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June 25, 2010

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JUN 25 2010
PUBLIC SERVICE COMMISSION

VIA HAND DELIVERY

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: ***Application of Kentucky Utilities Company for an Adjustment of Base Rates***
Case No. 2009-00548

Application of Louisville Gas and Electric Company for an Adjustment of Electric and Gas Base Rates
Case No. 2009-00549

Dear Mr. DeRouen:

Enclosed please find and accept for filing the original and ten copies of the Joint Post-Hearing Brief of Stipulation and Recommendation Signatories AARP; Association of Community Ministries; Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc.; Kentucky Cable Telecommunications Association; Kentucky Industrial Utility Customers, Inc.; Kentucky School Boards Association; Kentucky Utilities Company; The Kroger Co.; Louisville Gas and Electric Company; United States Department of Defense and Other Federal Executive Agencies; and Wal-Mart Stores East, LP and Sam's East, Inc. in the above-referenced matters. 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

W. Duncan Crosby III

WDC:ec
cc: Parties of Record

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RECEIVED
JUN 25 2010
PUBLIC SERVICE COMMISSION

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY UTILITIES COMPANY FOR AN ADJUSTMENT OF BASE RATES	)))	CASE NO. 2009-00548

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY FOR AN ADJUSTMENT OF ITS ELECTRIC AND GAS BASE RATES	))))	CASE NO. 2009-00549

JOINT POST-HEARING BRIEF OF STIPULATION AND RECOMMENDATION SIGNATORIES

AARP;
ASSOCIATION OF COMMUNITY MINISTRIES;
COMMUNITY ACTION COUNCIL FOR LEXINGTON-FAYETTE, BOURBON, HARRISON AND NICHOLAS COUNTIES, INC.;
KENTUCKY CABLE TELECOMMUNICATIONS ASSOCIATION;
KENTUCKY INDUSTRIAL UTILITY CUSTOMERS, INC.;
KENTUCKY SCHOOL BOARDS ASSOCIATION;
KENTUCKY UTILITIES COMPANY;
THE KROGER CO.;
LOUISVILLE GAS AND ELECTRIC COMPANY;
UNITED STATES DEPARTMENT OF DEFENSE AND OTHER FEDERAL EXECUTIVE AGENCIES;
AND WAL-MART STORES EAST, LP AND SAM'S EAST, INC.

Filed: June 25, 2010

I. Introduction.

The Stipulation and Recommendation submitted into the records of these proceedings on June 8, 2010, is a fair, just, and reasonable resolution of all the issues presented in these cases. It is the result of vigorous and arm's-length negotiations between parties representing all classes of Kentucky Utilities Company's ("KU's") and Louisville Gas and Electric Company's ("LG&E's") (collectively, "Companies'") customers (residential, commercial, and industrial). The parties to the Stipulation and Recommendation represent not just all of the Companies' customer classes, but also the highly varied interests of low-income customers, seniors, school districts, businesses, industrial companies, the military, and cable television providers. None of the intervenor-parties to the Stipulation and Recommendation desire to see an increase in KU's or LG&E's base rates, but all recognize that the Companies provide a necessary and essential service, face real and rising costs, and are legally entitled to a fair, just, and reasonable return on the equity capital they have invested to provide that service. These same parties also recognize that the Stipulation and Recommendation provides important benefits to customers that either mitigate the impact of the rate increases on customers or provide important customer benefits that are difficult to achieve or are not otherwise legally obtainable through the litigation of the cases. For these reasons, they believe adopting the terms of the Stipulation and Recommendation would produce a fair, just, and reasonable outcome in each proceeding based on the evidence of record therein. Therefore, all of the parties to these proceedings except the Attorney General ("AG") respectfully request the Commission to conclude these cases by issuing final orders incorporating all of the terms of the Stipulation and Recommendation.

