COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY FOR APPROVAL OF THEIR PROPOSED GREEN ENERGY RIDERS	))))	CASE NO. 2007-00067

<u>O R D E R</u>

On February 9, 2007, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively, the "Companies") filed a joint application requesting Commission approval of their proposed Small and Large Green Energy Riders. The Companies requested authority to implement the program beginning April 14, 2007; however, after finding that additional time was necessary to determine the reasonableness of the proposed rates, the Commission suspended the rates for a period of 5 months from April 14, 2007 to and including September 13, 2007. The Attorney General of the Commonwealth of Kentucky ("AG") and Kentucky Industrial Utility Customers, Inc. ("KIUC") have been granted full intervenor status in the proceeding.

<u>BACKGROUND</u>

Pursuant to the proposed green energy program, the green energy riders will be available to any LG&E or KU customer that wants to voluntarily contribute funds for green energy generated from renewable sources or to help offset costs for the purchase or development of green power sources. The Companies will not actually purchase green energy but will acquire Renewable Energy Certificates ("RECs") on behalf of participating customers. One REC is issued for every megawatt hour of electricity produced from a renewable energy source. A REC represents the environmental benefit attributes associated with the renewable energy. RECs have become the primary means of funding renewable energy growth in the United States.

Under the Companies' green energy program any residential ("RS") or small commercial ("GS") customer may contribute funds for green energy, in any whole multiple, of $5.00 each month pursuant to the Small Green Energy Rider. Each $5.00 contribution will allow the Companies to acquire 300 kWh of green energy in the form of RECs. All larger customers receiving service under special contract or any standard rate schedule other than RS or GS may contribute any whole multiple of $13.00 per month toward the purchase of renewable energy, representing the environmental attributes of 1,000 kWh of generation from a renewable resource pursuant to the Large Green Energy Rider. RS and GS customers may withdraw from the program at any time. Large commercial and industrial customers must commit for one year at a time.

The cost structure for the larger customers is different from the RS and GS customers due to the reduced promotional and educational efforts needed for larger customers, the longer commitment period of the larger customers, and larger blocks of power that will be purchased by the larger customers. The green power program is designed to be revenue neutral, with all revenues received to be expended for either REC purchases, or to cover program costs.

The Companies selected 3 Phases Climate Solutions, LLC ("TPCS"), a nationally recognized green energy marketer, to procure the necessary RECs for the program and perform other administrative functions required in the purchase of the RECs. TPCS will be compensated at an amount not to exceed $40,000 per year.

Approximately 75 percent of every residential and small commercial customer's $5 contribution and 96 percent of every other customer's $13 contribution will be used to purchase RECs. The remainder will be applied to the growth of the green energy program through education, promotion and research activities to increase enrollment.[1]

The Companies reserve the right to seek recovery of approximately $50,000 per year of unfunded program administration costs in future rate case proceedings. Until such time as the Commission has had the opportunity to review the costs of this program and approves the costs for inclusion, on a prospective basis, into the Companies' rates, customers who do not elect to participate will not absorb any of the costs associated with the program.

DISCUSSION

In comments filed on April 2, 2007, the AG generally supported the proposed program, but proposed several modifications. He asserted that ratepayers want administrative costs reduced to the greatest extent possible in order to maximize investment in green power and, in the event the plan is approved, he urged the Commission to require periodic accounting updates to maintain oversight and ensure the effectiveness of the program. While he acknowledged that TPCS is entitled to some incentives, he expressed concern that TPCS could achieve a windfall if it is able to charge the Companies $12.50/ mWh regardless of what the REC actually costs. He stated that to the extent possible the funds collected from customers should be spent to pay for renewables not to pay a broker. He recommends that the Companies pay the actual cost

[1] Testimony of John Wolfram at 6-7.

of the REC, up to a cap of $12.50/REC. The AG expressed his belief that the environmental benefit from the Companies' purchase of RECs should benefit Kentucky, the territory from which the funding was derived, and suggested that the ratepayers share this concern. Therefore, the AG recommended that the Companies ensure that contributions from participating customers be used to develop local renewables, if at all possible. In addition, the AG recommended that the purchase of RECs be made in the following order if available: (1) within the Companies' territory; (2) within Kentucky, and (3) from a contiguous state.

