

**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)	

**WALLACE MCMULLEN AND SIERRA CLUB’S
RESPONSE TO JOINT MOTION FOR AN INFORMAL CONFERENCE
ON JUNE 19TH**

Wallace McMullen and the Sierra Club (collectively, the “Sierra Club”) respectfully submit this response to Louisville Gas and Electric Company and Kentucky Utilities Company’s (collectively, the “Companies”) joint motion for an informal conference on June 19, 2014.¹ The Companies request a conference on the merits of holding a hearing in this case *before* hearing requests are due. This proposal would effectively give the parties only one business day to review rebuttal testimony and prepare their positions on whether the Commission should hold a hearing on the Companies’ DSM plan. Because this compressed timeframe is insufficient, Sierra Club opposes the Companies’ motion. However, Sierra Club would not oppose an informal conference *after* the June 23, 2014 deadline for hearing requests, which would afford parties the

¹ There has been some discussion of scheduling the informal conference for June 20, 2014. Undersigned counsel has to be in Pike Circuit Court the morning of June 20, 2014 and would not be available for an informal conference until approximately 3:00 p.m. on June 20, 2014. Moreover, for the reasons discussed in this response, Sierra Club believes that any informal conference should be held after the June 23, 2014 deadline for hearing requests.

opportunity to review the Companies' rebuttal testimony and any hearing requests that are filed, and thus would result in a more efficient and productive conference.

I. PROCEDURAL BACKGROUND

On January 17, 2014, the Companies filed an application seeking approval of their proposed 2015-2018 Demand-Side Management ("DSM") and Energy Efficiency ("EE") Program Plan ("Proposed DSM/EE Program Plan" or "Plan") along with associated cost recovery tariffs. On April 14, 2014, Sierra Club filed expert testimony that calls into question the reasonableness of the Plan as filed. Intervenors Association of Community Ministries, Inc., Metropolitan Housing Coalition and Wal-Mart also filed testimony that expressed concern about the Companies' Plan.

On May 7, 2014, the Companies filed a joint motion requesting permission to file rebuttal testimony ("Rebuttal Motion"). Recognizing that they bear the burden of proof concerning the reasonableness of their Proposed DSM/EE Program Plan, the Companies sought "to rebut several of the claims" made by intervenor witnesses and to "offer commentary in their rebuttal testimony on the intervenors' discovery responses." Rebuttal Motion at 1. The Companies also requested that the Commission extend the hearing request deadline to "afford all parties adequate time to review the Companies' rebuttal testimony and determine whether to request an evidentiary hearing or an informal conference to discuss the issues in the case." *Id.* at 2.

On May 12, 2014, Sierra Club filed a response, indicating that it does not oppose the Companies filing rebuttal testimony ("Sierra Club Response"). Sierra Club also agreed that should the Commission permit rebuttal testimony, the deadline for requesting an evidentiary hearing should be extended so that all parties can determine whether to request a hearing after reviewing the rebuttal testimony. Sierra Club Response at 2.

On June 10, 2014, the Commission issued an order granting the Companies' motion. The Commission directed the Companies to file rebuttal testimony no later than June 17, 2014, and parties to file requests for an evidentiary hearing no later than June 23, 2014. Order at 3.

II. THE COMPANIES' PROPOSAL WOULD DEPRIVE PARTIES OF A SUFFICIENT OPPORTUNITY TO REVIEW REBUTTAL TESTIMONY BEFORE DETERMINING WHETHER TO REQUEST A HEARING.

In their motion for leave to file rebuttal testimony and extend the hearing request deadline, the Companies argued that a hearing request extension would "afford all parties adequate time to review the Companies' rebuttal testimony and determine whether to request an evidentiary hearing or an informal conference to discuss the issues in the case." Rebuttal Motion at 2. Sierra Club acceded to the Companies' proposed schedule change in large part because of the Companies' recognition of the importance of ensuring parties a meaningful opportunity to review testimony before deciding whether to request a hearing. Yet the Companies now seek to hold an informal conference "to discuss whether a public hearing is necessary in this proceeding" *before* hearing requests are due, and the Companies' proposal would give parties effectively only one business day between the filing of rebuttal testimony and the conference. Thus, by their own reasoning, the Companies' request is improper, and Sierra Club would have opposed such a proposal had the Companies included it in their May 7, 2014 motion.

Sierra Club witness Tim Woolf provided extensive testimony that calls into question whether the Commission could approve the Company's Proposed DSM/EE Program Plan under Ky. Rev. Stat. § 278.285 without modification, and, therefore, Sierra Club anticipates that an evidentiary hearing will be necessary to develop a complete record and address outstanding questions regarding the reasonableness of the Plan. *See* Sierra Club Response at 2. However, Sierra Club agrees with the Companies' original position that the Commission should provide a

sufficient amount of time for intervenors to review the Companies' response, if any,² to Mr. Woolf's and others' testimony before deciding whether to request a hearing. Sierra Club Response at 2. This review period will allow the parties to focus on the issues in dispute, which should reduce the length of any hearings and conserve Commission resources. The Companies' new proposal would substantially shorten this time and thus the Commission should deny the Companies' request.

III. AN INFORMAL CONFERENCE AFTER HEARING REQUESTS ARE DUE WOULD PROTECT PARTIES' OPPORTUNITY TO REVIEW REBUTTAL TESTIMONY AND HEARING REQUESTS.

If the Commission deems it appropriate, Sierra Club would not oppose an informal conference *after* hearing requests are due on June 23, 2014, to discuss the value of a hearing on the Companies' Proposed DSM/EE Program Plan. In order for an informal conference to be beneficial, the Commission and the parties must know the nature of the remaining disputes between the parties, which first requires providing the parties an adequate opportunity to review rebuttal testimony. Moreover, waiting until after June 23, 2014, would allow parties to review any requests for a hearing. In short, an informal conference will be most productive and efficient if it is scheduled after June 23, 2014, because the parties will have had an adequate opportunity to review rebuttal testimony and any briefing on the need for a hearing, both of which will clarify and potentially narrow the outstanding issues in the case.

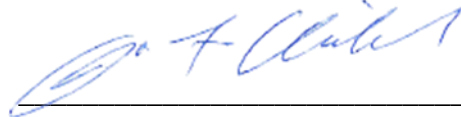
² In their motion for leave to file rebuttal testimony, the Companies argued that “[d]ue process requires that the Companies be permitted to offer commentary in their rebuttal testimony on the intervenors’ discovery responses, just as the intervenors were able to offer testimony on the Companies’ discovery responses.” Rebuttal Motion at 1. However, the Companies never propounded discovery on any intervenor. Although the Companies’ failure to file discovery requests eliminates the basis of their request to file rebuttal testimony, it appears that the Companies do plan to file rebuttal testimony by June 17.

IV. CONCLUSION

For the foregoing reasons, the Sierra Club respectfully requests that the Commission deny the Companies' motion for an informal conference on June 19, 2014 and, if necessary, schedule any informal conference after hearing requests are due on June 23, 2014.

Dated: June 16, 2014

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that Sierra Club's June 16, 2014 electronic filing is a true and accurate copy of the Wallace McMullen and Sierra Club's Response to Joint Motion for an Informal Conference on June 19, 2014, to be filed in paper medium; and that on June 16, 2014, the electronic filing has been transmitted to the Commission, and that one copy of the filing will be delivered to the Commission, that no participants have been excused from electronic filing at this time, and electronic mail notification of the electronic filing is provided to the following:

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