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September 14, 2011

RECEIVED
SEP 16 2011
PUBLIC SERVICE COMMISSION

Docket Clerk
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

Re: **In the Matter Of: Application of Louisville Gas and Electric Company for Certificates of Public Convenience and Necessity and Approval of its 2011 Compliance Plan For Recovery By Environmental Surcharge**
Docket No. 2011-00162

Dear Docket Clerk:

Please find for filing the original and fifteen (15) copies of the Prefiled Direct Testimony of Cathy Hinko on behalf of Metropolitan Housing Coalition in the above-captioned case. All parties have been served. Thanks very much.

Cordially,

Fitz

Tom FitzGerald
Counsel for MHC

RECEIVED

SEP 16 2011

PUBLIC SERVICE
COMMISSION

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	)
ELECTRIC COMPANY FOR CERTIFICATES OF	) **CASE NO.**
PUBLIC CONVENIENCE AND NECESSITY AND	) **2011-00162**
APPROVAL OF ITS 2011 COMPLIANCE PLAN	)
FOR RECOVERY BY ENVIRONMENTAL	)
SURCHARGE	)

AFFIDAVIT

I hereby affirm that this prefiled direct testimony in the matter of Application of Louisville Gas and Electric Company For Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan For recovery By Environmental Surcharge, Case NO. 2011-00162, is true and accurate to the best of my information and belief.

Cathy Hinko

Subscribed and sworn to before me, a notary public in the Commonwealth of Kentucky, by Cathy Hinko, this 14 th day of September, 2011.

Douglas M Magee
Notary Public
KY State at Large

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SEP 16 2011

PUBLIC SERVICE
COMMISSION

My commission expires July 9, 2012

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF LOUISVILLE GAS AND	**)**
ELECTRIC COMPANY FOR CERTIFICATES OF	**) CASE NO.**
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APPROVAL OF ITS 2011 COMPLIANCE PLAN	**)**
FOR RECOVERY BY ENVIRONMENTAL	**)**
SURCHARGE	**)**

PREFILED DIRECT TESTIMONY OF CATHY HINKO
ON BEHALF OF METROPOLITAN HOUSING COALITION

SEPTEMBER 14, 2011

Q. Please state your name, business address, and affiliation.

A. Cathy Hinko, P.O. Box 4533, Louisville, KY 40204. I am the Executive Director of the Metropolitan Housing Coalition (MHC).

Q. On whose behalf are you testifying today?

A. My testimony is filed on behalf of MHC.

Q. What is the Metropolitan Housing Coalition?

A. MHC is a nonprofit, nonpartisan membership organization incorporated under the laws of the Commonwealth of Kentucky in 1989 and comprised of over 190 individual members and 200 member organizations. MHC members include representatives of low-income households, private and non-profit housing developers, service providers, financial institutions, labor unions, faith-based and neighborhood groups, as well as other advocacy groups, advocating in a united voice for fair, safe, and affordable housing in the Metro Louisville area. For over two decades, the MHC has utilized the public and private resources of the Metro Louisville community to provide equitable, accessible housing choices for all persons through advocacy, public education, and through support for affordable housing providers.

Q. Please briefly describe your qualifications.

A. Since obtaining my law degree in 1979, my career has focused on affordable and fair housing. I left the practice of law to manage the Section 8 Housing Certificate and then Voucher Programs for the city of Louisville and Jefferson County, subsequently becoming Executive Director of the Housing Authority of Jefferson County. During that tenure, I became involved with issues of affordable utilities for low-income people and was on the board of the Affordable Energy Corporation (AEC) as they secured grants to test a modified Percentage of Income Plan.

I remain on AEC's board through the present day and AEC's operation of the All Seasons Assurance Program funded through a meter charge approved by the Public Service Commission.

In 2005, I became director of MHC, an education and advocacy organization on issues of fair and affordable housing which also operates a lending pool for use by non-profit developers creating or rehabilitating affordable housing. In 2008, MHC published a paper that focused on utility costs as part of affordable housing. I have been the lead MHC staff member in advocating for the recommendations of that report. My work includes convening meetings with the state and local agencies charged with weatherization work and serving on committees convened by LG&E on both community input and on energy efficiency.