The AG also did not agree with the inclusion of any administrative cost in a future rate case which the Companies said might be proposed in the future. The AG asked the Commission to preclude the Companies from creating a deferred regulatory asset for the administrative costs and cap any such costs subject to recovery at $50,000. Finally, the AG recommended that the ratepayers be plainly advised that contributions towards RECs will not be returned and that environmental benefits may accrue outside of LG&E's and KU's service territories.

The Companies filed their response to the AG comments on April 9, 2007. While noting that they share the concern of the AG regarding reasonable pricing, the Companies state that they have met that goal. They assert that the fixed price of $12.50 per REC shifts the volume and price risk from the Companies and the program participants to TPCS. The Companies also assert that the TPCS pricing, $12.50 per REC subject to a $40,000 maximum, is below the average market pricing for such programs. The Companies also state that the contract with TPCS has already been executed, but they will consider the AG's comments on the contract during the initial term of the program and when they address renewal and renegotiation of the contract in the future.

With regard to the AG's concern that environmental benefits might accrue somewhere other than the Companies' service areas, the Companies point out the limited existence of renewable resources in their service areas. They state that it is due to these limited resources that their proposal centers on purchasing RECs from approved sources within contiguous states. They contend, however, that the environmental benefits from renewables can be felt throughout a region by offsetting the burning of fossil fuels and are not limited to a specific territory.

The Companies argue that since they are not seeking authority to establish a deferred regulatory asset or seeking rate recovery of the administrative costs of the program in this proceeding, it is premature for the Commission to consider the AG's request concerning these issues.

Finally, the Companies agreed to submit revised tariffs that clearly advise customers that their contributions toward RECS are non-refundable and that the environmental benefits achieved by this program may accrue outside the Companies' service territories.

The Commission recognizes the limited availability of renewable energy sources in Kentucky, but encourages the Companies to acquire RECs from Kentucky sources when and if feasible.

We agree with the companies that addressing the issue of future rate recovery is premature as all administrative costs associated with the proposed program will be borne entirely by shareholders until the Commission authorizes a change in a future rate proceeding. The Commission is satisfied with the tariff revision proposed by the

Companies regarding the non-refundable aspect of the contributions and accepts the Companies' commitment regarding notice about environmental benefits accruing outside their service areas.

Based on the application and being otherwise sufficiently advised, the Commission finds that:

1. LG&E and KU should be authorized to establish the proposed green energy program and implement the Small Green Energy Rider and Large Green Energy Rider as set forth in the revised tariffs filed on April 11, 2007.

2. LG&E and KU should be required to file periodic reports relating to the program every 6 months with the first report to be filed on June 30, 2007. The report is to be company specific and include at a minimum the number of program participants by tariff classification, the total number of RECs subscribed, the expenditures for education and promotion, the expenditures for research, the actual cost of the RECs, the payments to TPCS, and the amount of administrative costs.

IT IS THEREFORE ORDERED that:

1. Effective as of the date of this Order, LG&E and KU's request for authorization to establish this proposed green energy program is approved as proposed in their February 9, 2007 application and amended in the revised tariffs filed on April 11, 2007.

2. LG&E and KU shall file the reports pertaining to the level of participation and costs of their green energy riders as outlined herein.

3. LG&E shall file, within 20 days of the date of this Order, its revised tariff sheets setting out the charges approved herein showing their date of issue and that they were issued by authority of this Order.

Done at Frankfort, Kentucky, this 31st day of May, 2007.

By the Commission

ATTEST:

Executive Director