II. **The Parties Produced the Stipulation and Recommendation through a Process of Hard-Fought, Good-Faith, and Arm's Length Negotiations.**

The sheer diversity of interests of the parties to the Stipulation and Recommendation, as well as the integrity and transparency of the negotiations that produced it, evinces its fairness, justness, and reasonableness. When, on January 29, 2010, in accordance with their December 30, 2009 notices of intent, the Companies filed their applications in Case Nos. 2009-00548 (KU) and 2009-00549 (LG&E) for increases in base rates for their electric and gas operations, as well as for other modifications of their electric and gas rates, terms, and conditions, they did so believing that their proposals were fair, just, and reasonable, and fully supported by the evidence.[1] But numerous parties sought and received intervention in one or both proceedings to contest the Companies' applications. Ultimately, the Commission granted intervention to the AG,[2] Kentucky Industrial Utility Customers, Inc. ("KIUC"),[3] The Kroger Co. ("Kroger"),[4] Kentucky Cable Telecommunications Association ("KCTA"),[5] and Kentucky School Boards Association ("KSBA") in both of the rate proceedings;[6] the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. ("CAC"),[7] and Wal-Mart Stores East, LP and Sam's East, Inc. (collectively, "Walmart") in Case No. 2009-00548 only;[8] and the Association of Community Ministries ("ACM"),[9] United States Department of Defense and Other Federal Executive Agencies ("DOD/FEA"),[10] and AARP in Case No. 2009-00549

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[1] *In the Matter of Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548 ("KU Case"), Application (Jan. 29, 2010); *In the Matter of Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates*, Case No. 2009-00549 ("LG&E Case"), Application (Jan. 29, 2010).
[2] KU Case, Order (Feb. 19, 2010); LG&E Case, Order (Feb. 19, 2010).
[3] KU Case, Order (Jan. 22, 2010); LG&E Case, Order (Jan. 22, 2010).
[4] KU Case, Order (Feb. 3, 2010); LG&E Case, Order (Feb. 3, 2010).
[5] KU Case, Order (Mar. 3, 2010); LG&E Case, Order (Mar. 3, 2010).
[6] KU Case, Order (Apr. 1, 2010); LG&E Case, Order (Apr. 1, 2010).
[7] KU Case, Order (Feb. 5, 2010).
[8] KU Case, Order (Mar. 12, 2010).
[9] LG&E Case, Order (Feb. 23, 2010).
[10] LG&E Case, Order (Mar. 15, 2010).

only.[11] (Collectively, the Companies, KIUC, Kroger, Walmart, KSBA, CAC, ACM, DOD/FEA, KCTA, and AARP are the "Parties.") The intervenor-Parties and the AG submitted into the records of these proceedings testimony, data requests, and responses to data requests, all challenging various points of the Companies' applications, and providing evidence of their own into the records of these proceedings. For example, the KIUC and DOD/FEA supplied evidence supporting lower revenue requirement increases and lower returns on equity than the Companies had requested.[12] Therefore, when the Parties, AG, and Commission Staff met at the Commission's offices to engage in arm's-length negotiations, they did so well-equipped with evidence from all parties to these proceedings, evidence that was far from univocal about what the appropriate outcome of these proceedings should be.

Furthermore, the parties to these proceedings that gathered to negotiate what became the Stipulation and Recommendation represented the entire spectrum of interests and groups present in the Companies' service territories, and the Parties to the Stipulation and Recommendation comprise all of the parties to these proceedings except the AG. The intervenor-Parties represent all major rate classes: residential (CAC, ACM, and AARP), commercial (Kroger and Walmart), and industrial (KIUC). They represent the highly varied interests of low-income customers (CAC and ACM); seniors, including low- and fixed-income households (AARP); school districts (KSBA); businesses (Kroger and Walmart); industrial companies (KIUC); the military (DOD/FEA); and cable television providers (KCTA). In short, the group that negotiated and ultimately signed the Stipulation and Recommendation represented diverse interests not

[11] LG&E Case, Order (Apr. 5, 2010).

[12] *See, e.g.*, KU Case, Testimonies of Richard A. Baudino and Lane Kollen (Apr. 23, 2010); LG&E Case, Testimonies of Richard A. Baudino and Lane Kollen (Apr. 23, 2010); LG&E Case, Testimony of Thomas J. Prisco (Apr. 22, 2010).

obviously inclined to agree with one another, and none of the intervenor-Parties had an interest in seeing utility rates increase.

