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June 5, 2009

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PUBLIC SERVICE
COMMISSION

VIA HAND DELIVERY
Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: ***Development of Guidelines for Interconnection and Net Metering for Certain Generators with Capacity Up to Thirty Kilowatts***
Case No. 2008-00169

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of the Response of Louisville Gas and Electric Company and Kentucky Utilities Company to Comments of Intervenors Regarding Compliance Filings of Electric Utilities in the above-referenced matter. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience.

Yours very truly,

W. Duncan Crosby III

WDC:ec
Enclosures
cc: Parties of Record

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COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DEVELOPMENT OF GUIDELINES FOR INTERCONNECTION AND NET METERING FOR CERTAIN GENERATORS WITH CAPACITY UP TO THIRTY KILOWATTS	))))	**CASE NO. 2008-00169**

RESPONSE OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY TO COMMENTS OF INTERVENORS REGARDING COMPLIANCE FILINGS OF ELECTRIC UTILITIES

Pursuant to the Commission's April 24, 2009 Order in this proceeding, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively "LG&E/KU" or the "Companies") hereby respectfully respond to the Comments of Intervenors Regarding Compliance Filings of Electric Utilities, responding particularly to the intervenors' comments pertaining to the Companies' recently filed net metering tariffs. Because the Companies believe the intervenors' comments overlook the fact that the Companies' proposed net metering tariffs are in fully accord with the Interconnection and Net Metering Guidelines – Kentucky ("Guidelines"), the Companies respectfully request that the Commission approve the Companies' proposed net metering tariffs as filed.

I. Though the Companies' Proposed Net Metering Tariffs Summarize and Eliminate Certain Redundancies in the Guidelines, They Nonetheless Fully Comply with the Guidelines.

Contrary to the intervenors' comments, the net metering tariffs the Companies propose in this proceeding are in full compliance with the Guidelines the Commission approved in its January 8, 2009 Order in this proceeding.[1] Broadly speaking, the intervenors' objections to the Companies' proposed net metering tariffs come to a single point: the Companies' tariffs are not

[1] Order at 5.

carbon copies of the Guidelines established in these proceedings.[2] That is obviously true—the Guidelines are twenty-three pages long, whereas each of the Companies' net metering tariffs is only seven pages long—but it does not mean that the Companies' tariffs do not comply with the Guidelines. Indeed, the "Availability" section of each of the Companies' tariffs clearly states, "This Standard Rate Rider is intended to comply with all provisions of the Interconnection and Net Metering Guidelines approved by the Public Service Commission of Kentucky[.]" Therefore, the Companies have acknowledged in their proposed net metering tariffs and reiterate here that in the event any provision of their net metering tariffs appears to be in conflict with the Guidelines, the Guidelines will control.

Furthermore, the Companies respectfully submit that a more careful reading of the Companies' proposed net metering tariffs, particularly in the context of the Companies' complete tariff books and the Guidelines, would reveal that departures from the verbatim text of the Guidelines are fully justifiable as eliminating redundancy or enhancing clarity. For example, the Guidelines provide general requirements for Level 1 and 2 interconnection agreements, but go on to repeat those requirements nearly word-for-word in separate Level 1 and 2 interconnection agreement sections. Rather than swell the Companies' already lengthy tariff books by over twenty pages each, the Companies filed tariffs that eliminated the Guidelines' redundancy.[3] Moreover, certain terms and conditions contained in the Guidelines already exist in the Companies' tariff books' Terms and Conditions; it would be redundant, and therefore unnecessary, to repeat them in the proposed net metering tariffs.

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[2] Comments of Intervenors at 2 ("The proposed tariffs fail in numerous respects to meet the requirements of the guidelines. Unlike the filings of the other jurisdictional utilities, which track closely the language and structure of the Commission's guidelines, these two tariffs contain numerous departures from the guidelines[.]").

[3] KU's tariff book already is 110 pages long; LG&E's is 114. Adding twenty-three pages would be a 21% increase in the length of KU's tariff book and a 20% increase in LG&E's.