MHC operates a lending pool of about $1.2 million that is for use by non-profit developers in creating and rehabilitating units that are affordable to low-income households, with an emphasis on those below 60% of median income. Demand-side management programs are of paramount importance to MHC, as well as payment assistance programs, in order to make shelter affordable.

Q. What is the purpose of your testimony today?

A. I am testifying on behalf of MHC in the case on the Environmental Surcharge. MHC has an interest in: affordable cost of utilities and payment assistance programs for low-income households; distribution of environmental burdens and/or costs that do not have a disparate impact of people in protected classes under the fair housing laws and the United States Constitution; the ability of developers to create and effectively utilize passive energy sources- particularly non-profit developers who have access the MHC lending pool; and in the energy-efficient rehabilitation of current units as demand-side management as a method of making shelter affordable to low-income households while lowering environmental burdens.

The proposed Environmental Surcharge will raise rates significantly and have a severe detrimental impact on the ability of low –income households to pay for heat, cooling and electricity.

Q. How important are energy costs for low-income households?

A. A 1998 national study showed that the average household spends only about 2 percent of their income on electricity whereas low-income households spend about 8 percent of their total income on electricity and very low-income households (those living at less than half of the federal poverty level) spend 23 percent. See Oppenheim, J.(1998). *Access to Utility Service*, National Consumer Law Center, 1998 Supplement, pp.30-31.

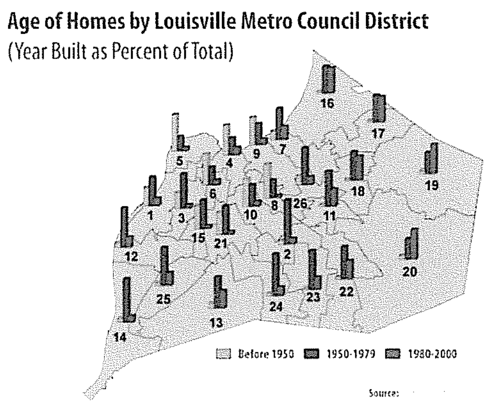
However, between 2000 and 2007, adjusted for inflation, the median family income in Metro Louisville actually decreased by 2 percent - and this is before the current financial and unemployment crisis. See Metropolitan Housing Coalition. (2008). *State of Metropolitan Housing Report 2008*.

In Louisville in 1998, the utility gas cost per 70 Ccf was $38.56 compared to the $134.78 cost for the same 70 Ccf in 2008. The customer charge went from $4.48 to $8.50. The distribution cost per Ccf went from $7.77 to $10.83. The Gas Supply Cost went from $24.92 to $11.61. The DSM cost reduced from $1.39 to $.75 and the Home Energy Assistance cost went from $0 to $.10. During the same time period, the cost per 1,000 kWh went from $68.25 5 to $74.92. The costs have varied since that time, but this gives a pretty sound picture of the straits that not only low and very low-income people are in, but the problems that middle-income people now face in paying their bills.

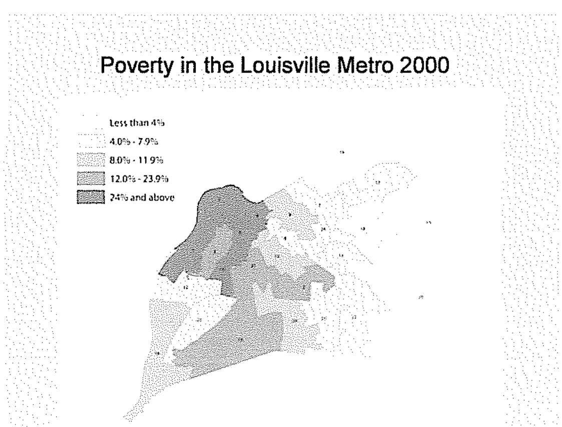
On July 25, 2010, the Courier Journal published an article, *Louisville Paychecks Falling Behind Rising Utility Rates*, which stated that LG&E's "gas bills for a typical home have risen

54% since July 2000, while the utility's electric bills have gone up 34%." The article goes on to say that Louisville's "overall incomes haven't kept up…[t]he utility increases have also outstripped another yardstick, the U.S. inflation rate." These numbers reflect clearly that programs that keep utilities affordable for both low-income and middle-income households are more needed than ever before.