Yet after two and a half days of open, transparent, vigorous, and good-faith negotiations between the Parties, under the supervision of the AG and Commission Staff at the Commission's offices on June 2, 3, and 7, 2010,[13] all parties to these proceedings except the AG (i.e., the Parties) were able to reach an evidence-based resolution of all the issues in these proceedings. That resolution was to recommend to the Commission that it approve the Companies' applications in these proceedings subject to, and as modified by, the terms of the Stipulation and Recommendation, which the Commission subsequently admitted into evidence in both of these proceedings.[14]

III. <u>Terms of the Stipulation and Recommendation</u>.

The Parties recommend the terms of the Stipulation and Recommendation as a reasonable "black-box" compromise between the Parties' various interests, and believe that adopting all of its terms as the final resolution of these proceedings would result in fair, just, and reasonable rates, terms, and conditions for all of the Companies' customers. The Parties do not recommend any particular element(s) of the Stipulation and Recommendation in isolation, but rather respectfully submit that all of its terms taken together, if adopted by the Commission, would produce a fair, just, and reasonable result.[15] The Stipulation reflects a careful balance of

[13] The Parties, AG, and Commission Staff all participated in discussions on June 2-3. All Parties, the AG, and Commission staff were given notice of additional discussions and negotiations that were held at the Commission's offices on June 7, 2010, but the AG did not send a representative to those discussions. An open conference call line was available at all times to all the parties on June 2, 3, and 7 to listen to, and participate in, the discussions in conference room.

[14] The Companies submitted the Stipulation and Recommendation into the record as Exhibit LEB-1 to the Testimony on Stipulation and Recommendation of Lonnie E. Bellar, filed with the Commission on June 8, 2010, along with a motion for admission of the same into the record. The Commission granted the Companies' motion from the bench during the hearing held at the Commission on June 8, 2010. The AG stated at the hearing that he had no objection to the admission of the same into the record of evidence of both proceedings.

[15] Stipulation and Recommendation at 3.

consideration given and taken by each of the Parties. The Parties agreed that if the Commission does not implement in its Orders in these proceedings all of the terms recommended herein, then: (a) this Stipulation and Recommendation shall be void and withdrawn by the Parties from further consideration by the Commission and none of the Parties shall be bound by any of the provisions herein, provided that no party is precluded from advocating any position contained in this Stipulation and Recommendation; and (b) neither the terms of this Stipulation and Recommendation nor any matters raised during the settlement negotiations shall be binding on any of the Parties to this Stipulation and Recommendation or be construed against any of the Parties.[16] Recognizing that the Stipulation and Recommendation is the product of compromise and negotiation between the Parties' positions, all of which may reasonably be litigated in future base rate or other cases, the Parties believe that if the Commission determines to adopt in its final orders the terms of the Stipulation and Recommendation, it should do so with the explicit caveat that the orders should not be used as precedent, either before the Commission or elsewhere.[17]

A. Revenue Requirements

In the Stipulation and Recommendation, the Parties recommend revenue requirements significantly less than those requested by the Companies, demonstrating the clear effect of the arm's-length negotiations among the Parties based on the record evidence in both proceedings.[18] The Parties to the Stipulation and Recommendation agreed to an increase in KU's current revenue requirement of $98 million (versus KU's requested increase of $135.3 million),[19] an increase in the revenue requirement for LG&E's electric operations of $74 million (versus

[16] Stipulation and Recommendation at 17 (Section 6.7).
[17] *Id.* at 18-19 (Section 6.12).
[18] *See id.* at 3-4 (Sections 1.1 and 1.2); KU Case, Application at 3 (Jan. 29, 2010); LG&E Case, Application at 2-3 (Jan. 29, 2010).
[19] Stipulation and Recommendation at 3 (Section 1.1); KU Case, Application at 3 (Jan. 29, 2010).

LG&E's requested increase for electric operations of $94.6 million),[20] and an increase in the revenue requirement for LG&E's gas operations of $17 million (versus LG&E's requested increase for gas operations of $22.6 million).[21] The Parties agree that any increase in annual revenues for LG&E's gas and electric operations and for KU's operations should be effective for service rendered on and after August 1, 2010.[22] As noted above, the Stipulation and Recommendation's proposed revenue requirements are lower than those the Companies' evidence supported, but are higher than those supported by the evidence supplied by the KIUC and DOD/FEA.[23] In other words, the revenue requirements the Parties recommend to the Commission in the Stipulation and Recommendation are supported by substantial evidence in the records of both proceedings, and are fair, just, and reasonable.

