

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 REVIEW,)
MODIFICATION, AND CONTINUATION OF) CASE NO. 2014-00003
EXISTING, AND ADDITION OF NEW,)
DEMAND-SIDE MANAGEMENT AND ENERGY)
EFFICIENCY PROGRAMS)

**RESPONSE IN OPPOSITION TO MOTION OF LOUISVILLE GAS AND ELECTRIC
COMPANY AND KENTUCKY UTILITIES COMPANY’S MOTION TO SUBMIT THE
CASE FOR DECISION ON THE RECORD, AND MOTION TO SET EVIDENTIARY
HEARING**

Comes the Metropolitan Housing Coalition (“MHC”), by counsel, and files this response in opposition to the Motion of Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) to Submit The Case For Decision On The Record. For the reasons stated below, MHC respectfully requests that the Commission enter an Order denying the Motion of LG&E and KU, and that a date be set for an evidentiary hearing in this matter.

**I. AN EVIDENTIARY HEARING ON THE PROPOSED DSM/EE PROGRAM PLAN IS
IN THE PUBLIC INTEREST AND NECESSARY FOR THE PROTECTION OF
SUBSANTIAL RIGHTS**

The standard governing the Commission’s determination on whether to conduct an evidentiary hearing in this instance is found at 807 KAR 5:001 Section 9, which provides in relevant part that:

(1) Unless an hearing is not required by statute, is waived by the parties in the case, or is

found by the commission to be unnecessary for protection of substantial rights or not in the public interest, the commission shall conduct a hearing if ... (b) A request for hearing has been made.

807 KAR 5:001 Section 9(1)(2013).

In this case, the public interest in assuring that the proposed mix of Demand Side Management (DSM) and Energy Efficiency (EE) measures will serve the needs of the ratepayers of both KGE and KU in a fair and nondiscriminatory manner, and in particular will serve the needs of the most vulnerable of ratepayers, is best served by allowing the robust interchange among expert witnesses, the parties, and the Commissioners and Commission staff that is not available either when a case is submitted on the record with or without oral argument.

The standard that the Commission has adopted in 807 KAR 5:001 Section 9(1) for determining whether to conduct a hearing on a case, is properly weighted *in favor* of conducting hearings over the more summary disposition sought by LG&E and KU in this case. That there is significant public interest in the proposed 2015-2018 DSM/EE Program, which proposes to allow four existing programs to expire and to offer a more limited portfolio of programs going forward, is evident in the number and range of interests represented by the Intervenors in this case, and in the testimony filed by MHC and other Intervenors that have called into question the “reasonableness” of the proposed array of programs.

Review of demand-side management plans and mechanisms by the Commission is authorized and guided by KRS 278.285, which provides in relevant part that:

The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction. Factors to be considered in this determination include, but are not limited to, the following:

* * *

(b) The cost and benefit analysis and other justification for specific demand-side management programs and measures included in a utility's proposed plan;

* * *

(c) Whether the plan results in any unreasonable prejudice or disadvantage to any class of customers;

* * *

(g) The extent to which the plan provides programs which are available, affordable, and useful to all customers

KRS 278.285(1)(2010).

The prefiled Direct Testimony of Cathy Hinko, Director of the Metropolitan Housing Coalition, raises a number of factual and mixed fact/law questions concerning the conformity of the proposed plan with the statutory criteria of KRS 278.285, and in particular, those subsections cited above. Working to resolve the housing needs of the most vulnerable of residential ratepayers within the LG&E service territory, MHC is particularly sensitive to the limited utility of some of the DSM/EE programs to fixed- and low-income individuals; and particularly to those who rent, rather than own, their homes. Ms. Hinko, an expert on matters of affordable housing and former Executive Director of the Housing Authority of Jefferson County, has prefiled testimony that has called into question several aspects of the proposed plan, including:

- Whether the funds collected from low-income neighborhoods and/or neighborhoods with concentrations of people in protected categories (as defined for fair housing) are returned to those neighborhoods through DSM and EE program offerings in a manner that is equitable or whether the proposed array of programs and program funding results in prejudice or disadvantage to these protected classes of ratepayers;
- Whether the use of volumetric charges would disproportionately impact these same ratepayers; and

- Whether the DSM/EE programs are “available, affordable, and useful” to low- and fixed-income ratepayers who rent, rather than own, their dwelling.

The sufficiency of the proposed DSM/EE programs in meeting the needs of these ratepayers is best explored in a hearing context, where the testimony of the expert witnesses can be more thoroughly vetted and where the parties, Commission staff, and the Commissioners can directly question the witnesses. Whether the proposed array of DSM/EE programs is “reasonable” is subject to significant dispute among the parties, and the public interest in assuring that these programs provide real value to ratepayers and are available, affordable, and useful to the most vulnerable ratepayers, is best served by allowing a thorough vetting of those perspectives in the context of an evidentiary hearing.

CONCLUSION

For the reasons stated herein, Metropolitan Housing Coalition respectfully requests that the Commission enter an order **denying** the Motion of Louisville Gas and Electric Company and Kentucky Utilities Company To Submit The Case For Decision On The Record, and that this matter be set for an evidentiary hearing at a time and place convenient to the Commission.

Dated: July 7, 2014

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that Metropolitan Housing Coalition's July 7, 2014 electronic filing of the RESPONSE IN OPPOSITION TO MOTION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY'S MOTION TO SUBMIT THE CASE FOR DECISION ON THE RECORD, AND MOTION TO SET EVIDENTIARY HEARING is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on July 7, 2014; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and one copy in paper medium of the RESPONSE IN OPPOSITION TO MOTION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY'S MOTION TO SUBMIT THE CASE FOR DECISION ON THE RECORD, AND MOTION TO SET EVIDENTIARY HEARING is being mailed to the Commission on July 7, 2014.



Tom FitzGerald