Most of the homes in Louisville, approximately 240,000, were built before the 1980s when insulation became a requirement in the local building code. About 75,000 of these were built before 1950 and may still have original single pane windows, lighting, and older appliances. Another 165,000 were built before 1979 and the requirement of insulation.



As can be seen in the map below, the location of older homes coincides closely with the location of poverty in Louisville.



Most homes in Louisville (74% or 212,265 units) use gas for heat (U.S. Census, 2000). Only 23.4%, or 67,210 units heat their homes with electricity.

Q. The Commission's review of the proposed increase in Environmental Surcharge and the use of the funds is focused on whether and on what terms approval of the proposals will be "consistent with the public interest." Are there specific areas that could be addressed by the Commission that would, in your view, make the plan more consistent with the public interest?

A. Yes, there are four areas that can be addressed to make the plan more consistent with the public interest.

First of all, any charge that is volumetric will have a disproportionate effect on low-income households. The amount of electricity used by these households is not less because of their modest incomes, but in fact may be more because appliances are old, the homes do not have new HVAC, but may have old air conditioning window units, and the homes are not energy-efficient and are harder to cool and heat. A volumetric charge will use up an even higher percentage of income for low-income households.

Using a rational basis that allows DSM funds to be spent proportional to DSM fees collected by LG&E/KU by census tracts (using the 2010 census) would improve return for dollar for at least two reasons: this is the low-hanging fruit for yielding savings in usage, since as leaky homes and inefficient appliances are remedied, it will make payment of bills easier and reduce ancillary charges associated with late payments and cut-offs. The studies from the All Seasons Assurance Program have proven that if bills are affordable to low-income households, they will pay them.

Because the environmental surcharge proposed by LG&E/KU is volumetrically based, because it is based on energy used, it will disproportionately affect low-income households. The areas of Louisville with the highest concentrations of low-income people also have the oldest housing, much of which was built before 1980 when the building code began requiring insulation. Even though these homes may be smaller, in terms of square footage, than newer homes, they are not as energy efficient and are therefore more costly to heat and cool. See Metropolitan Housing Coalition. (2008). *State of Metropolitan Housing Report 2008.*

There is a term in economics, Diminishing Marginal Utility Theory that describes what is easy to intuit- that $10 to a person with a monthly income of $500 feels different than $10 to a person with a monthly income of $10,000. The proposed annual surcharges, for a 1,000 kilowatt hour per month customer, will range from 23.96 in 2012 to 195.36 in 2016- not insignificant amounts for low- and fixed-income ratepayers.

Given that this rate increase will disproportionately affect low-income ratepayers, we request that the Public Services Commission urge LG&E/KU to explore the implementation of an environmental surcharge fee waiver or reduction for qualified low-income households and/or a credit for those households to offset rate increases. Such fee waiver/reduction and low-income credit programs exist nationwide, with a variety of formats and eligibility requirements. Examples of those programs include, but are not limited to:

- Duke Energy's Ohio Electric Residential Low Income Pilot Program, which provides eligible customers with a monthly credit to offset price increases;
- Mississippi Power's Low Income Rate Assistance Program, which waives the utility's daily service charge;
- Austin Power's Low Income Discount, which waives the monthly service fee;

- Hawaiian Electric's Lifeline Rate Program, which provides a fixed monthly credit to eligible low-income ratepayers; and
- Central Maine Power's Electricity Lifeline Program, which offers low-income households a credit based on household income and estimated electricity usage.