B. Revenue Allocations

The Stipulation and Recommendation recommends the revenue allocations for KU, LG&E electric, and LG&E gas that are set forth in Stipulation Exhibits 1 (KU), 2 (LG&E electric), and 3 (LG&E gas). These revenue allocations, too, are clearly the product of arm's length negotiations between the Parties and are compromise positions based on the evidence supplied by various Parties. The KU and LG&E electric revenue allocations set forth in Stipulation Exhibits 1 and 2 are a combination of methodologies filed by the KIUC and negotiated in discussions by Kroger and other parties (modified to address the low-income late-payment-charge waiver, discussed below, and cable television attachment charge); the LG&E gas revenue allocation set forth in Stipulation Exhibit 3 is LG&E's filed allocation (modified to address the low-income late-payment-charge waiver discussed below). In addition to having the

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[20] Stipulation and Recommendation at 3 (Section 1.1); LG&E Case, Application at 2 (Jan. 29, 2010).
[21] Stipulation and Recommendation at 3-4 (Section 1.2); LG&E Case, Application at 3 (Jan. 29, 2010).
[22] Stipulation and Recommendation at 3-4 (Sections 1.1 and 1.2).
[23] *See* Stipulation and Recommendation at 3-4 (Sections 1.1 and 1.2); KU Case, Testimony of Lane Kollen (Apr. 23, 2010); LG&E Case, Testimony of Lane Kollen (Apr. 23, 2010); LG&E Case, Testimony of Thomas J. Prisco (Apr. 22, 2010); KU Case, Application at 3 (Jan. 29, 2010); LG&E Case, Application at 2-3 (Jan. 29, 2010).

Parties' support, the AG stated on the record at the June 8 hearing in these proceedings that he did not oppose these revenue allocations (and that he did not oppose the rate designs proposed in the Stipulation and Recommendation).[24]

These allocations will result in an increase in the average KU residential customer's monthly bill of $8.14 (usage of 1,230 kWh), an increase in the average LG&E residential electric customer's monthly bill of $7.04 (usage of 992 kWh), and an increase in the average LG&E gas customer's monthly bill of $3.62 (usage of 58 Ccf).[25] The Companies proposed the following increases in their applications: an increase in the average KU residential customer's monthly bill of $11.70 (usage of 1,230 kWh),[26] an increase in the average LG&E residential electric customer's monthly bill of $8.92 (usage of 992 kWh),[27] and an increase in the average LG&E gas customer's monthly bill of $4.65 (usage of 58 Ccf).[28]

C. Return on Equity

The Parties agreed in the Stipulation and Recommendation that a reasonable a range of return on equity ("ROE") for the Companies' utility operations is 10.25% to 10.75% in this case, and in connection with the ROE for their Environmental Cost Recovery ("ECR") mechanisms, as described below.[29] This range represents a fair compromise between the Companies' evidence that a fair ROE for its utility operations is 11.50%,[30] KIUC's evidence that a fair ROE for

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[24] KU and LG&E Cases, Video Transcript of June 8, 2010 Hearing at 10:45:45 – 10:46:05.
[25] The derivation of the average residential customer increases is shown in Exhibit LEB-2 to the Testimony on Stipulation and Recommendation of Lonnie E. Bellar.
[26] KU Application at 3.
[27] LG&E Application at 3.
[28] *Id.*
[29] Stipulation and Recommendation at 4 (Sections 3.1 and 3.2).
[30] KU Case, Testimony of William E. Avera (Jan. 29, 2010); LG&E Case, Testimony of William E. Avera (Jan. 29, 2010).

electric operations of LG&E and KU is 9.70%,[31] and the DOD/FEA's evidence that a fair ROE for electric and gas operations of LG&E is 10.35%.[32]

The Parties recommend as reasonable that the Companies continue to use the same ROE for their ECR mechanisms.[33] Therefore, effective as of the first expense month after the month in which the Commission enters its final orders in these proceedings, the ROE to apply to the Companies' recovery under their ECR mechanisms should be 10.63%.[34] This represents a fair, just, and reasonable compromise of the Parties' ROE recommendations, and is supported by substantial evidence supplied by multiple parties to these proceedings.

D. Other Important Issues Addressed by the Stipulation and Recommendation

The Stipulation and Recommendation addresses a number of other issues concerning the Companies' rates, terms, and conditions of service. Perhaps even more so than the matters discussed above, these other terms evince the comprehensive nature of the negotiations among the Parties that produced the provisions discussed above and some of the measures to mitigate the impact of the increase in base rates on customers.

