COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF DUKE ENERGY KENTUCKY, INC. TO REINSTITUTE A HOME ENERGY ASSISTANCE PROGRAM	)))	CASE NO. 2008-00100

ORDER

On February 11, 2008, Duke Energy Kentucky, Inc. ("Duke Kentucky") filed a motion to amend its then-existing Demand Side Management ("DSM") application[1] to request approval to reinstitute its Home Energy Assistance ("HEA") program[2] for a three-year period, from 2008 through 2010. On February 25, 2008, the Commission approved the request to amend the original DSM filing. Shortly thereafter, the Attorney General ("AG"), an intervenor in the DSM proceeding, and Duke Kentucky filed a joint request to bifurcate the HEA application from the original DSM proceeding. The Commission granted the motion to bifurcate, establishing this proceeding to review Duke Kentucky's proposal to reinstitute its HEA program.

After opening this matter, the Commission established a procedural schedule allowing for discovery, the filing of comments, and an opportunity for the parties to request a hearing. The Northern Kentucky Community Action Commission ("NKCAC")

[1] Case No. 2007-00369, Annual Cost Recovery Filing for Demand Side Management by Duke Energy Kentucky, Inc. (Ky. PSC May 14, 2008).

[2] The Commission had approved Duke Kentucky's request for a pilot HEA program for the 2006 calendar year in Case No. 2005-00402 (Ky. PSC Jan. 31, 2006).

subsequently filed for, and was granted, full intervention. The Commission finds that, as no party has requested a hearing, this matter is ripe for a decision based on the record. For the reasons set forth below, the Commission approves Duke Kentucky's application as modified.

DISCUSSION

Duke Kentucky seeks to reinstitute its HEA program due to concerns that customers will most likely need additional assistance in paying their energy bills during the next few years because of the ever-increasing cost of energy. The proposed HEA is structured in the same manner as the pilot HEA program. The proposed program would be available to Duke Kentucky's customers who meet an income qualification level of up to 200 percent of the federal poverty level. NKCAC would administer the program by determining the income qualification of participants and providing the relevant information to Duke Kentucky. Duke Kentucky would then apply the bill credits to eligible customers' bills and notify the customers of the credits through a bill message.

Duke Kentucky proposed to charge its residential electric customers and residential gas customers $0.10 per account per month following Commission approval of the HEA program through 2010. Duke Kentucky customers who receive electric and gas service have two accounts and would pay a total of $0.20 per month. The total annual cost to Duke Kentucky's customers is expected to be $1.20 for gas customers and $1.20 for electric customers. As proposed, these charges were estimated to generate $275,748 annually.

Duke Kentucky proposed that the HEA program be administered under its existing WinterCare program. The WinterCare program provides assistance to low-income customers to help pay their gas and/or electric bills. Eligibility for WinterCare assistance is based on need and does not necessarily follow government assistance guidelines. The WinterCare program is completely funded by Duke Kentucky employees, customers, and shareholders. Since 2005, Duke Kentucky has fully matched every dollar donated by employees and customers, up to $25,000 in contributions. For the 2005 winter season's WinterCare program, Duke Kentucky contributed an additional $25,000 in new shareholder funding in support of the pilot HEA program. Duke Kentucky has committed to continue this level of funding through the duration of the three-year HEA program should the Commission approve its proposal.

Although Duke Kentucky customers with an income level of up to 200 percent of the federal poverty guidelines would be eligible for HEA assistance, the program will initially target customers at 150-200 percent of the federal poverty level. Duke Kentucky expressed concern that these customers are not eligible for assistance under existing financial aid programs. To the extent qualifying customers at or below 150 percent of the federal poverty level have other assistance available at the time of need, e.g., Low Income Home Energy Assistance Program ("LIHEAP") or WinterCare, HEA program funds would not be expended for those customers. HEA funds are available for customers at or below 150 percent of the federal poverty level once other low-income program funds have been depleted. The assistance period for the proposed HEA program is July 1 to June 30. Eligible customers may receive up to $300 per assistance period.

Although the AG expressed that he is generally supportive of cost-effective low-income energy assistance programs, he does not support Duke Kentucky's proposed

HEA program. In particular, the AG contends that the proposal would further expand Duke Kentucky's DSM portfolio when it is already heavily weighted toward low-income customers. The AG also expressed concern regarding administrative costs associated with the HEA program, estimated to be approximately $41,000 or 15 percent of the proposed budget. The AG notes that the program expenses associated with NKCAC employee salaries and benefits seem exorbitant considering that NKCAC already administers other programs for Duke Kentucky. The AG suggests that these expenses should be closely examined, as the possibility exists that they are duplicative. Lastly, the AG argues that the proposed HEA program appears counter-intuitive because Duke Kentucky is seeking to expand the typical definition of "low income" to serve a higher income class that has not traditionally been served in the past. Increasing the income range is likely to exclude those already appropriately classified by state agencies as low-income.

