COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF KENTUCKY UTILITIES COMPANY, KENTUCKY ASSOCIATION FOR COMMUNITY ACTION, INC. AND COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON, AND NICHOLAS COUNTIES, INC. FOR THE ESTABLISHMENT OF A HOME ENERGY ASSISTANCE PROGRAM	)))))))	CASE NO. 2007-00338

O R D E R

On July 30, 2007, Kentucky Utilities Company ("KU"), the Kentucky Association for Community Action, Inc. ("KACA"), and the Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc. ("CAC") (collectively "Joint Applicants') filed an application seeking approval of a modified Home Energy Assistance ("HEA") program in KU's service territory. In its November 24, 2004 Order in Case No. 2004-00303,[1] the Commission had approved a 3-year pilot HEA program. Citing the success of the current program, the Joint Applicants propose a 5-year HEA program that is substantially similar to the current program operating in KU's service territory.

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), sought and was granted intervention in this case.

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[1] Case No. 2004-00303, Joint Application of Kentucky Utilities Company, Kentucky Association for Community Action, Inc., and Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. for the Establishment of a Home Energy Assistance Program.

The Commission established a procedural schedule that included one round of discovery.

The proposed 5-year HEA program continues the current HEA program's focus on providing a subsidy during peak heating and cooling months. The Joint Applicants expect to serve approximately 1,600 low-income customers.[2] The specific details of the proposed 5-year HEA program, as filed on July 30, 2007, include the following items that were included in the current 3-year HEA program:

- Program participants will be active KU customers who have KU electric as their primary heat source. Participants must apply for available weatherization programs and accept services if eligible and available.
- Participants must be enrolled in the Federal Low Income Home Energy Assistance Program ("LIHEAP") and direct LIHEAP payment to KU.
- Participants may voluntarily leave the program upon their request and will be involuntarily removed from the program if they default on the disconnect notice payment terms.
- KACA will monitor both the implementation and ongoing operations of KU's HEA program, including continuing program evaluation and tracking program expenditures.
- CAC will make contracts with other energy assistance providers in the KU service territory and provide data support and services for the program and provide specific training and technical assistance to contracting community action agencies' staff.
- The expected number of program participants will be allocated among the 77 counties in KU's service territory on a pro rata share basis, reflecting the number of KU customers in a given area.
- Contracting community action agencies will perform outreach and recruitment, data intake, income verification and re-verification, client follow-up and data recording.

[2] During the first 2 years of the current HEA program, approximately 1,300 low-income residential customers were helped with KU bills each year. In the third year, approximately 1,500 low-income residential customers have assisted.

- KU will bill the 10-cent per residential meter per month HEA program charge on customers' bills, provide necessary program data to KACA and CAC, and provide the funds to cover administrative costs.

The Joint Applicants propose the following modifications to be incorporated into the 5-year HEA program:

- The program participant's income must be at or below the then-effective LIHEAP federal poverty guidelines, which is currently 130 percent. The current program requirement is 110 percent of the then-effective federal poverty guidelines. KU states this change will allow the program to adjust if the federal and state poverty guidelines change.[3]

- Up to 5 percent of the total HEA funds collected may be used to provide discretionary energy assistance to program participants for paying down arrearages or to provide energy assistance to low-income KU customers in a time of crisis. The current program provides that 2 percent of the HEA funds are available as an energy assistance fund to assist low-income customers whose primary heat source is not electric.

- The subsidy benefit will be a direct subsidy of a set dollar amount during peak cooling and heating months.[4] For the first 3 years of the 5-year HEA program, the monthly benefit is set at $42 per applicable month not to exceed $294 per year. For the last 2 years, the monthly benefit is set at $44 per applicable month not to exceed $308 per year. The dollar amount may vary each year based upon available funds in the program pool. Under the first 2 years of the current program, the monthly benefit was set at $42 per applicable month not to exceed $294 per year. The annual benefit was raised to $439 in the third year to ensure all HEA funds were spent. The ability to revise the benefits was a provision of the current program.

Concerning the discretionary energy assistance provision, KU states that the purposes for creating this provision are to further assist those with the greatest

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[3] Response to the Commission Staff's First Data Request dated August 20, 2007, Item 1.

[4] Peak cooling months are defined as July, August, and September while peak heating months are defined as December, January, February, and March. Application at 7.

immediate need for emergency energy assistance, to reduce arrearages so that troubled customers could get "on course" to regular bill paying without the added burden of paying down arrearages, and to bring the KU HEA program into closer alignment with the Louisville Gas and Electric Company ("KU") HEA program. KU notes it is not mandated that the 5 percent of the HEA funds be spent this way, but rather provides discretion to use the funds if the need arises.[5] The current KU HEA program does not include the payment of participants' arrearages.