It is noteworthy that these other provisions of the Stipulation and Recommendation, including the proposed tariff sheets attached as Stipulation Exhibits 4, 5, and 6,[35] are more detailed and more cognizant of the needs and concerns of the divergent and specific interests of the Parties than contested orders could be in these proceedings. For example, the revised Curtailable Service Riders address important but nuanced issues in a degree of detail that would be exceedingly difficult to achieve without the extended discussions that led to the terms

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[31] KU Case, Testimony of Richard A. Baudino (Apr. 23, 2010); LG&E Case, Testimony of Richard A. Baudino (Apr. 23, 2010).
[32] LG&E Case, Testimony of Thomas J. Prisco (Apr. 22, 2010).
[33] Stipulation and Recommendation at 4 (Section 3.2).
[34] *Id.*
[35] During the June 8 hearing in these proceedings, the AG stated that he did not contest the rate design contained in the Stipulation and Recommendation, which presumably means the rate design, though not the actual rates, contained in the tariff sheets attached to the Stipulation as Exhibits 4-6.

proposed. (As mentioned above, the AG stated he does not oppose the rate designs proposed in the Stipulation and Recommendation).[36]

Also, there are a number of items in the Stipulation and Recommendation that can only be achieved by the willingness of the Companies to provide them, such as additional shareholder contributions to energy assistance programs. For these reasons, the Parties respectfully recommend that the Commission adopt the terms of the Stipulation and Recommendation in its final orders in these proceedings.

1. *Basic service charges*

The basic service charges (currently called "customer charges") for residential service recommended in the Stipulation and Recommendation are significantly less than those requested in the Companies' applications. For KU and LG&E electric residential service, the Stipulation and Recommendation proposes a monthly basic service charge of $8.50 (the Companies' applications proposed $15.00, the current charge is $5.00).[37] For LG&E residential gas service, the Stipulation and Recommendation proposes a monthly basic service charge of $12.50 and continued use of a distribution cost component (LG&E's application proposed $26.53 in total based on a straight-fixed-variable rate design, the current charge is $9.50 plus a distribution cost component).[38]

2. *Customer deposits*

The Parties agreed that the Companies' current residential electric customer deposits of $135 should remain unchanged (the Companies' applications proposed $160),[39] the LG&E

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[36] KU and LG&E Cases, Video Transcript of June 8, 2010 Hearing at 10:45:45 – 10:46:05.
[37] Stipulation and Recommendation at 9 (Section 5.10); KU Case, Testimony of W. Steven Seelye at 6 (Jan. 29, 2010); LG&E Case, Testimony of W. Steven Seelye at 7 (Jan. 29, 2010).
[38] Stipulation and Recommendation at 9 (Section 5.10); LG&E Case, Testimony of W. Steven Seelye at 39 (Jan. 29, 2010).
[39] Stipulation and Recommendation at 11 (Section 5.14); KU Case, Testimony of W. Steven Seelye at 40 (Jan. 29, 2010); LG&E Case, Testimony of W. Steven Seelye at 59-60 (Jan. 29, 2010).

residential gas customer deposit should be decreased to $115 (it is currently $160, and LG&E's application proposed $115),[40] and that all other customer deposit amounts should be as the Companies proposed in these proceedings.[41] The Companies also clarified in the Stipulation and Recommendation that they will continue their current policy of permitting customers who are required to make a deposit as a condition of reconnection following disconnection for non-payment to pay required deposits in up to four monthly installments upon request.[42]

3. *Curtailable Service Riders*

In the Stipulation and Recommendation, the Parties recommend eliminating the Companies' current Curtailable Service Riders, CSR1, CSR2, and CSR3, replacing them with two new riders, CSR10 and CSR30 (largely as proposed by KIUC). The proposed CSR10 would: (1) require curtailment on ten minutes' notice; (2) require up to 100 hours per year of physical curtailment, plus up to 275 hours per year of additional curtailment with a buy-through option; (3) provide a monthly credit of $5.40/kW for transmission service and $5.50/kW for primary service.[43] The proposed CSR30 would: (1) require curtailment on thirty minutes' notice; (2) require up to 100 hours per year of physical curtailment, plus up to 250 hours per year of additional curtailment with a buy-through option; (3) provide a monthly credit of $4.30/kW for transmission service and $4.40/kW for primary service.[44] The Parties propose to allow additional load of up to 100 MW (beyond each Company's current CSR load) to take service under the new riders for each Company.[45] These and other details are set out in the Stipulation and Recommendation and the proposed tariff sheets in Stipulation Exhibits 4 and 5 thereto. As

