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. 2004-00303
JOINT APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY, METRO HUMAN NEEDS ALLIANCE, INC., PEOPLE ORGANIZED AND WORKING FOR ENERGY REFORM, AND KENTUCKY ASSOCIATION FOR COMMUNITY ACTION, INC. FOR THE ESTABLISHMENT OF A HOME ENERGY ASSISTANCE PROGRAM	)	CASE NO. 2004-00304

O R D E R

On July 30, 2004, the Commission received two applications for approval of the specific parameters and details, including administrative budgets, of two different Home Energy Assistance ("HEA") programs.[1] One application was filed jointly by 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 "KU Joint Applicants") and is to establish a HEA in KU's service territory. The other application was filed jointly by Louisville Gas and Electric Company ("LG&E"), Metro Human Needs Alliance, Inc.

[1] Although these cases have not been consolidated, they are sufficiently similar to justify the Commission combining them for purposes of issuing this Order.

("MHNA"), People Organized and Working for Energy Reform ("POWER"), and the Kentucky Association for Community Action, Inc. ("KACA") (collectively "LG&E Joint Applicants") and is to establish a HEA in LG&E's service territory.

Both applications were filed to implement the terms of the Partial Settlement Agreement, Stipulation and Recommendation ("Partial Settlement and Stipulation") that was filed in the LG&E and KU rate cases and approved by the Commission on July 30, 2004.[2] All parties to the LG&E and KU rate cases unanimously agreed to the general concept of having a 10-cent per month residential meter charge to fund HEA programs for 3 years in the LG&E and KU service territories. They further agreed that the HEA programs would commence on October 1, 2004 and would be operated by existing social service providers with experience in operating low-income energy assistance programs. The providers would be entitled to recover their actual operating expenses not to exceed 10 percent of the total HEA funds collected. In addition, KU, but not LG&E, needs to modify its information technology system at a one-time cost of $78,610,[3] which will be recoverable by KU through its demand side management ("DSM") mechanism.

The Commission's approval in Case Nos. 2003-00433 and 2003-00434 encompassed only the general concepts of the HEA programs as specifically set forth in the Partial Settlement and Stipulation. All of the specific details of the HEA programs were required to be subsequently filed and approved by the Commission. Further, all

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[2] Case No. 2003-00433, An Adjustment of the Gas and Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company; Case No. 2003-00434, An Adjustment of the Electric Rates, Terms, and Conditions of Kentucky Utilities Company.

[3] KU's Joint Application at 12.

parties to the LG&E and KU rate cases unanimously agreed that no money was to be distributed to the social service providers to implement the HEA programs until the specific details and budgets of the programs had been approved by the Commission.

KU's HEA program focuses on providing a subsidy during peak heating and cooling months. The program was designed to ensure effectiveness and efficiencies comparable to that obtained under a HEA program known as the Energy Assistance Program ("EAP"), offered by Columbia Gas of Kentucky. With similar approaches as the EAP, the KU Joint Applicants assert that there will be few technical modifications needed by CAC to operate KU's HEA program. The KU Joint Applicants expect to serve approximately 1,300 low-income customers.

The specific details for KU's HEA program as filed on July 30, 2004 include the following items:

- Program participants will be active KU customers who have KU electric as their primary heat source[4] and whose income is at or below 110 percent of the then-effective federal poverty guidelines. 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.

- The subsidy benefit will be a direct subsidy of a set dollar amount during peak cooling and heating months,[5] with the monthly benefit initially set at $42 per applicable month not to exceed $294 per year.

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[4] A small energy assistance fund will be available to assist low-income customers whose primary heat source is not electric. The KU Joint Applicants have budgeted $25,319 over the 3-year program period for this fund. See KU's Joint Application at 9 and Exhibit G.

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

- 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.

- Contracting community action agencies will perform outreach and recruitment, data intake, income verification and re-verification, client follow-up and data recording.

- 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.

