COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| JOINT APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY, ASSOCIATION OF COMMUNITY MINISTRIES, 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. 2007-00337 |

O R D E R

On July 30, 2007, Louisville Gas and Electric Company ("LG&E"), Association of Community Ministries, Inc. ("ACM"),[1] People Organized and Working for Energy Reform ("POWER"), and the Kentucky Association for Community Action, Inc. ("KACA") (collectively "Joint Applicants") filed an application seeking approval of a modified Home Energy Assistance ("HEA") program in LG&E's service territory. In its November 24, 2004 Order in Case No. 2004-00304,[2] the Commission had approved a 3-year pilot HEA program. Citing the success of the current program, the Joint Applicants propose

[1] ACM replaces the Metro Human Needs Alliance, Inc. ("MHNA") as one of the Joint Applicants. ACM is a Kentucky 501(c)(3) non-profit corporation and its membership comprises 15 independent community ministries that provide service to the Louisville metropolitan area. ACM provides numerous social services, including utility assistance programs. All of ACM's members were also members of MHNA. Application at 4-5 and Exhibit A.

[2] Case No. 2004-00304, 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.

a 5-year HEA program that is substantially similar to the current program operating in LG&E's service territory.

The Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("AG"), sought and was granted intervention in this case. The Commission established a procedural schedule that included one round of discovery.

The proposed 5-year HEA program continues the current HEA program's focus on providing a year-round subsidy. The Joint Applicants expect to serve approximately 900 low-income customers.[3] The specific details of the proposed 5-year HEA program, as filed on July 30, 2007, include the following items that were included in the current 3-year HEA program:

- Program participants will be active LG&E customers and must attend an orientation session and 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 have a minimum monthly income of $100.

- Affordable Energy Corporation ("AEC") will operate the HEA program and be responsible for the general policy of the program, staffing, monitoring program implementation, financial oversight, programmatic oversight, contracting for services, program operation decisions, communications with LG&E, and financial audits.

- 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, and price and weather correction factors. Annual participant benefits are

[3] During the first 2 years of the current HEA program, approximately 1,800 low-income residential customers were helped with LG&E bills. In the third year, approximately 1,200 low-income residential customers have been assisted.

grouped into different levels of funding, currently set at $200, $400, $700, and $1,000.

- The expected number of participants will be allocated among the counties in the LG&E service territory based on the number of LG&E customers in each county.

- Participants may 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.[4]

- 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. LG&E will ensure that there is no cross-subsidization between its gas and electric customers, and will provide AEC with information concerning the amount of the $0.10 charges that were billed to gas and electric customers.

The Joint Applicants propose the following modifications to be incorporated into the 5-year HEA program:

- The program participant's income must be at or below the then effective LIHEAP federal poverty guidelines, which is currently 130 percent. The current program requirement is 110 percent of the then-effective federal poverty guidelines. LG&E states this change will allow the program to adjust if the federal and state poverty guidelines change.[5]

- The participant will not carry an arrearage of more than $1,000. The Joint Applicants also propose that the arrearage limit may increase in subsequent years if it is determined that the requirement eliminates a large number of potential participants. Currently, the limit is no more than $700.

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[4] Application at 12-15.

[5] Response to the Commission Staff's First Data Request dated August 20, 2007, Item 1.

- The annual subsidy benefit may need to be adjusted as heating costs fluctuate.[6]

- Up to 5 percent of the total HEA funds collected may be used to provide discretionary energy assistance to program participants for paying down arrearages or to provide energy assistance to low-income LG&E customers in a time of crisis. The current program does not have this provision.

Concerning the discretionary energy assistance provision, LG&E states that the purposes for creating this provision are to further assist those with the greatest immediate need for emergency energy assistance, to reduce arrearages so that troubled customers could get "on course" to regular bill paying without the added burden of paying down arrearages, and to bring the LG&E HEA program into closer alignment with the Kentucky Utilities Company ("KU") HEA program. LG&E notes it is not mandated that the 5 percent of the HEA funds be spent this way, but rather provides discretion to use the funds if the need arises.[7]

The Application includes a proposed 5-year budget for the HEA program that reflects the allocation of HEA funds between benefit payments, discretionary energy assistance, and administrative costs.[8] The Joint Applicants propose to annually audit the financial records of LG&E's HEA program using a third-party independent auditor, in accordance with Office of Management and Budget Circular No. A-133 ("OMB A-133")

[6] In 2006, the Joint Applicants had to seek Commission approval for changes in the way the annual subsidy benefit was calculated. The 3-year HEA program as approved in 2004 did not include the flexibility to adjust the calculations as the need arose. See Case No. 2004-00304, Order dated December 20, 2006.

[7] Response to the Commission Staff's First Data Request dated August 20, 2007, Item 1. LG&E states a 5 percent set aside has been included in KU's proposed 5-year HEA program.