The Application includes a proposed 5-year budget for the HEA program that reflects the allocation of HEA funds between benefit payments, discretionary energy assistance, and administrative costs.[6] The Joint Applicants propose to annually audit the financial records of KU's HEA program using a third-party independent auditor, in accordance with Office of Management and Budget Circular No. A-133 ("OMB A-133") auditing standards. In addition, KU will file annual reports with the Commission documenting various features[7] of the HEA program.

KU requests that the Commission approve the proposed 5-year HEA program, and commits to file, no later than 6 months prior to the end of the 5-year term, a request either proposing appropriate changes to the program or seek the termination of the HEA program. If the Commission does not have the opportunity to act on KU's application

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[5] Response to the Commission Staff's First Data Request dated August 20, 2007, Item 1. KU states a 5 percent set aside has been included in KU's proposed 5-year HEA program.

[6] Application, Exhibit A.

[7] The annual report would include the number of clients served by the program, the total amounts collected under the program, and the annual CAC OMB A-133 audit report. Application at 7.

prior to the end of the 5-year term, KU seeks to continue the 5-year HEA program until such time as the Commission issues an Order instructing KU to do otherwise.[8]

The Joint Applicants did not propose to file a comprehensive program assessment at the end of the 5-year HEA program. KU states that the proposed 5-year HEA program does not differ materially from the current HEA program. KU also notes that as it had submitted the required comprehensive program assessment ("HEA Assessment") to the Commission on March 30, 2007, it did not believe that another program assessment would be necessary before the end of the proposed 5-year program. However, KU is willing to provide a comprehensive HEA Assessment similar to the one filed on March 30, 2007 no later than 6 months prior to the end of the proposed 5-year HEA program.

On August 31, 2007 KU filed comments in support of the proposed 5-year HEA program. KU's comments stress that in order to continue the HEA program without interruption, a final Order is needed from the Commission by September 14, 2007.

The AG filed comments on September 5, 2007, and recommends the approval of the 5-year HEA program, subject to concerns he raises in his comments. The AG states that the 5-year HEA program should continue only as a pilot program and not be considered a permanent program. The AG believes that the HEA programs offered by KU and KU should be standardized to the extent possible to provide consistency and economy of administration. He contends that if the HEA programs are to be continuing in nature, a combination of the two HEA programs is desirable and necessary to achieve efficiencies in administration. The AG raises concerns about the lack of details

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[8] Application at 14.

concerning the disbursement and oversight of the discretionary energy assistance provision. He believes this fund should be strictly controlled and suggests the Commission require the Joint Applicants to confer and agree as to both the amount and need prior to the disbursement of any discretionary energy assistance funds.[9]

Based on the evidence of record, including the March 30, 2007 HEA Assessment, the Commission believes the current HEA program has been successful in assisting low-income customers of KU. The efforts of the Joint Applicants have resulted in a program which appears to operate efficiently and within its budget constraints. The Commission has considered the proposed 5-year HEA program and the modifications described by the Joint Applicants, and concludes the modifications reflect the experience gained from the actual operation of the HEA program over the last 3 years. Therefore, pursuant to KRS 278.285(4), the Commission finds the proposed 5-year HEA program for KU's service territory to be reasonable and should be approved, with the following modifications. The Commission also finds the proposed 5-year budget to be reasonable and it should be approved.

The Joint Applicants have proposed to allocate 5 percent of total HEA funds to a discretionary energy assistance fund. KU estimates that $126,951 will be available for this fund over the 5-year term of the HEA program.[10] The stated purposes of this fund are to further assist those with the greatest immediate need of emergency energy assistance and to reduce arrearages for HEA program participants. While the proposed discretionary energy assistance fund appears to be reasonable, the Joint Applicants

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[9] AG's Comments at 2-3.

[10] Application, Exhibit A.

have failed to explain how they will determine how much of this fund will go to emergency energy assistance and how much will be available to reduce arrearages. The Commission shares the AG's concerns about the discretionary energy assistance fund. Therefore, the Joint Applicants should develop general guidelines addressing how this fund will be utilized.

