COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE COMMISSION

In the Matter of:

THE TARIFF FILING OF DELTA NATURAL GAS COMPANY, INC. TO ESTABLISH AN ENERGY ASSISTANCE PROGRAM RIDER SURCHARGE	)	CASE NO. 2005-00464

ATTORNEY GENERAL'S
COMMENTS TO DELTA NATURAL GAS COMPANY INC.'S PROPOSED HOME ENERGY ASSISTANCE PROGRAM

Comes now the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, pursuant to the procedural schedule adopted by the parties in the instant case, and files his comments to Delta Natural Gas Company, Inc.'s proposed home energy assistance program.[1] The Attorney General supports a home energy assistance program to be offered by Delta; however, the program as proposed is too onerous on Delta's residential customers and should not be granted. Rather, the Attorney General recommends an alternative plan of $0.10 per customer per month for one year only. The basis for the Attorney General's position follows.

[1] While not explicitly stated in the filing, the application is presumably sought pursuant to KRS 278.285(4). The statute requires consideration of the involvement of the Office of the Attorney General in developing the plan, including program design, cost recovery mechanisms, and financial incentives and the amount of support for the plan by the Attorney General.

Energy prices are currently at, or near, record prices. Natural gas[2] is likewise experiencing volatility that is unprecedented. As a consequence, many consumers are facing financial hardship or even crisis. Moreover, with such extreme prices, consumers not previously able to qualify for governmental assistance are being stretched to the point where they too may qualify. In other words, the residential consumers who heretofore financed the program are either eligible or close to becoming eligible beneficiaries. This translates to fewer consumers who will actually carry the financial burden of the program. In sum, unless significant relaxation in rates occurs, energy consumers may face the choice of paying their utility bill over medications or even food.

This situation has not gone unnoticed by the Attorney General's Office or government in general. By way of example, the Attorney General helped draft a resolution with the National Association of State Utility Consumer Advocates ("NASUCA") that was ultimately forwarded to Congress wherein NASUCA asked that the federal government double its allocation to the Low Income Home Energy Assistance Program to at least $5.208 billion for the winter of 2005-2006. (See Attachment A.) The Governor recently announced his decision to add an additional $8 million to the LIHEAP for this winter. (See Attachment B.) Furthermore, the Kentucky House budget committee has approved legislation that would free up an additional $5 million in state budget reserve funds for emergency home heating assistance statewide. (See Attachment C.) Hence, given the government's intervention, some of the financial need has diminished.

Admittedly, the financial need continues nonetheless. However, Delta's proposal should not be accepted for a number of reasons. Delta requests a program akin to that of

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[2] The costs paid for by Delta, as well as other local distribution companies, are treated as a direct pass through on the customers' bills whereby the company makes no profit.

Columbia Natural Gas Company because its service territory lies adjacent to same. Proximity is inconsequential. By way of example, a specific neighborhood in southern Lexington has customers of both companies and the customers' general rates differ depending on which company provides the service. If one were to accept that proximity controls, then the general rates should likewise be the same. However, the regulatory framework establishes base rates on the particular financial make up of each company and its customers. Accordingly, an issue or rate that works for one company may not work for another.

Moreover, the Columbia usage tariff resulted from a settlement, which of course means the Attorney General may or may not have agreed to it in a fully litigated case. Even more importantly, the settlement was a $7.8 million **decrease** in rates. Of that amount, $500,000 was set aside from the residential reduction for the funding of a DSM program. As a result, the residential class still experienced a decrease in their base rates; however, the decrease was not as high as it would have otherwise been given the establishment of the DSM Program. As it was ultimately calculated, the residential class was assessed a usage tariff in order to accumulate the $500,000. In sum, the residential class did not have an increase in their bills, unlike the proposed Delta HEAP.

Delta's proposed usage charge is by definition a volumetric charge. This approach is problematic for various reasons. Specifically, because the absence of weatherization and the use of old, non-efficient furnaces produces greater volumetric usage, collection on a volumetric basis may unduly burden marginal customers unable to afford weatherization and efficient furnaces, and may even drive some who would not have needed assistance into a need for assistance based on the additional burden a volumetric charge would present. Furthermore, planning with knowledge of the amounts available for distribution based on a customer charge is more certain than is planning that has no means to determine in advance what funds will be available for use, as with the usage charge.