Duke Kentucky and NKCAC maintain that low-income customers need the assistance offered through Duke Kentucky's low-income DSM offerings. Duke Kentucky points out that, according to the 2008 Health and Human Services Federal Poverty Guidelines, households at 200 percent of the federal poverty level are considered low-income households. Duke Kentucky contends that the HEA program is designed to assist low-income customers who are in desperate need of assistance to pay for lights and heat when no other funds are available.

With respect to the administration cost, Duke Kentucky asserts that state and federal funding guidelines prevent NKCAC from using federal dollars to operate anything other than the respective state or federally funded programs. Duke Kentucky further states that NKCAC is required to be ever mindful of proper allocation of cost in administering various programs in order to maintain its funding. NKCAC echoed that sentiment, stating that it closely monitors and controls program costs to ensure that its staffing and office operational costs are held to the minimum amount possible to administer the LIHEAP, WinterCare, and HEA programs.

With respect to the AG's concerns on the unnecessary expansion of the scope of the program, Duke Kentucky argues that the proposed program not only fills the gap left by the lack of federal LIHEAP funding, but also fills the gaps in fund availability for other programs. Further, Duke Kentucky contends that the HEA program dollars reach an additional level of low-income residential customers between 150 percent and 200 percent of the federal poverty level who have no other Commission-approved energy assistance program available.

ANALYSIS

Given the state of the national economy and the expected increases in heating costs that customers will be experiencing this winter throughout the Commonwealth, the Commission is encouraged by the efforts of Duke Kentucky to reinstitute a program that attempts to address the needs of low-income customers while minimizing the rate impacts on those customers who will be funding the program. The Commission, however, is concerned with the scope of the HEA program. Although the program is designed to offer benefits to low-income customers up to 200 percent of the federal poverty guideline, program dollars will be initially targeted toward customers between 150 percent and 200 percent of the poverty guideline. The inclusion of customers at this higher income level would very likely lead to a rapid depletion of the available funds while bypassing lower income customers. There is no guarantee that funds will be available at the time of need, particularly given the current economic environment of rising unemployment and inflation. In light of such risk, the Commission finds that it would be more prudent to focus the limited HEA funds toward those in most need of assistance. The income eligibility requirement of the HEA program should therefore be consistent with the eligibility requirements of Duke Kentucky's WinterCare program. That is, eligibility should be based on an income level of up to 150 percent of the federal poverty level. The Commission approves Duke Kentucky's request to reinstitute its HEA program as modified. Duke Kentucky is free to request an increase in the eligibility requirement in the future if it can demonstrate that the HEA program has sufficient funding to do so.

The Commission is also concerned with the proposed 15 percent level of cost to administer the HEA program. For example, Louisville Gas and Electric Company operates an HEA program within a service territory that is much larger than Duke Kentucky's in terms of number of customers, but caps its operating expenses at 10 percent of the total HEA funds collected.[3] To assuage this concern, the Commission finds that Duke Kentucky should file annual progress reports in conjunction with its annual DSM reports, which are filed on November 15 of each year. At a minimum, the annual progress reports should detail the number of clients served by the program, the number of clients unserved because the funds are exhausted, the date that the funds

[3] Case No. 2007-00337, 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.

were depleted for the 12-month assistance period, the total amounts collected under the program with a breakdown between gas accounts and electric accounts, the total amount of disbursements with a breakdown between gas accounts and electric accounts, and NKCAC's actual administrative costs associated with the HEA Program.

Lastly, the Commission notes that Duke Kentucky has requested that the HEA program be implemented for a period of three years, from 2008 through 2010. The proposed time period, however, would provide Duke Kentucky with a limited time frame in which to collect data and assess the viability of the program before being required to file an application to continue or terminate the program six months prior to the end of 2010. The Commission will, therefore, approve the program for a three-year period following the date of this Order. Duke Kentucky will be allowed to impose its HEA surcharge on a per-account-per-month basis for the 36 months following Commission approval of the program.

CONCLUSION

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the proposed HEA program, as modified to limit income eligibility to 150 percent of the federal poverty level, is reasonable and consistent with the provisions of KRS 278.285.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's request to reinstitute the HEA program for 2008-2010, as modified in the findings above, is approved for three years from the date of this Order.

2. Within 20 days of the date of this Order, Duke Kentucky shall file its revised tariff for the HEA program, including its effective date and showing that it was approved by authority of this Order.

3. Duke Kentucky shall file with the Commission annual progress reports as described in the findings above as part of its annual DSM programs report to the Commission beginning on November 15, 2009 and every year thereafter. The first such report shall cover the partial year from the date of this Order through June 30, 2009.

4. Duke Kentucky's application to continue or terminate the HEA program shall be filed with the Commission no later than six months prior to the expiration of the program.

5. This matter is closed and is removed from the Commission's docket.

Done at Frankfort, Kentucky, this 25th day of September, 2008.

By the Commission

ATTEST:

Stephanie Stumbo

Executive Director