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[40] Stipulation and Recommendation at 11 (Section 5.14); LG&E Case, Testimony of W. Steven Seelye at 59-60 (Jan. 29, 2010).
[41] Stipulation and Recommendation at 11 (Section 5.14).
[42] *Id.* (Section 5.15).
[43] Stipulation and Recommendation at 5 (Section 4.1).
[44] *Id.*
[45] *Id.*

noted above, these are the kinds of carefully negotiated details that redound to the affected parties' mutual benefit, but which rarely, if ever, result from litigation. Moreover, they are fair, just, and reasonable.

4. Regulatory accounting issues

The Stipulation and Recommendation addresses several regulatory accounting issues in these proceedings in a way that recognizes the Companies' right to cost recovery balanced by gradualism, intergenerational equity, and cost-benefit matching across time periods.

a. *2001 and 2003 Environmental Compliance Plans*

The Parties recommend, as proposed by the Companies in their Applications, that the Commission allow them to recover the costs associated with their 2001 and 2003 environmental compliance plans through their base rates, and to remove those costs from the Companies' monthly environmental surcharge filings effective with the August 2010 expense month after the Commission issues its final orders in these proceedings.[46] As explained in the Testimony of Robert M. Conroy in both proceedings, these costs have already been "rolled into" the Companies' base rates; the proposed elimination of the plans from the surcharge filings will serve to simplify oversight and administration of the cost recovery mechanisms.[47]

b. *Interest-rate-swap regulatory asset establishment and amortization*

The Parties recommend that the Commission grant LG&E's request, as stated in its application, to establish and amortize over 24 ¾ years (the remaining term of the related debt agreements) a regulatory asset for the costs associated with the interest rate swap agreement between LG&E and Wachovia Bank, N.A., as discussed in the pre-filed direct testimony of

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[46] *Id.* at 7 (Section 5.5).
[47] KU Case, Testimony of Robert M. Conroy at 3-5; LG&E Case, Testimony of Robert M. Conroy at 3-5.

Daniel K. Arbough.[48] The Parties further recommend that the amortization should begin in the month after the month in which the Commission enters its Orders in these proceedings.[49]

c. *Storm cost regulatory asset amortization*

The Parties recommend that the Commission allow the Companies to amortize over ten years their regulatory assets approved by the Commission concerning the 2008 Wind Storm and 2009 Winter Storm, with such amortization to begin in the month after the month in which the Commission enters its final orders in these proceedings.[50] The ten-year amortization represents a reasonable deviation from well-established past practice due to the unprecedented nature of each of the two storms and the fact that the two storms occurred in a relatively short period of time.

d. *Kentucky Consortium for Carbon Storage regulatory asset amortization*

The Parties recommend that the Commission allow the Companies to amortize over four years their regulatory assets approved by the Commission concerning the Kentucky Consortium for Carbon Storage ("KCCS"), with such amortization to begin in the month after the month in which the Commission enters its final orders in these proceedings.[51]

e. *Carbon Management Research Group regulatory asset amortization*

The Parties recommend that the Commission allow the Companies to amortize over ten years their regulatory assets approved by the Commission concerning the Carbon Management Research Group ("CMRG"), with such amortization to begin in the month after the month in which the Commission enters its final orders in these proceedings.[52]

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[48] Stipulation and Recommendation at 8 (Section 5.6); LG&E Case, Testimony of Daniel K. Arbough at 8-10 (Jan. 29, 2010).
[49] Stipulation and Recommendation at 8 (Section 5.6).
[50] *Id.* (Section 5.7).
[51] *Id.* (Section 5.8).
[52] *Id.* (Section 5.9).

f. *Rate case expense amortization*

The Parties recommend that the Companies be permitted to amortize their actual rate case expenses in these proceedings over a three-year period, with the amortization to begin in the month after the month in which the Commission enters its final orders in these proceedings.[53] This is in keeping with past Commission practice.[54]

5. *Billing matters*

The Stipulation and Recommendation addresses a number of billing issues in a way that is fair, just, and reasonable.