More importantly, with the exception of Columbia, all of the other DSMs funded with a usage charge are based primarily on a weatherization program. KRS 278.285 by title and definition exists as a demand-side management plan; to wit, it provides for the creation of programs designed to reduce demand and thus reduce the need to increase supply, or generating capacity. All stakeholders then benefit because of the delayed or avoided need for new plant, which in turn would require an associated increase in rates to pay for it. Weatherization, of course, accomplishes this goal. Accordingly, given the fact that all other DSMs financed by way of a usage charge advance the demand-side management concept and Delta's proposal does not, the Attorney General opposes same.

Delta has readily admitted that it has a smaller and poorer customer base. As a consequence, a usage charge of approximately $3.50[3] per year or an annual customer charge of $3.60[4] must be considered in light of the financial wherewithal of the paying customer. Based on census data that illustrates the poverty rate for the counties served by Delta, over half of the counties are reported to be at 18.7% poverty level or greater. Half of these are in the 26.5% to 45.4% range. (See http://ksdc.louisville.edu/sdc/maps/poverty_ky_1999map.pdf.) This merits a few comments. The customers need the assistance. In fact, many of them are financially challenged. Accordingly, any significant assessment could very well fall on the backs of

[3] At the informal conference on 13 December 2005, Delta represented that the total cost per year would likely be approximately $3.50.

[4] Through discussions with Delta, the company has offered to accept a customer charge instead of a usage charge. Originally the amount suggested was $0.30 per customer per month but the most recent offer is $0.20 per customer per month.

those who are having trouble as it is. A volumetric charge which translates to a higher bill in the winter on top of record gas prices could be difficult for the customer to bear.

A $0.10 per customer charge would be helpful yet not create too much of a burden on the residential class, especially the working poor. The Attorney General has agreed to this approach with LG&E, KU, and recently with Union. This consistency will provide the various companies' ratepayers with the same contribution. Although the aggregate amount which Delta will receive is much smaller than that of LG&E, KU, or Union, one must bear in mind that Delta has a much smaller customer base. Accordingly, a level field of customer contribution is preserved for those instances in which the HEAP is sought apart from a settlement and apart from a decrease in general rates.

In conclusion, the Attorney General supports a home energy assistance program. However, the program as filed (a usage or volumetric charge of $0.05/mcf) and as offered during discussions (originally $0.30 per customer per month but later lowered to $0.20 per customer per month) is too onerous in amount and too long in duration. The program is offered in response to a crisis. The remedy it presents should be of no greater duration than the legislative and gubernatorial response to that crisis. In the alternative, the Attorney General would recommend a program that involves $0.10 per customer per month for one year only given the current energy crisis.

Respectfully submitted,

GREGORY D. STUMBO
ATTORNEY GENERAL

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DENNIS HOWARD, II
LAWRENCE W. COOK
ASSISTANT ATTORNEYS GENERAL
1024 CAPITAL CENTER DRIVE,
SUITE 200
FRANKFORT KY 40601-8204
(502) 696-5453
FAX: (502) 573-8315

Certificate of Service and Filing

Counsel certifies that an original and ten photocopies of the Attorney General's Comments to Delta Natural Gas Company Inc.'s Proposed Home Energy Assistance Program were served and filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct of the same, first class postage prepaid, to:

Connie King
Director - Rates &Treasury
Delta Natural Gas Company, Inc.
3617 Lexington Road
Winchester, KY 40391

This 18th day of January, 2006.

DENNIS HOWARD, II
ASSISTANT ATTORNEY GENERAL

ATTACHMENT A

December 1, 2005

The Honorable Arlen Specter
Chairman
Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
United States Senate
Washington DC 20510

The Honorable Ralph Regula
Chairman
Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
US House of Representatives
Washington, DC 20515

The Honorable Tom Harkin
Ranking Member
Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
Washington, DC 20510

The Honorable David R. Obey
Ranking Member
Appropriations Subcommittee on
Labor, Health and Human Services,
Education, and Related Agencies
Washington, DC 20515

RE: Low Income Home Energy Assistance Program Funding

Dear Chairman Specter, Ranking Member Harkin, Chairman Regula, and Ranking Member Obey:

With the Energy Information Administration (EIA) forecasting dramatic increases in the cost of energy this winter, there is an immediate need for home energy assistance for low income customers. The Center on Budget and Policy Priorities (CBPP) has calculated that the average low-income household will incur an average heating bill increase of $500 for the 2005-2006 winter season. In 2005, the National Energy Assistance Directors Association (NEADA) determined that all low-income households used, on average, 15% of their gross household income for energy. That fact, combined with the anticipated dramatic increase in home energy costs, poses a serious crisis for low-income customers. Therefore, NASUCA urges Congress to appropriate Low Income Home Energy Assistance Program (LIHEAP) funding of at least $5.208 billion in FY 2006 with an additional $500 million for emergency contingency funding to assist low-income households in meeting the exorbitant home energy cost anticipated for the winter of 2005-2006.

LIHEAP is designed to provide funding to the states to assist low-income households in meeting the costs of home energy. The anticipated FY 2006 funding of approximately $2 billion in regular funding with no emergency contingency funding fails to even minimally compensate for the anticipated spikes in home energy costs this winter. Funding at such a level will devastate the low-income families, seniors, and disabled persons that benefit from this program.

During NASUCA's 2005 Annual Meeting our members passed the High Winter Energy Costs Resolution. The resolution is attached. This resolution outlines the high energy costs facing low income households and how they will be affected by this year's drastic increase in energy costs. The resolution supports the CBPP's estimate that the total minimum federal appropriation required for 2005-2006 LIHEAP is $5.208 billion.

NASUCA is committed to working with you to secure the appropriations necessary to meet this year's unprecedented need for home energy assistance for low-income customers. By appropriating to LIHEAP the $5.208 billion for FY 2006, with an additional $500 million for emergency funding, Congress will help ensure the critical assistance is there to help low-income customers meet the high home energy costs this winter.

Sincerely,

Charles A. Acquard
Executive Director

Attachment

The National Association of State Utility Consumer Advocates
Resolution 2005-05

HIGH WINTER ENERGY COSTS RESOLUTION

WHEREAS the cost of home heating energy has always burdened low income households disproportionately compared with households of all other income levels; and

WHEREAS one of the most effective means of measuring this disparity is to evaluate the energy burden of a household by dividing the cost of home energy by the gross income of the same household to determine the percentage of income needed to meet energy costs; and

WHEREAS in 2005, the National Energy Assistance Directors Association ("NEADA") determined that all low-income households used, on average, 15% of their gross household income for energy costs (6% for heat alone), while all households used, on average, only 3% of their gross household income for energy costs (1% heat alone); and

WHEREAS in 2004, elderly households in receipt of Supplemental Security Income paid nearly 19% of their income for energy, and households in receipt of Aid to Families with Dependent Children paid 26% of their income for energy; and

WHEREAS the Energy Information Administration ("EIA") has forecast dramatic increases in the cost of energy which will have an immediate and deleterious short term effect on the already disproportionate energy burden on low-income households; and

WHEREAS, based on EIA data from September 2005, the average family heating with oil could spend as much as $1,666 during the winter of 2005-2006. This would represent an increase of $403 over the costs for the winter of 2004-2005 and an increase of $714 over the costs for the winter of 2003-2004; and

WHEREAS the EIA anticipates that heating fuel expenditure increases from the winter of 2004 to the winter of 2005 are likely to average 73% for natural gas in the Midwest; 19% for electricity in the South; 31% for heating oil in the Northeast; and 41% for propane in the Midwest; and

WHEREAS, the Center on Budget and Policy Priorities ("CBPP"), an independent, bipartisan research institute, calculated (http://www.cbpp.org/10-6-05bud.htm) that the average low income household (income below the greater of 150% of the federal poverty guidelines or 60% of the state median income) will incur an average heating bill increase of $500 for the 2005-2006 winter; and

WHEREAS the easily predictable outcome of the combination of the extreme energy burden currently facing low-income households and the anticipated increase in home energy costs is the creation of a "perfect storm" which will result in an unparalleled challenge to the energy safety net below low-income households; and

WHEREAS these increased costs for home energy during the winter of 2005-2006 were predicated on the foreseeable actions in the marketplace based upon historically accurate and verifiable facts, factors, formulae and information; and

WHEREAS short-term and long-term effects of Hurricanes Katrina and Rita including the damage and destruction to the production, storage, transportation and infrastructure of the natural gas and crude oil industries, and the resulting escalation of home energy costs as a result of the depletion of reserves and the inability of the industries to quickly recover from the devastation remains to be calculated; and