In order to make KU's HEA program available throughout KU's service territory, the KU Joint Applicants have allocated the expected 1,300 participants over the counties in the service territory based on the number of KU customers in each county. The KU Joint Applicants indicated that this allocation was a "base starting point" and the allocation would be adjusted as needed.[6] Participants in KU's HEA program 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.

The KU Joint Applicants propose to file a comprehensive program assessment with the Commission by January 1, 2007. This assessment is to insure that KU's HEA program is meeting its established goals and expected program outcomes. The expected program outcomes include a reduction in the need for LIHEAP Crisis

[6] KU's Response to the Commission Staff's First Data Request dated September 7, 2004, Item 10.

Assistance; a reduction in arrearages;[7] a reduction in the loss of service due to non-payment; and an increase in energy savings in combination with weatherization programs. The KU Joint Applicants also propose to annually audit the financial records of KU's HEA program using a third-party independent auditor, in accordance with OMB A-133 auditing standards.

LG&E's HEA program focuses on providing a subsidy on a year-round basis, using a "modified fixed credit" concept where the payment does not fluctuate with changes in energy usage. The LG&E Joint Applicants have prior experience in administering a low-income subsidy program in LG&E's service territory from 1993 to 2003. Known as the All Seasons Assurance Plan ("ASAP"), that prior program was also based on the modified fixed credit concept, and the LG&E Joint Applicants propose to again use the ASAP approach for LG&E's proposed HEA program. ASAP was created and administered by the Affordable Energy Corporation ("AEC") and AEC is again proposed to administer ASAP in LG&E's HEA program. The LG&E Joint Applicants expect to serve approximately 900 low-income households in LG&E's service territory.

The specific details of LG&E's HEA program as filed on July 30, 2004 include the following items:

- Program participants will be active LG&E customers whose gross income is at or below 110 percent of the then-effective federal poverty guidelines. Participants must attend an orientation session and apply for available weatherization programs and accept services if eligible and available.

[7] The KU HEA program does not address participant arrearages. The LG&E HEA program's ASAP concept includes placing participants on a 12-month back balance repayment plan to pay off arrearages.

- Participants must be enrolled in the LIHEAP, have a minimum monthly income of $100, and carry an arrearage of no more than $1,000.[8]

- The subsidy benefit will be a calculated fixed credit that varies by month. The calculations are based on the household's income and size, the household's utility bills for the 12 previous months, an adjustment for monthly normal heating degree days, and any significant changes in utility pricing. AEC's computer software will determine each subsidy benefit through a six-step process.[9]

- AEC will operate the HEA program and be responsible for general policy of ASAP, staffing, monitoring program implementation, financial oversight, programmatic oversight, contract for service, program operation decisions, communications with LG&E, financial audits, and the January 1, 2007 program assessment.

- AEC will notify partnering agencies previously utilized by AEC of the opening of ASAP intake and of referral procedures. Previous partnering agencies include the Metro Louisville Community Action Partnership, Community Action Programs in other counties, other emergency assistance providers, and transitional housing programs.

- MHNA will provide administrative support services through a contract with AEC. MHNA will provide office space, staff supervision, bookkeeping services, and clerical support.

- LG&E will bill the 10 cent per residential meter per month HEA program charge on customers' bills, provide necessary program data to AEC, and provide the funds to cover administrative costs. HEA program charges will be separated into electric and gas funds.

In order to make LG&E's HEA program available throughout LG&E's service territory, the LG&E Joint Applicants have allocated the expected 900 participants over the counties in the service territory based on the number of LG&E customers in each county. The LG&E Joint Applicants indicated that if the number of eligible participants in a particular county exceeded this pro rata allocation, a waiting list would be

[8] The LG&E Joint Applicants propose that the arrearage could go up to $1,500 on a case by case basis. See LG&E's Joint Application at 5.