a. *Shrinking the "meter reading window"*

To enhance the predictability of when customers will receive their bills, the Stipulation and Recommendation proposes to have the Companies reduce the targeted window of time in which the Companies attempt to read a customer's meter from the current five days to three days by January 1, 2011.[55] Another purpose of shrinking the "meter reading window" is to reduce the likelihood that a customer will receive 13 bills in a calendar year. Improving on that commitment, during the June 8 hearing in these proceedings, the Companies further committed to ensure that no customer would pay 13 basic service charges in a calendar year.

b. *Clarifying the use of calendar days*

The Parties recommend revising the due date and late-payment charge provisions of the Companies' tariffs to include the word "calendar" to clarify, for example, that bills are due 12 calendar days from the bill's mailing date.[56]

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[53] *Id.* at 7 (Section 5.4).
[54] *See, e.g., In the Matter of Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, Order at 11 (Feb. 5, 2009); *In the Matter of Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Base Rates*, Case No. 2008-00252, Order at 12 (Feb. 5, 2009).
[55] Stipulation and Recommendation at 14 (Section 5.22).
[56] *Id.* at 12-13 (Section 5.17).

c. *Broadening awareness of the FLEX Option*

The Stipulation and Recommendation restates the terms of the Companies' FLEX Option to clarify for the Parties what the program is and who is eligible for it.[57] Briefly, it clarifies that the FLEX Option gives eligible customers 28 calendar days, rather than the standard 12 calendar days, from the mailing date of the bill to pay. This allows customers with fixed incomes (including pensions) and a clear history of paying by a certain date to be able to pay their bills after receiving their monthly incomes without penalty. By making all of the terms of the FLEX Option a part of the Stipulation and Recommendation, the Parties are making more customers aware of the program, increasing its value and effective availability to eligible customers. Moreover, the Companies committed during the hearing to make all parties to these proceedings aware of changes to the FLEX Option, which will allow the parties that work the most with affected groups, such as AARP, ACM, and CAC, to participate in any proceedings before the Commission related to such changes, as well as to notify affected customers of such changes.

d. *Conspicuously printing the mailing date on bills*

The Parties recommend that the date on which the bill was mailed will be printed on each bill beginning on August 1, 2010.[58] In addition, the Companies committed at the June 8 hearing in these proceedings to print the mailing date of the bill in the same sized font as the due date, and to attempt to print it in the upper right-hand corner near the due date's location on customers' bills.

6. <u>Provisions to assist the Companies' low-income customers</u>

The Parties recognize that difficult economic times can have the greatest impact on those who already have financial difficulties. For that reason, the Parties included in the Stipulation

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[57] *Id.* at 11 (Section 5.13). The details of the FLEX Option are set out in Stipulation and Recommendation Exhibit 7.
[58] Stipulation and Recommendation at 13 (Section 5.18).

and Recommendation provisions expressly targeted toward assisting low-income customers in the Companies' service territories.

a. *Late-payment-charge waiver for low income customers*

The Parties have crafted in the Stipulation and Recommendation a proposal that would effectively waive late-payment charges for the Companies' customers who have genuine financial difficulties.[59] The proposal provides that, beginning October 1, 2010, residential customers who receive a pledge for, or notice of, low-income energy assistance from an authorized agency will not be assessed or required to pay a late payment charge for the bill for which the pledge or notice is received, nor will they be assessed or required to pay a late payment charge in any of the eleven months following receipt of such pledge or notice.[60] The proposal would also grant the Companies a right to audit the program to ensure appropriate application of the waiver, while acknowledging that private information cannot be disclosed by the assistance agencies without authorization from the low-income customers.[61] The Parties believe this provision would be a significant benefit to the Companies' most vulnerable customers.

b. *Shareholder contributions to programs assisting low-income customers*

The Stipulation and Recommendation further contains proposals for several commitments by the Companies to make shareholder-funded contributions to groups assisting low-income customers. The proposals are:

[59] *Id.* at 11-12 (Section 5.16).
[60] *Id.*
[61] *Id.*

- An annual matching Wintercare contribution from KU for each of calendar years 2011 and 2012, with each year's contribution not to be less than $100,000.[62]
- For a period of two years beginning February 6, 2011, dollar-for-dollar matching contributions to the Home Energy Assistance ("HEA") program to match HEA funds collected from customers (up to $300,000 per year on a combined-Companies basis).[63]
- For a period of two years following the Commission's final orders in these proceedings, LG&E would continue its current matching contribution to the ACM/Metro Match program, with its contribution to the ACM/Metro Match program for each of the two years not to exceed $225,000 per year, and not contingent upon any other specific party's participation in the program.[64]

The Parties believe that these provisions to assist the Companies' low-income customers are supported by substantial evidence in the records of these proceedings that such need exists, and that these provisions are fair, just, and reasonable.