Finally, the objection that the Companies' proposed net metering tariffs do not more closely mimic the Guidelines overlooks what the Guidelines are; namely, they are guidelines, not tariffs that utilities must adopt word-for-word. As KRS 278.467(3) states, "[E]ach retail electric supplier shall file with the commission a net metering tariff and application forms to comply with those guidelines."[4] The Commission explicitly acknowledged the statutory distinction between tariffs and guidelines in its January 8, 2009 Order approving the Guidelines:

> Following receipt of the draft guidelines, Commission Staff held a final informal conference with the parties on October 16, 2008, after which Commission Staff made a number of additional revisions, including revising the title of the document to "Net Metering Tariff - Kentucky," which Staff believed necessary, as the draft guidelines referred to themselves as a "tariff." …
>
> The Commission also finds that the parties' request to remove the word "tariff" from the tile of the document is necessary and appropriate, as KRS 278.467(2) requires the Commission to issue "interconnection and net metering guidelines," while KRS 278.467(3) requires the jurisdictional utilities to file "a net metering tariff and application forms to comply with those guidelines" within 90 days of the issuance of the guidelines.[5]

It is precisely because there is a distinction between guidelines and tariffs that the Companies crafted their net metering tariffs to comply with the Guidelines, but not simply to be cut-and-paste reproductions of the Guidelines. As stated above, the Companies added language at the beginning of each of their proposed net metering tariffs to make it clear that the tariff is meant to comply fully with the Guidelines, notwithstanding that it does not repeat all of the words of the Guidelines verbatim.

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[4] Emphasis added.
[5] Order at 4-5.

II. The Intervenors' Specific Objections and Concerns Do Not Show Any Substantive Deviation of the Companies' Proposed Net Metering Tariffs from the Guidelines.

The following responses to the intervenors' specific objections and concerns about the Companies' proposed net metering tariffs show that the Companies' proposed language fully accords with the Guidelines and the statutes giving the Guidelines their authority.

*"The 'availability' language in the Guidelines is not incorporated in full into the tariffs, including the capacity of the system being **rated** capacity of 30 kW ...."*[6]

The Companies' proposed net metering tariffs state, "The generation system shall be limited to a maximum capacity of 30 kilowatts." KRS 268.465(2)(c) defines an "eligible electric generating facility" to have "a rated capacity of not greater than thirty (30) kilowatts." If the Commission determines that the Companies' statement in each of its proposed net metering tariffs that it is intended to comply with the Guidelines is not sufficient to eliminate any perceived concern here, the Companies propose to amend their current tariff language to comply with KRS 278.465(2)(c) as follows: "The generation system shall be limited to a maximum rated capacity of 30 kilowatts."

"[A]dditional language such as 'total fuel source' [is] added."[7]

The "total fuel source" language to which intervenors object is currently in the Companies' Commission-approved net metering tariffs and fully comports with the relevant statutory requirement.[8] KRS 278.465(2)(b) defines an "eligible electric generating facility" to be a facility that generates electricity using solar energy, wind energy, biomass or biogas energy, or hydro energy. The Companies' proposed net metering tariffs state that they are "[a]vailable to customers who own, operate and maintain a generation system located on customer's premises, that use as its total fuel source solar energy, wind energy, biomass or biogas energy, or hydro

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[6] Intervenors' Comments at 3 (emphasis in original).
[7] *Id.*
[8] *See* KU Sheet No. 57 and LG&E Sheet No. 57.

energy[.]" Therefore, though the words "total fuel source" do not appear in the Guidelines, they fully accord with the statutes undergirding the Guidelines.

"Additionally, the 1% peak load requirement and the obligation to seek PSC approval before denying net metering to customers above this threshold has not been incorporated."[9]

KRS 278.466(1) contains the requirement to which the intervenors refer: "If the cumulative generating capacity of net metering systems reaches one percent (1%) of a supplier's single hour peak load during the previous year, the obligation of the supplier to offer net metering to a new customer-generator may be limited by the commission." The Companies' existing Commission-approved net metering tariffs do not contain the previous or current statutory requirement of this type (the previous limit was 0.1% of a supplier's single hour peak load during the previous year). Because this is a clear statutory condition and because the Companies would have to obtain Commission approval before denying service to a net metering customer (i.e., the condition is a matter of public record and will not affect every, or perhaps any, net metering customers), the Companies do not believe it is necessary or appropriate to include this condition in their net metering tariffs.