WHEREAS the severe constraints on state and local government budgets already strain the ability of those entities to reinforce the low income safety net; and

WHEREAS the nonprofit, faith-based, and other community-based organizations, secondarily charged with the task of assisting low-income households with problems such as the imminent energy crisis are similarly constrained by limited resources and increasing energy costs; and

WHEREAS the Low Income Home Energy Assistance Program ("LIHEAP") is a federally-funded, state-administered energy plan designed to provide funding to the states to assist low-income households in meeting the costs of home energy; and

WHEREAS since the winter of 2001-2002, the national appropriation for LIHEAP has wholly failed to match the pace of the increase in home heating costs; and

WHEREAS the anticipated funding for the 2005-2006 LIHEAP Year fails to keep pace with inflation and would fail to be even minimally adequate to compensate for the anticipated spikes in home energy and home heating energy now predicted by the EIA; and

WHEREAS in 2005, NEADA determined that LIHEAP funding between the

2001-2002 and 2004-2005 fiscal year increased by 21.4%, but the share of a low-income households' heating expenditures met by the average LIHEAP grant fell from 49.4% to 25.2% for heating oil, from 52.3% to 33.4% for natural gas, and from 35.5% to 23.1% for propane; and

WHEREAS in 2005, NEADA determined that between 2001-2002 and 2004-2005 the price of oil for heating increased by $624, and the price of natural gas for heating increased by $352, and the price of propane for heating increased by $489, yet, the average LIHEAP grant increased by $3; and

WHEREAS, according to the EIA, while the average cost of home heating fuel for the coming winter may rise precipitously: heating oil by 98%, propane by 55%, and natural gas by 58%, the national appropriation for LIHEAP, since the winter of 2001-2002, has risen by only about 20%; and

WHEREAS the proposed 2005-2006 executive federal budget appropriation called for a decrease in funding of approximately $250 million with no emergency contingency funding; and

WHEREAS the House of Representatives Labor-HHS-Education Appropriations Committee has proposed FY 2006 LIHEAP funding at $2.006 billion in regular funding and no emergency contingency funding; and

WHEREAS the Senate Appropriations Committee has proposed FY 2006 LIHEAP funding at $1.8 billion in regular funding and $300 million in emergency contingency funding; and

WHEREAS the CBPP calculates that, in order to maintain 2005-2006 LIHEAP purchasing power, taking into consideration general inflation, at the same level as 2004-2005 LIHEAP, the national appropriation should increase to $3.025 billion; and

WHEREAS the CBPP calculates that a mere 5% increase in the number of eligible applicants for LIHEAP assistance would require additional national 2005-2006 LIHEAP funding in the amount of $150 million; and

WHEREAS the CBPP calculates that to hold beneficiaries of LIHEAP assistance harmless in the face of the entire expected price increase would require additional 2005-2006 LIHEAP funding in the amount of $2.033 billion; and

WHEREAS the CBPP calculates that the total minimum federal appropriation required for the 2005-2006 LIHEAP is $5.208 billion; and

WHEREAS LIHEAP remains a targeted block grant program with the built-in flexibility and an established federal-state partnership to effectively and efficiently deliver the funding necessary to ease the crisis on increasingly unaffordable energy costs for low-income households; and

WHEREAS the current appropriations and proffered amendments clearly are insufficient to deal with the anticipated increases in home energy costs; *now therefore be it*

RESOLVED that NASUCA urges Congress to appropriate FY 2006 LIHEAP regular funding of at least $5.208 billion, as recommended by CBPP, and to appropriate an additional $500 million for emergency contingency funding to assist low-income households in meeting the exorbitant home energy costs anticipated for the winter of 2005-2006; and