7. *Stipulation and Recommendation terms benefitting Kentucky's schools*

The Stipulation and Recommendation contains a provision that, if adopted by the Commission along with all of the rest of the recommendations in the Stipulation and Recommendation, would re-open the now-frozen KU Rate AES rate schedule to eligible KSBA members' schools in the KU service territory.[65] On the terms more fully set out in the Stipulation and Recommendation, KU would allow eligible schools to migrate to Rate AES

[62] *Id.* at 13 (Section 5.19).
[63] *Id.* (Section 5.20).
[64] *Id.* (Section 5.21).
[65] *Id.* at 14-15 (Section 5.24).

where appropriate to the extent of providing up to $500,000 of projected annual savings to such member schools in total.[66] Re-opening this closed tariff, the closure of which the Commission approved in KU's most recent base rate case,[67] is a special benefit of the Stipulation and Recommendation.

Also benefitting Kentucky's schools in LG&E's service territory is the provision requiring LG&E to exempt from the application of Rate DGGS locations that install back-up generators using less than 2,000 cf/hr (approximately equivalent to a 200 kVA gas-fired generator) if the customers who own such generators agree to use them only to provide emergency power. This provision will benefit schools because their back-up generators typically use less than that amount of gas per hour.[68]

IV. <u>The Stipulation and Recommendation Addresses Concerns Expressed by the Companies' Customers in these Proceedings</u>.

The terms of the Stipulation and Recommendation address not only the Parties' particular concerns, but also the concerns expressed by customers all across the Companies' service territories because the Parties' interests were so diverse. For example, (1) the overall revenue requirement was significantly reduced, (2) the basic service charge was significantly reduced, (3) a late-payment-charge waiver was provided for certain in-need customers; (4) residential electric customers deposits will remain unchanged; (5) incremental shareholder low-income assistance will be provided, and (6) recovery of the regulatory assets for recent storm costs will be spread over ten years. These are the kinds of issues customers presented during the four public meetings the Commission held in locations across the state to allow for public comment on the Companies' proposals to be made part of the record in these proceedings, as well as the public

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[66] *Id.*

[67] *See*, *In the Matter of Application of Kentucky Utilities Company for an Adjustment of Electric Base Rates*, Case No. 2008-00251, Order at 11 (Feb. 5, 2009).

[68] Stipulation and Recommendation at 15 (Section 5.25).

comments added to the record through customer letters and emails submitted to the Commission (totaling approximately 200 for LG&E and 125 for KU). That the Stipulation and Recommendation squarely addresses such concerns demonstrates that all customers, not just those expressly represented by the Parties, would receive service under fair, just, and reasonable rates, terms, and conditions if the Commission were to approve the Companies' applications in these proceedings subject to, and as modified by, the Stipulation and Recommendation.

V. **Conclusion and Recommendation.**

The Stipulation and Recommendation reached and submitted into the records of these proceedings is a remarkable and evidence-supported compromise by committed and well-informed advocates from all the Companies' customer classes, and representing interests as diverse as the Companies' customers themselves. Though each Party presented its case in these proceedings on the basis of supporting evidence, all agree that the Stipulation and Recommendation is supported by substantial evidence in the records of these proceedings. The Parties further agree that subject to, and as modified by, the Stipulation and Recommendation (including its exhibits), the Commission should approve the Companies' proposed rates, terms, and conditions in these proceedings, with the explicit caveat that the Parties recommend that the Commission neither approve nor deny the adjustments to the Companies' electric revenues and expenses associated with the normalization of weather, which was an adjustment the Companies proposed in their rate case applications. The Parties further recommend that the Commission issue its final orders as requested above before August 1, 2010, to avoid the need to put the rates filed with the applications in effect subject to refund, pending a final order by the Commission.

Dated: June 25, 2010

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