"The 'metering and billing' section fails to state clearly that LG&E and KU shall provide net metering services ...as [is] required by the Guidelines, p.2."[10]

The whole and sole purpose of the Companies' current and proposed net metering tariffs is to provide net metering services; indeed, the point of any tariff is to provide service pursuant to the terms of the tariff. It would therefore be redundant to include such language in the body of the tariff itself. This can be seen in the Companies' Commission-approved tariffs; for example, the Companies' residential service tariffs do not state anywhere in their texts that the Companies

[9] Intervenors' Comments at 3.
[10] *Id.*

shall provide residential electric service for the simple reason that the unambiguous purpose of a residential electric service tariff is to provide electric service under the terms of the tariff.

"The 'metering and billing' section fails to state clearly that ... net metering services...are available 'without any cost to the Customer for metering equipment' as [is] required by the Guidelines, p.2."[11]

The Companies believe that the first paragraph of the "Metering and Billing" section of each of their proposed net metering tariffs clearly implies that net metering customers are not responsible for the cost of any metering equipment the Companies determine is necessary:

> Net metering service shall be measured using a single meter or, as determined by Company, additional meters and shall be measured in accordance with standard metering practices by metering equipment capable of registering power flow in both directions for each time period defined by the applicable rate schedule. Additional meters, requested by Customer, will be provided at Customer's expense.

Moreover, each of the Companies' Commission-approved tariff books contains the following language concerning metering in the "Company Responsibilities" portion of the "Terms and Conditions" section:

> The electricity used will be measured by a meter or meters to be furnished and installed by Company at its expense and all bills will be calculated upon the registration of said meters. When service is supplied by Company at more than one delivery point on the same premises, each delivery point will be metered and billed separately on the rate applicable. Meters include all measuring instruments. Meters will be located outside whenever possible. Otherwise, meters will be located as near as possible to the service entrance and on the ground floor of the building, in a clean, dry, safe and easily accessible place, free from vibration, agreed to by Company.[12]

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[11] *Id.*

[12] KU Sheet No. 98; LG&E Sheet No. 98.

The clear default position of the Companies' tariff books is that, unless explicitly stated otherwise in particular tariffs, the Companies are responsible for the cost of metering. Therefore, there is no need to restate that position in the Companies' proposed net metering tariffs.

"The 'net metering service interconnection guidelines' fail to incorporate and limit the terms and conditions as required by the Commissions Guidelines at pp. 6-9."[13]

The Companies believe that the "Net Metering Service Interconnection Guidelines" and "Conditions of Interconnection" sections of their proposed net metering tariffs are fair and accurate summaries (and are largely restatements) of the requirements set forth in the Guidelines. Moreover, as stated above, the Companies' proposed net metering tariffs explicitly state that they are intended to comply in all respects with the Guidelines. The Companies therefore respectfully submit that there is no substantive respect in which their proposed net metering tariffs depart from the Guidelines.

"The tariffs fail to provide that a training protocol will be developed for line workers regarding the EDS. Since LG&E / KU are requiring EDS, they are obligated under the Guidelines to develop that training protocol."[14]

The Companies require line workers to be trained in accordance with numerous regulations and procedures, none of which the Companies have ever listed in their tariff books because they are not terms or conditions of service between the Companies and their customers. Though the Companies will certainly comply with the training requirements in the Guidelines, they do not believe their tariff books are appropriate places to list training requirements or procedures for their employees.

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[13] Intervenors' Comments at 3.
[14] *Id.*

III. Conclusion.

The Companies have submitted proposed net metering tariffs to the Commission in this proceeding that comply in all substantive respects with the Interconnection and Net Metering Guidelines – Kentucky the Commission approved in this proceeding by Order dated January 8, 2009. The intervenors have correctly noted that the Companies' proposed tariffs do not restate the Guidelines word-for-word, but that does not detract from the fact that the Companies' departures from the exact wording of the Guidelines serve to reduce redundancy and increase the tariffs' clarity for customers' ease of use and understanding. Moreover, the Companies' proposed tariffs explicitly state that they are intended to comply with the Guidelines. For these reasons, the Companies respectfully request that the Commission approve the Companies' proposed net metering tariffs as filed.

Dated: June 5, 2009

Respectfully submitted,

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The undersigned hereby certifies that a true and correct copy of the foregoing Response was served on the following persons on the 5th day of June, 2009, by United States mail, postage prepaid:

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