MHC urges LG&E/KU to implement a program that protects low-income households from the substantial rate increases necessitated by the proposed environmental surcharge. The program should be implemented as an independent program targeted specifically to low-income ratepayers, as is LG&E/KU's WeCare program, and not as a separate rate adjustment based on usage. LG&E/KU's parent company, PPL, has experience with such programs in Pennsylvania, where it offers OnTrack, a special payment program for ratepayers with limited incomes who are "struggling to pay their bills.[1]"

The second area that can be addressed to make the plan more consistent with the public interest is to look at the disparate impact on households of persons covered by the Fair Housing Act and protected from discrimination by the United States Constitution. People in protected classes under the Fair Housing Act disproportionately live in low-income areas.

The following charts show important pieces of information that should be reflected in how the DSM funds are distributed:

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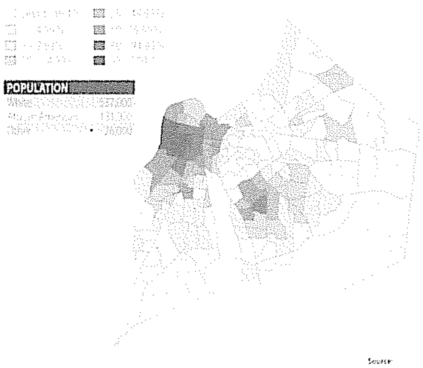
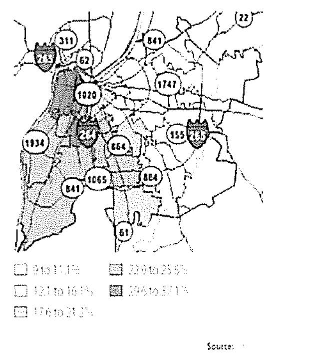
[1] http://www.pplelectric.com/Residential+Customers/Pay+My+Bills/Need+Help+Paying+Your+Bill/OnTrack.htm. More information is available about OnTrack through the community action agencies that administer it for PPL, such as the Community Action Committee of the Lehigh Valley http://portal.caclv.org/pages/programs/energy-partnership/ppl-ontrack.php

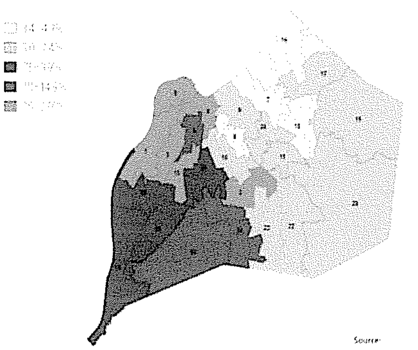
African American Population, Louisville Metro, 2000



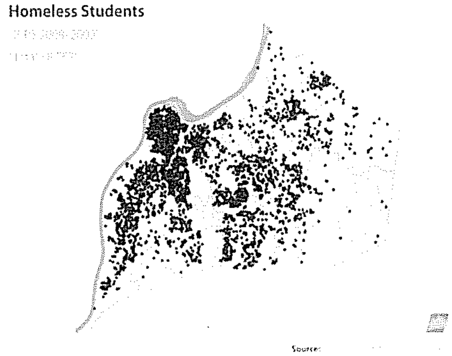
Percentage of Population Aged 21-64 with a Disability



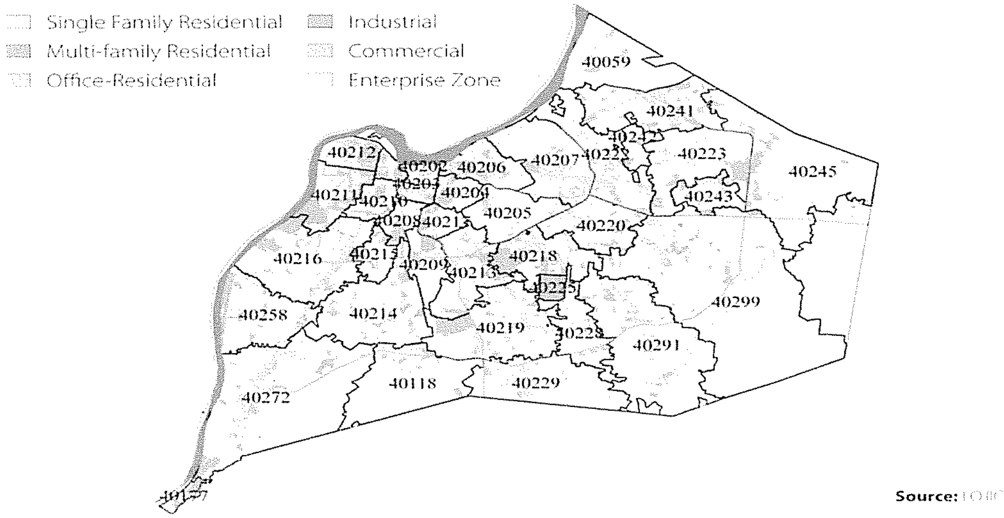
Forty percent of single mothers in Louisville live in just five council districts: 2000