[9] LG&E's Joint Application at 6-7.

developed.[10] Participants could be removed from the program for numerous reasons, including a default on the LG&E bill, failure to apply and qualify for the LIHEAP subsidy, and refusal of energy conservation education and/or weatherization services.[11]

The LG&E Joint Applicants also propose to file a comprehensive program assessment with the Commission by January 1, 2007. This assessment is to insure that LG&E's HEA program is meeting its established goals and expected program outcomes. The expected program outcomes include a reduction in the need for LIHEAP Crisis Assistance; a reduction in arrearages; a reduction in the loss of service due to non-payment; and an increase in energy savings in combination with weatherization programs. The LG&E Joint Applicants also propose to annually audit the financial records of LG&E's HEA program using a third-party independent auditor, in accordance with OMB A-133 auditing standards.

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention, sought and was granted intervention in both of these cases. The Commission established a procedural schedule that included one round of discovery.

Based on the information set forth in both applications, as well as the responses to the Commission Staff's data request, the Commission finds that the record is insufficient to justify approving the specific details of the HEA programs which differ significantly between the LG&E and KU service territories. Although both HEA

[10] LG&E's Response to the Commission Staff's First Data Request dated September 7, 2004, Items 10 and 11.

[11] LG&E's Joint Application at 11-14.

programs have the same expected outcomes, LG&E's HEA program provides a year-round subsidy, while KU's HEA program provides a 7-month subsidy. LG&E's HEA program will subsidize a participant's arrearages, while KU's HEA program will not. LG&E's HEA program provides a variable subsidy that is calculated on the basis of each participant's unique circumstances, while KU's HEA program provides a fixed subsidy to each participant.

There are 14 counties in Kentucky in which both LG&E and KU provide service. No evidence has been presented to demonstrate that low-income customers in the service territories of LG&E and KU have vastly dissimilar characteristics sufficient to justify vastly dissimilar HEA programs. If such evidence exists, the LG&E Joint Applicants and the KU Joint Applicants should have an opportunity to supplement the records in these cases, or otherwise demonstrate why the specific parameters and details of LG&E's and KU's HEA programs should not be identical. To assist in this process, the Commission will schedule an informal conference to allow the parties to discuss these issues and to develop a procedural schedule.

The HEA tariffs as filed in both the LG&E application and KU application have effective dates of October 1, 2004. Those tariffs contain identical language regarding a monthly 10-cent per residential meter charge to fund a HEA program. Although the Commission has found that the record will not at this time support approving the LG&E or KU HEA program, neither of those programs intended to commence distributing funds for at least 3 months. Consequently, the Commission will allow that portion of the tariffs that implements the monthly residential meter charges to become effective as proposed. This will allow LG&E and KU to begin collecting funds for their respective

HEA programs. However, neither LG&E nor KU may expend any of those funds for any purpose, including administrative expenditures, until specifically authorized to do so by Commission Order.

Further, the Commission finds that the language in each tariff, in the last sentence under the "Service Period" heading, needs to be revised to reflect the provision in the Partial Settlement and Stipulation that LG&E's and KU's HEA programs will be designed through a collaborative process and then filed with, and approved by, the Commission. Thus, each tariff needs to be revised to include the phrase "and then filed with, and approved by, the Public Service Commission."

The Commission also finds that KU's tariff to collect its one-time information technology costs should be suspended and not be implemented until the specific parameters and details of KU's HEA program are approved.

IT IS THEREFORE ORDERED that:

1. An informal conference is scheduled on October 12, 2004, at 9:30 a.m., Eastern Daylight Time, in Conference Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

2. LG&E and KU shall file within 10 days of the date of this Order revised HEA tariffs containing the language "and then filed with, and approved by, the Commission" at the end of the last sentence under the "Service Period" heading.

3. KU's proposed revised DSM tariff to collect its one-time information technology costs is suspended until a KU HEA program is approved.

4. Neither LG&E nor KU shall expend any of the funds collected under their respective 10-cent per residential meter charges until specifically authorized to do so by Commission Order.

Done at Frankfort, Kentucky, this 30th day of September, 2004.

By the Commission

ATTEST:

Executive Director