Sierra Club supports the Companies' study. The Companies have taken steps to fulfill its obligation to commission and file an Industrial Study by conducting an RFP process and entering into a contract for the Study. At this stage, the Companies should move ahead to initiate Study. Again, the fact that the Companies and Cadmus will need to collaborate with industrial customers and other stakeholders in conducting the Study – which Sierra Club strongly supports – is not a reason to postpone initiating the study. Rather, such collaboration is part of the study process. Moreover, the opt-out provision is inapplicable and likewise not a barrier to the Study.

In Case No. 2011-00375, the Commission ordered the Companies to conduct an efficiency potential study. Although the Commission “did not exclude industrial customers from the EE study” it ordered, Order at 29, the Companies' chose to study residential and commercial sectors only. The Commission has now directed the Companies to commission a study of the industrial sector. *Id.* at 30. Sierra Club respectfully urges the Companies to initiate the Industrial Study and supports their continued customer and stakeholder engagement.

Thank you for your attention to this matter.

Sincerely,



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CC: Parties in Case No. 2014-0003