Homeless Students



Zoning Classifications in Jefferson County



The above maps and charts tell a story. Neighborhoods that have large numbers of multi-family housing tend to be low-income and are not only racially concentrated, but are concentrations of people in other protected classes. Since these neighborhoods have smaller lot sizes, they also are concentrations of residential users, each paying for utilities. The earlier maps show that low-income neighborhoods are also where older housing exists with less energy efficient rehabilitation of homes. So there are a lot of people paying and with high volume usage.

Perhaps an example will illustrate. From the chart below we see that zip code 40242 had a median household income of $52,406 and was 95% white as compared to zip code 40211, which had a median household income of $21,906 and was 95% African American. A volumetric increase would take more than twice the percentage of a family's income in the 40211 zip code, so that the amount of money spent in 40211 should be twice what is spent in 40242. Certainly, a discussion of proportionality is imperative.

Income, African-American Population, and Residential Land Use: Louisville Metro's West End Neighborhood by Zip-Codes

Zip-code	Median Household Income	Percentage of African-American Residents	Percentage of Land Zoned Multi-Family	Percentage of Land Zoned Single-Family
40203	$13,458	63%	25%	3%
40208	$24,041	26%	17%	14%
40210	$20,722	91%	24%	28%
40211	$21,906	95%	20%	31%
40212	$23,240	55%	34%	42%

Income, African-American Population, and Residential Land Use: Louisville Metro's East End Neighborhood by Zip-Codes

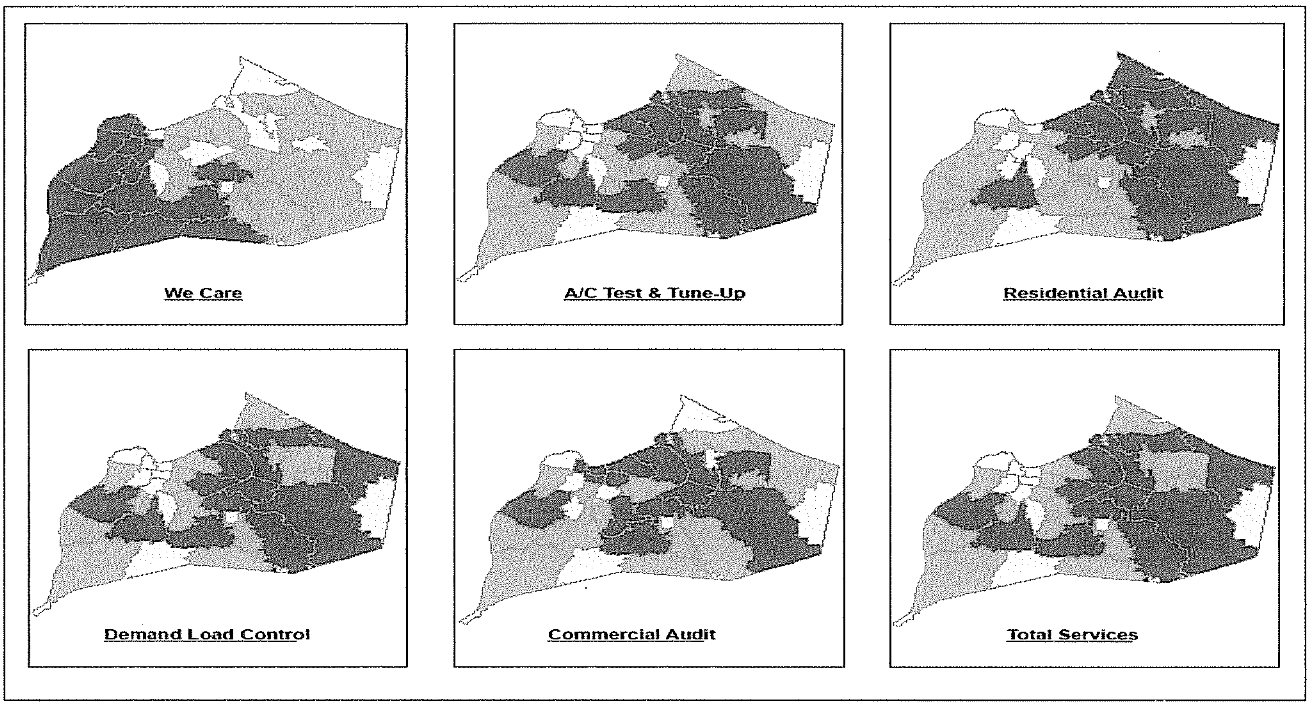
Zip-code	Median Household Income	Percentage of African-American Residents	Percentage of Land Zoned Multi-Family	Percentage of Land Zoned Single-Family
40207	$54,050	2%	7%	77%
40222	$52,259	5%	8%	75%
40242	$52,406	5%	10%	87%
40245	$80,634	4%	4%	81%
40059	$98,316	4%	3%	89%