[8] Application, Exhibit C.

auditing standards. In addition, LG&E will file annual reports with the Commission documenting various features[9] of the HEA program.

LG&E requests that the Commission approve the proposed 5-year HEA program, and commits to file, no later than 6 months prior to the end of the 5-year term, a request either proposing appropriate changes to the program or seek the termination of the HEA program. If the Commission does not have the opportunity to act on LG&E's application prior to the end of the 5-year term, LG&E seeks to continue the 5-year HEA program until such time as the Commission issues an Order instructing LG&E to do otherwise.[10]

The Joint Applicants did not propose to file a comprehensive program assessment at the end of the 5-year HEA program. LG&E states that the proposed 5-year HEA program does not differ materially from the current HEA program. LG&E also notes that as it had submitted the required comprehensive program assessment ("HEA Assessment") to the Commission on March 30, 2007, it did not believe that another program assessment would be necessary before the end of the proposed 5-year program. However, LG&E is willing to provide a comprehensive HEA Assessment similar to the one filed on March 30, 2007 no later than 6 months prior to the end of the proposed 5-year HEA program.

On August 31, 2007 LG&E filed comments in support of the proposed 5-year HEA program. LG&E's comments stress that in order to continue the HEA program

[9] The annual report would include the number of clients served by the program, the total amounts collected under the program, and the annual AEC OMB A-133 audit report. Application at 9.

[10] Application at 19.

without interruption, a final Order is needed from the Commission by September 14, 2007.

The AG filed comments on September 5, 2007, and recommends the approval of the 5-year HEA program, subject to concerns he raises in his comments. The AG states that the 5-year HEA program should continue only as a pilot program and not be considered a permanent program. The AG believes that the HEA programs offered by LG&E and KU should be standardized to the extent possible to provide consistency and economy of administration. He contends that if the HEA programs are to be continuing in nature, a combination of the two HEA programs is desirable and necessary to achieve efficiencies in administration. The AG raises concerns about the lack of details concerning the disbursement and oversight of the discretionary energy assistance provision. He believes this fund should be strictly controlled and suggests the Commission require the Joint Applicants to confer and agree as to both the amount and need prior to the disbursement of any discretionary energy assistance funds.[11]

Based on the evidence of record, including the March 30, 2007 HEA Assessment, the Commission believes the current HEA program has been successful in assisting low-income customers of LG&E. The efforts of the Joint Applicants have resulted in a program which appears to operate efficiently and within its budget constraints. The Commission has considered the proposed 5-year HEA program and the modifications described by the Joint Applicants, and concludes the modifications reflect the experience gained from the actual operation of the HEA program over the last 3 years. Therefore, pursuant to KRS 278.285(4), the Commission finds the

[11] AG's Comments at 2-3.

proposed 5-year HEA program for LG&E's service territory to be reasonable and should be approved, with the following modifications. The Commission also finds the proposed 5-year budget to be reasonable and it should be approved.

The Joint Applicants have proposed that the arrearage limit be raised from no more than $700 to no more than $1,000, with an option to increase the limit in subsequent years if it is determined the requirement eliminates a large number of potential participants. LG&E states that the increase in the arrearage limit would allow the HEA program to increase the potential pool of applicants and allow the program to serve more low-income customers.[12] The Commission considered and rejected an increase in the arrearage limit for the 3-year HEA program in 2004. The Joint Applicants in this case have provided only limited evidence supporting the increase of the arrearage limit to no more than $1,000, and no evidence indicating a need to have the flexibility to raise the arrearage limit higher in the future. Nevertheless, the Commission will approve the request to raise the arrearage limit to no more than $1,000. However, the Joint Applicants will have to seek Commission approval for any increase in the limit during the 5-year HEA program.

The Joint Applicants have proposed to allocate 5 percent of total HEA funds to a discretionary energy assistance fund. LG&E estimates that $200,858 will be available for this fund over the 5-year term of the HEA program.[13] The stated purposes of this fund are to further assist those with the greatest immediate need of emergency energy

[12] Response to the Commission Staff's First Data Request dated August 20, 2007, Item 2.

[13] Application, Exhibit C.

assistance and to reduce arrearages for HEA program participants. While the proposed discretionary energy assistance fund appears to be reasonable, the Joint Applicants have failed to explain how they will determine how much of this fund will go to emergency energy assistance and how much will be available to reduce arrearages. It is not clear how the ability to reduce arrearages for HEA program participants will be integrated with the HEA program provision that places participants with arrearages on a 12-month back balance repayment plan. The Commission shares the AG's concerns about the discretionary energy assistance fund. Therefore, the Joint Applicants should develop general guidelines addressing how this fund will be utilized and how it will operate in conjunction with other provisions of the HEA program.

