

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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IN THE MATTER OF:

JOINT APPLICATION OF LOUISVILLE GAS)
AND ELECTRIC COMPANY, METRO HUMAN)
NEEDS ALLIANCE, PEOPLE ORGANIZED AND)
WORKING FOR ENERGY REFORM AND) CASE 2004 - 00304
KENTUCKY ASSOCIATION FOR COMMUNITY)
ACTION FOR THE ESTABLISHMENT OF A)
HOME ENERGY ASSISTANCE PROGRAM)

**RESPONSE OF ROBERT L. MADISON TO LG&E OBJECTION TO MY
REQUEST FOR FULL INTERVENTION AND MOTION FOR THE
ESTABLISHMENT OF A PROCEDURAL SCHEDULE DATED 12 AUG 2004**

THIS IS THE RESPONSE OF ROBERT L. MADISON TO THE LG&E OBJECTION
TO MY FULL INTERVENTION REQUEST AND MOTION FOR THE
ESTABLISHMENT OF A PROCEDURAL SCHEDULE DATED 12 AUG 2004.

THE PSC SHOULD OPEN UP A CASE TO INVESTIGATE THE LG&E HEA

THE PSC SHOULD OPEN UP A CASE AND ESTABLISH A PROCEDURAL
SCHEDULE FOR THE FOLLOWING REASONS :

1. TO DETERMINE IF THE LEGAL CRITERIA OF 278.285 (1) (f) & (3) HAVE BEEN
MET RELATED TO THE EXTENT TO WHICH CUSTOMER REPRESENTATIVES
AND THE OFFICE OF THE ATTORNEY GENERAL HAVE BEEN INVOLVED IN
DEVELOPING THE PLAN AND THE AMOUNT OF SUPPORT FOR THE PLAN BY
EACH PARTICIPANT. (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001,
PAGE 25 FIRST BULLET ITEM)

IN CASE 2001 -323, THE PSC DETERMINED THE LEGAL CRITERIA WERE NOT
MET.

IT APPEARS THAT THE JOINT APPLICANTS HAVE, ONCE AGAIN, USED A
LIMITING AND SECRETIVE PROCEDURE WHERE ONLY LIMITED GROUPS
COULD PARTICIPATE IN THE PROCESS. ALSO THE ROLE OF THE AG IS NOT
CLEAR. THE AG DID NOT SIGN THE JOINT APPLICATION.

2. THERE HAS BEEN NO TESTIMONY FILED, NO OPPORTUNITY FOR DATA
REQUESTS, ALTERNATIVE PROPOSALS OR IDEAS, NO SWORN TESTIMONY,
NO DUE PROCESS AND PROCEDURE, NO OPPORTUNITY FOR PUBLIC
COMMENT AND NO OPPORTUNITY FOR OTHER CUSTOMER

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REPRESENTATIVES OTHER THAN THOSE CHOSEN BY THE UTILITY TO PARTICIPATE.

THE PSC SHOULD OPEN UP THIS PROCEDURE TO ENSURE THAT IT IS FAIR JUST AND REASONABLE.

3. HOW WILL THE DECISIONS BE MADE FOR HEA ? WILL THERE BE A CONSULTATIVE BOARD CONSISTING OF A BALANCED CROSS SECTION OF INTERESTS ESTABLISHED TO OVERSEE THE NEW HEA PROGRAM ? (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001, PAGE 25 SECOND & THIRD BULLET ITEMS)

THE PARTIES ARE APPARENTLY PROPOSING IN THE JOINT APPLICATION THAT THE DSM ADVISORY BOARD FUNCTION AS THE CONSULTATIVE BOARD. THE DSM ADVISORY BOARD CONTAINED THE PROGRAM ADMINISTRATORS, WHICH THE PSC DETERMINED IN CASE 2001 - 323 TO BE A CONFLICT OF INTEREST. THE ADVISORY BOARD ALSO INCLUDES JEFFERSON COUNTY GOVERNMENT, THE KENTUCKY DIVISION OF ENERGY, JEFFERSON COUNTY GOVERNMENT AND THE AIR POLLUTION CONTROL DISTRICT. ARE THESE GROUPS APPROPRIATE TO FUNCTION AS MEMBERS OF A COLLABORATIVE BOARD ?

4. THE PARTIES HAVE DETERMINED THAT THE AEC, MHNA AND THE CAC WILL ADMINSTRATE THE PROGRAMS. THE PSC HAS PREVIOUSLY DETERMINED THAT IN ANY NEW HEA AS MANY ADMINISTRATIVE FUNCTIONS AS POSSIBLE BE ASSIGNED TO LG&E RATHER THAN A SEPARATE THIRD PARTY OPERATOR. (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001, PAGE 25 FOURTH BULLET ITEM)

5. RELATED TO THE GAS ELECTRIC SUBSIDY, THE JOINT APPLICANTS ARE PROPOSING THAT THE SAME OPERATOR ADMINISTER THE HEA AS THE PILOT PROGRAM. IN THE PILOT A SERIOUS LEGAL VIOLATIONS CONCERNING ELECTRIC GAS SUBSIDY WERE COMMITTED. IS IT APPROPRIATE THAT AEC BE GIVEN THIS AUTHORITY AGAIN, WHEN THEY HAVE NOT DEMONSTRATED EITHER COMPETENCY OR TRUST ON THIS ISSUE ? (SEE PSC CASE 2001 - 323 ORDER DATED 27 DEC 2001, PAGE 25 FIFTH BULLET ITEM) THE ACTIONS OF THE JOINT APPLICANTS IN PREVIOUS CASES MUST OVERRULE WHAT THEY ARE SAYING THEY WILL DO IN THE FUTURE.