LG&E, in response to MHC's Supplemental Request for Information in Public Service Commission Case No. 2011-00134, estimated the DSM average annual bill impact for 2009-2010. In the 40211 zip code, the impact was $35.61 for 9,589 customers, or $341,464.29. In zip code 40242, the impact was $38.04 for 4,768 customers, or $181,374.72. This proves both that areas with lower-income and protected classes are more populous and pay more, and that the impact is a larger portion of their more limited income.

One way to address this impact is to entwine the plan for the Demand Side Management case, with the assessment of impact of the Environmental Surcharge. The maps below demonstrating where DSM programs are being used, shows that many of the programs have low usage in 40211. It seems that low-income people may be subsidizing work in higher income areas and that people in protected classes may be subsidizing areas that are not as integrated.

More households, each paying the DSM charge, are in low-income neighborhoods. These maps result from data using LG&E's Energy Enrollment Programs by zip code, 2001-2010 in the paper *Louisville Gas and Electric Energy Enrollment Programs* written by Chelsea Adams in 2011 and previously referred to in MHC's Supplemental Request for Information in Public Service Commission Case Number 2011-00134.

Louisville Gas and Electric Demand Side Management Program Usage: 2001-2010



The third area is to make incentives that encourage the creation of passive energy sources. MHC facilitates the Non-profit Housing Alliance (NHA) made up of non-profit developers who build or rehabilitate both single and multi-family for both rental or ownership by low-income persons. This group is eligible to submit application to the MHC loan pool.

MHC received information from NHA members about the disincentive to create passive energy in excess of what is specifically used.

MHC quotes a written communication from Mike Hynes, the Executive Director of The Housing Partnership which MHC received on August 30, 2011:

At "St. Cecilia, we installed solar panels to offset the utility costs for the building. If we had engineered the system to provide more electricity than we could reasonably expect to use then LGE would have given us a credit on our bill. The problem with the system is that they give a credit and not a rebate, so over time that credit just builds up and never converts to cash. This creates a disincentive to design passive energy systems that create more electricity than can be used on a specific meter."

Creating more incentives for passive energy will both increase energy production and lower the environmental impact of this energy. Also, places that create passive energy could be made exempt from the Environmental Surcharge thereby making it more affordable for the resident.

The fourth area which needs to be addressed to make the plan consistent with the public interest is the failure to plan for the foreseeable future in assessing where the Environmental Surcharge should be spent. It is foolhardy to ignore the upcoming costs such as carbon control while assessing the work to be done. This could lead to all rate payers paying large sums for work that becomes obsolete and does not have a good return on capital investment. The Public Service Commission and LG&E should have a fiduciary duty to ratepayers to ensure that only the most intelligent investment of funds are made.