While the contents of the annual reports as proposed should provide meaningful information concerning the operation of the HEA program, the Commission will require additional information to be contained in the annual report. The additional information should include copies of the annual report AEC will generate for LG&E including information on the clients served, county distribution, brown bills, and disconnections. The annual report should also disclose how the discretionary energy assistance fund was utilized during the reporting period. Finally, if the Joint Applicants determine that the annual subsidy benefit to be paid under the HEA program will be different than described in the Application, this information should also be disclosed in the annual report.

The Commission believes it is necessary that a comprehensive HEA Assessment should be conducted on the 5-year program. The HEA Assessment should be a valuable resource in determining the success of the HEA program and help identify areas needing improvement. Consequently, the Commission will require a comprehensive HEA Assessment on the 5-year HEA program. This HEA Assessment should cover all the issues described in the Commission's November 24, 2004 Order in Case No. 2004-00304.[14] The comprehensive HEA Assessment should be submitted to the Commission at the same time LG&E files an application either seeking to continue the HEA program or terminate it.

LG&E has proposed to file an application either seeking to continue the HEA program or terminate it no later than 6 months prior to the end of the 5-year term. The Commission finds that a specific due date for the filing of the HEA application is more reasonable. Therefore, the Commission will require that LG&E file an application on its HEA program no later than March 15, 2012.

LG&E also has requested that if the Commission does not act on a future application to extend or terminate the HEA program before the 5-year term ends, it should be permitted to continue the HEA program beyond the end of the 5 years until such time as the Commission issues an Order instructing LG&E to do otherwise. The Commission finds it is not reasonable at this time to grant LG&E's request to continue the HEA program beyond its 5-year term pending a decision on a future application concerning the continuation of the HEA program. The question of an extension should be addressed in the application to be filed no later than March 15, 2012.

With respect to the funding for LG&E's HEA program, the Commission is again disappointed that LG&E has decided to forego shareholder contributions upon renewal

[14] The Commission's November 24, 2004 Order included in the issues to be addressed in the HEA Assessment the development of "mirror-image" HEA programs for the LG&E and KU service territories.

of this program and believes that such decision is inconsistent with good corporate and community citizenship. The Commission has previously urged utilities that will be the beneficiaries of assistance programs to be financial contributors to those programs. The Commission continues to believe that a utility that is at least partially funding an assistance program has a greater incentive to monitor the program expenditures and would be in a better position to assure its ratepayers that the funds are being spent in the most efficient manner. While LG&E's voluntary support of other assistance programs is commendable, such support is through the E.ON U.S. Foundation, not borne directly by LG&E on behalf of its shareholders. Moreover, it differs significantly from what LG&E's residential customers are asked and required to do. Those customers are also given the opportunity to support other assistance programs, but they are required to pay the HEA charge. The Commission well recognizes that it has no authority to require LG&E to fund its HEA program, but we continue to believe that LG&E should do so, especially in light of its healthy earnings.[15] LG&E is the direct beneficiary of this HEA program, as the funds collected from residential ratepayers are applied to otherwise uncollected utility bills, and it should be more than willing to set the standard of good corporate citizenship by making a significant financial contribution to this program. Not only would such a contribution aid more of its low income customers, but it would likely free up funds from various charitable organizations who normally aid such individuals with their energy bills for use in other important charitable purposes.

[15] Since 2004, LG&E's reported net income has been as follows: 2004 - $95.6 million; 2005 - $128.9 million; 2006 - $116.8 million; and 12 months ending June 30, 2007 - $122.5 million.

IT IS THEREFORE ORDERED that:

1. LG&E's 5-year HEA program and the proposed 5-year HEA budget, as described in the joint application and modified herein, are approved pursuant to KRS 278.285(4).

2. LG&E's revised HEA tariff rider as proposed is approved for bills rendered on and after October 1, 2007.

3. The Joint Applicants shall develop general guidelines for the utilization of the discretionary energy assistance fund and submit copies of those guidelines to the Commission within 45 days of the date of this Order.

4. The annual audit reports of the HEA program, consisting of the financial audit and the additional information discussed herein, shall be filed with the Commission within 10 days of their completion.

5. The HEA Assessment shall be filed with the Commission no later than March 15, 2012 and shall address the issues outlined by the Commission's November 24, 2004 Order in Case No. 2004-00304.

6. LG&E's application concerning the continuation of the HEA program shall be filed with the Commission no later than March 15, 2012. LG&E's request to continue the HEA program during the consideration of that application is denied.

7. Subject to the filing of a timely petition for rehearing pursuant to KRS 278.400, this case is closed and any future filings shall be maintained in LG&E's general correspondence file or docketed as a new case.

Done at Frankfort, Kentucky, this 14th day of September, 2007.

By the Commission

Commissioner Clark Abstains.

ATTEST:

Executive Director