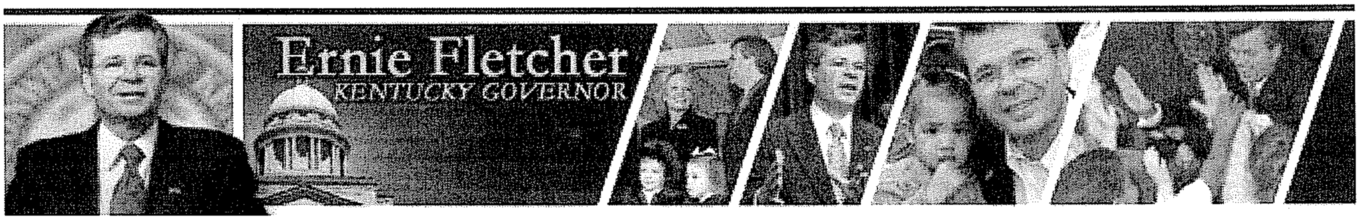
BE IT FURTHER RESOLVED that NASUCA authorizes its Standing Committees to develop specific positions and to take appropriate actions consistent with the terms of this resolution to secure its implementation, with the approval of the Executive Committee of NASUCA. The Standing Committees or the Executive Committee shall notify the membership of any action taken to this resolution.

Submitted by:

NASUCA Consumer Protection Committee
November 14, 2005

Approved by NASUCA:
November 15, 2005
89345

ATTACHMENT B



Related Content

Energy saving tips and financial assistance information

LIHEAP website

Governor Ernie Fletcher's Communication Office

Nearly $8 million approved for heating assistance in Kentucky

Press Release Date: Thursday, December 08, 2005

Contact Information: Brett Hall
Jodi Whitaker
502-564-2611

Michael Goins
502-564-7300

Governor Fletcher signs off on request from Health and Family Services

FRANKFORT, Ky. – Governor Ernie Fletcher last week approved a budget appropriation increase of nearly $8 million from the Cabinet for Health and Family Services to increase the federal appropriations for the Low-Income Heat and Energy Assistance Program (LIHEAP), bringing total Fiscal Year 2006 appropriations for LIHEAP to $23,645,700.

"While many of us take a warm home for granted, other Kentuckians are struggling to pay to heat their homes to a comfortable level," said Governor Fletcher. "This administration is dedicated to doing everything we can to help low-income Kentuckians meet this essential need."

The enacted FY 06 budget allocation for the energy program in the Department for Community Based Services was $23.1 million. Of that amount, $15.6 million was for the Low-Income Heating and Energy Assistance Program or LIHEAP. The balance of $7.5 million is for the weatherization subprogram. Expenditures to date in the energy program total around $10 million.

The increase of $7,996,000, dated November 30, 2005, was recommended for approval pursuant to grant award letters from the United States Department for Health and Human Services dated September 30 and November 7, 2005.

Over the past two months, Governor Fletcher met with executives from Kentucky's electric and natural gas utility companies to discuss ways to provide families with additional assistance.

Discussions about other forms of long-term assistance for Kentuckians are ongoing.

Governor Fletcher reminds Kentuckians that winterizing their homes is imperative to help keep increased energy costs to a minimum. Conservation is the first step all Kentuckians can take to help control rising heating bills. Thermostats should be lowered and efforts made to ensure homes are winter-tight. Many energy companies have information available to customers on steps they can take to conserve energy.

Last Updated 12/13/2005

ATTACHMENT C

For Immediate Release

January 17, 2006

Emergency heating assistance bill passes House A & R

FRANKFORT -- The House budget committee approved legislation today that would free up $5 million in state budget reserve funds for emergency home heating assistance statewide.

Should House Bill 283 pass this session, $5 million in state budget reserve, or "rainy day," funds would be made immediately available for home heating assistance through the federal Low Income Home Energy Assistance Program. A lack of federal funding for the 2005-06 LIHEAP program has left many states scrambling to meet their citizens' low-energy heating assistance needs.

Kip Bowmar, executive director of the Kentucky Association of Community Action Agencies, told the House Appropriations and Revenue Committee that the emergency funding would be the first state allocation ever made by the Commonwealth to supplement LIHEAP.

The state's current LIHEAP funding, which is distributed by community action agencies statewide, is expected to be exhausted within three weeks. With at least six weeks of winter left, Bowmar said the extra funds are needed.

"As we all know from opening our own gas bills this winter, there is clearly a crisis in home heating," he said.

Kentucky would join a number of states including Pennsylvania and Virginia that supplement the federal LIHEAP program should the bill become law, according to Rep. Darryl Owens, D-Louisville, who is the primary sponsor of HB 283.

HB 283 also proposes that regulated utilities report to the Kentucky Public Service Commission each year on their participation in and planning for residential weatherization and low-income heating assistance programs.

HB 283 now goes to the full House for its consideration.

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