The Metropolitan Housing Coalition is concerned that LG&E has not assessed the impact of more stringent ozone standards and of carbon dioxide emission limits in evaluating whether to retire or to retrofit existing coal-fired units. The LG&E filing seeks Commission approval of certain certificates of public convenience and necessity, and approval of its 2011 Compliance Plan for Recovery by Environmental Surcharge, identifying the following federal rulemakings as the basis for the filing: the Clean Air Transport Rule (CATR), National Emission Standards for Hazardous Air Pollutants from Electric Generating Units (HAPs Rule), and new regulations regarding the disposal of coal combustion residuals.

In response to requests for information filed by MHC, LG&E indicated that it has not considered the impacts of the proposed ozone NAAQS regulation that were sent by the EPA to the OMB on July 11, 2011. While the Obama Administration has withdrawn the proposed regulatory change at present, LG&E is aware of the range of ozone values proposed by the EPA Science Advisory Board, and the current Administration has indicated that it will revisit the ozone standards within a few years.

Similarly, LG&E indicated that it had not considered the potential impact of carbon dioxide limits when determining which units should be retrofit and which should be retired.

In both instances, MHC is concerned that ratepayers may be asked to pay twice for controls for units that may be retired earlier than planned, due to the failure to consider both more stringent ozone and ozone precursor limits, and constraints on carbon dioxide emissions.

Though LG&E indicated in response to the Commission Staff inquiries that "it is not possible at this time to estimate the scope and costs of potential carbon mitigation regulations and the potential impact on coal and gas fired generating units[,]" the MISO Report "EPA Impact Analysis: Impacts From The EPA Regulations On MISO" issued this month **did** evaluate the impacts of carbon constraints in determining what generation units might be at risk of being uneconomic to run. MISO explained the basis for doing so:

"Adding cost to carbon puts economic pressure on units with higher carbon production rates. Because of this, higher carbon prices put more economic pressure on the coal units within the system, and the economics favor natural gas and carbon neutral capacity. So more coal units are at-risk for retirement with the higher carbon prices applied." MISO ran the analysis with an assumption of up to $50 per ton of carbon price (reflecting either a carbon production tax or the effective costs to comply through reduction in carbon output by technology applications.

MISO elsewhere made the point more plainly:

"The analysis on carbon costs was evaluated because judging the risk around the uncertainty of future carbon reduction requirements may cause asset owners to change their approach." MISO identified the capacity that it believed to be at risk of retirement due to carbon pricing, and LG&E is quite capable of undertaking a similar sensitivity analysis to determine whether any of the units it now proposes to retrofit, might become at risk of earlier retirement due to such constraints.

Knowing, as LG&E does, that the EPA "endangerment" finding obligates it to move forward to develop regulations controlling greenhouse gases, including carbon dioxide, and that such limits are highly likely within the remaining design life of a number of the utility's coal-fired generating units, the failure to evaluate and price carbon when determining which units should be retired and which should be retrofit with pollution controls at significant capital expense and ratepayer cost, seems short-sighted and potentially wasteful. LG&E should be required to re-run the analysis in order to account for costs of compliance with carbon dioxide and ozone limits, utilizing a range of values appropriate to reflect the range of potential limits and the uncertainty, in order to assure the public that the installation of controls on the remaining units is prudent, or conversely, whether such constraints will cause one or more of the units to be retired and that capacity replaced with less carbon-intensive capacity. Simply ignoring the issue of carbon dioxide does not seem prudent.

Q. Does that conclude your testimony?

A. Yes.

CERTIFICATE OF SERVICE

I certify that an original and fifteen (15) copies of the Prefiled Direct Testimony of Cathy Hinko on behalf of the Metropolitan Housing were mailed for filing with the Docket Clerk, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601 and that a true and accurate copy of the foregoing was mailed via first class U.S. Mail, postage prepaid, this 14th day of September, 2011, to the following:

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