6. THE ISSUE OF UTILITY MATCH WAS NOT ADDRESSED IN EITHER THE SETTLEMENT AGREEMENT IN CASE 2003 - 433 OR THE JOINT APPLICATION TO THIS CASE. (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001, PAGE 25 SIXTH BULLET ITEM) IN MY OPINION THIS IS A LIVE ISSUE.

7. THE AMOUNT OF DOLLAR SAVINGS THAT LG&E WILL ACHIEVE FROM THE HEA. (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001, PAGE 25 SEVENTH BULLET ITEM) THE JOINT APPLICATION DOES NOT HAVE THIS DATA.

8. DID THE HEA PILOT DEMONSTRATE THAT ELIGIBLE RESIDENTIAL

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CUSTOMERS RESIDING OUTSIDE OF JEFFERSON COUNTY HAD AN EQUAL OPPORTUNITY TO BE CONSIDERED FOR AND RECEIVE HEA ASSISTANCE ? (SEE PSC CASE 2001-323 ORDER DATED 27 DEC 2001, PAGE 25 EIGHTH BULLET ITEM) NEITHER THE PILOT REPORT OR THE JOINT APPLICATION CONTAINS THIS DATA.

THE PSC SHOULD APPROVE MY REQUEST FOR FULL INTERVENTION

THE PSC SHOULD MAKE A DETERMINATION, IF I MEET EITHER OF THE CRITERIA IN 807 KAR : 001 (3) (8), TO GRANT MYSELF FULL INTERVENTION.

INCLUDED IN MY FULL INTERVENTION REQUEST, DATED 03 AUG 2004, I REFERENCE THE NINE PSC CASES THAT I HAVE BEEN GRANTED FULL INTERVENTION IN . THIS INCLUDES CASE 2001 - 323, THE ONLY HEA CASE IN KENTUCKY TO ACTUALLY HAVE A CASE PROCESSED. I HAVE PREVIOUSLY DEMONSTRATED IN OTHER PSC CASE THAT I HAVE MET BOTH PARTS OF THE LEGAL CRITERIA FOR FULL INTERVENTION.

IN THEIR CURRENT OBJECTION, LG&E DOES NOT REPEAT PREVIOUS ARGUMENTS THAT THE AG HAS BEEN GRANTED INTERVENTION AND WILL ADEQUATELY REPRESENT RESIDENTIAL CUSTOMERS AND THAT THIS CASE CONTAINS HIGHLY TECHNICAL AND DETAILED ISSUES. THE PSC SHOULD MAKE THEIR INTERVENTION DETERMINATIONS BASED ON THE ACTUAL FACTS THAT ARE PRESENT.

ON PAGE 2 - 3 OF THE LG&E OBJECTION IT STATES :

‘ THE INTERESTS OF RESIDENTIAL CUSTOMERS HAVE BEEN FAIRLY AND ADEQUATELY REPRESENTED BY THE ATTORNEY GENERAL THROUGH HIS PARTICIPATION IN THE DEVELOPMENT OF THE HEA PROGRAM. ‘

IS THIS TRUE ? THERE IS NO DOCUMENTATION OR BASIS FOR THIS STATEMENT. SIMILAR STATEMENTS MADE BY LG&E COUNSEL ATTEMPTING TO REPRESENT THE AG WERE REJECTED BY THE PSC IN CASE 2001 - 323.

THE PSC SHOULD ESTABLISH A PROCEDURAL SCHEDULE FOR A NEW HEA CASE

THE PSC SHOULD ESTABLISH A PROCEDURAL SCHEDULE BASED ON THE ONE I SUBMITTED DATED 03 AUG 2004. THE DATES MAY HAVE TO BE MODIFIED DUE TO DELAYS NECESSITATED BY LG&E'S OBJECTIONS. THE PSC SHOULD NOT APPROVE ANY TARIFF UNTIL THE CASE HAS BEEN APPROVED. IF THE JOINT APPLICANTS ENGAGE IN DELAYING TACTICS OR FAIL TO ANSWER DATA REQUESTS OR PARTICIPATE IN THE PROCESS, THEY SHOULD HAVE THE FUNDS DELAYED AS A CONSEQUENCE.

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I CERTIFY THAT ON 18 AUG 2004, COPIES OF THIS RESPONSE OF ROBERT L. MADISON WERE MAILED, REGULAR MAIL, TO ALL PARTIES OF RECORD.

SINCERELY,

A handwritten signature in cursive script that reads "Robert L. Madison".

ROBERT L. MADISON
5407 BAYWOOD DRIVE
LOUISVILLE KY 40241-1318
HOME PHONE: (502) 241-5079