While the contents of the annual reports as proposed should provide meaningful information concerning the operation of the HEA program, the Commission will require additional information to be contained in the annual report. The additional information should include copies of the annual report KACA will generate for KU including information on the clients served, county distribution, brown bills, and disconnections. The annual report should also disclose how the discretionary energy assistance fund was utilized during the reporting period. Finally, if the Joint Applicants determine that the monthly or annual benefit to be paid under the HEA program will be different than described in the Application, this information should also be disclosed in the annual report.

The Commission believes it is necessary that a comprehensive HEA Assessment should be conducted on the 5-year program. The HEA Assessment should be a valuable resource in determining the success of the HEA program and help identify areas needing improvement. Consequently, the Commission will require a comprehensive HEA Assessment on the 5-year HEA program. This HEA Assessment should cover all the issues described in the Commission's November 24, 2004 Order in

Case No. 2004-00303.[11] The comprehensive HEA Assessment should be submitted to the Commission at the same time KU files an application either seeking to continue the HEA program or terminate it.

KU has proposed to file an application either seeking to continue the HEA program or terminate it no later than 6 months prior to the end of the 5-year term. The Commission finds that a specific due date for the filing of the HEA application is more reasonable. Therefore, the Commission will require that KU file an application on its HEA program no later than March 15, 2012.

KU also has requested that if the Commission does not act on a future application to extend or terminate the HEA program before the 5-year term ends, it should be permitted to continue the HEA program beyond the end of the 5 years until such time as the Commission issues an Order instructing KU to do otherwise. The Commission finds it is not reasonable at this time to grant KU's request to continue the HEA program beyond its 5-year term pending a decision on a future application concerning the continuation of the HEA program. The question of an extension should be addressed in the application to be filed no later than March 15, 2012.

With respect to the funding for KU's HEA program, the Commission is again disappointed that KU has decided to forego shareholder contributions upon renewal of this program at this time. We believe that such decision is inconsistent with good corporate and community citizenship. The Commission has previously urged utilities that will be the beneficiaries of assistance programs to be financial contributors to those

[11] The Commission's November 24, 2004 Order included in the issues to be addressed in the HEA Assessments the development of "mirror-image" HEA programs for the KU and LG&E service territories.

programs. The Commission continues to believe that a utility that is at least partially funding an assistance program has a greater incentive to monitor the program expenditures and would be in a better position to assure its ratepayers that the funds are being spent in the most efficient manner. While KU's voluntary support of other assistance programs is commendable, such support is through the E.ON U.S. Foundation, not borne directly by KU on behalf of its shareholders. Moreover, it differs significantly from what KU's residential customers are asked and required to do. Those customers are also given the opportunity to support other assistance programs, but they are required to pay the HEA charge. The Commission well recognizes that it has no authority to require KU to fund its HEA program, but we continue to believe that KU should do so, especially in light of its healthy earnings.[12] KU is the direct beneficiary of this HEA program, as the funds collected from residential ratepayers are applied to otherwise uncollected utility bills, and it should be more than willing to set the standard of good corporate citizenship by making a significant financial contribution to this program. Not only would such a contribution aid more of its low income customers, but it would likely free up funds from various charitable organizations who normally aid such individuals with their energy bills for use in other important charitable purposes.

IT IS THEREFORE ORDERED that:

1. KU's 5-year HEA program and the proposed 5-year HEA budget, as described in the joint application and modified herein, are approved pursuant to KRS 278.285(4).

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[12] Since 2004, KU's reported net income has been as follows: 2004 - $133.5 million; 2005 - $112.1 million; 2006 - $151.8 million; and 12 months ending June 30, 2007 - $171.9 million.

2. KU's revised HEA tariff rider as proposed is approved for bills rendered on and after October 1, 2007.

3. The Joint Applicants shall develop general guidelines for the utilization of the discretionary energy assistance fund and submit copies of those guidelines to the Commission within 45 days of the date of this Order.

4. The annual audit reports of the HEA program, consisting of the financial audit and the additional information discussed herein, shall be filed with the Commission within 10 days of their completion.

5. The HEA Assessment shall be filed with the Commission no later than March 15, 2012 and shall address the issues outlined by the Commission's November 24, 2004 Order in Case No. 2004-00303.

6. KU's application concerning the continuation of the HEA program shall be filed with the Commission no later than March 15, 2012. KU's request to continue the HEA program during the consideration of that application is denied.

7. Subject to the filing of a timely petition for rehearing pursuant to KRS 278.400, this case is closed and any future filings shall be maintained in KU's general correspondence file or docketed as a new case.

Done at Frankfort, Kentucky, this 14th day of September, 2007.

By the Commission

Commissioner Clark Abstains

ATTEST:

Executive Director