COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS AND	**)**
ELECTRIC COMPANY AND KENTUCKY UTILITIES	**) CASE NO.**
COMPANY FOR REVIEW, MODIFICATION, AND	**) 2017-00441**
CONTINUATION OF CERTAIN EXISTNG	**)**
DEMAND-SIDE MANAGEMENT AND ENERGY-	**)**
EFFICIENCY PROGRAMS	**)**

REPLY BRIEF OF METROPOLITAN HOUSING COALITION

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Dated: July 9, 2018

Comes Intervenor Metropolitan Housing Coalition, and in accordance with the *Order* entered by the Public Service Commission (hereinafter "Commission") revising the previously-entered procedural schedule in order to allow for additional discovery followed by two rounds of simultaneous briefs, and submits this Reply Brief in opposition to the *Electronic Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company For Review, Modification, and Continuation Of Certain Existing Demand-Side Management And Energy Efficiency Programs* (hereinafter "Joint Application"). In accordance with the May 31 Commission order, reply briefs are due July 9, 2018.

I. THE OPT-OUT PROVISION OF KRS 278.285(3) IS LIMITED TO "INDIVIDUAL INDUSTRIAL CUSTOMERS" AND IS NOT AMENABLE TO BEING EXPANDED TO INCLUDE ENERGY-INTENSIVE COMMERCIAL CUSTOMERS

The proper interpretation and implementation of the "opt-out" provision in KRS 278.285(3) is an issue that has been of particular concern to MHC, as evidenced in the briefing on the previous DSM case filed by LGE/KU (Case No. 2014-00003). It was MHC in that case that opposed the practice of blanket exemption of all industrial customers that had been the norm for the LGE/KU DSM filings; instead insisting that the categorical exclusion of utility-sponsored EE programs for industrial customers by LGE and KU violated the provisions of KRS 278.285(3) providing that any exclusion of industrial customers from a DSM/EE Plan approvable under KRS 278.285 can only occur on a case-by-case basis, and then, only

where (a) the individual industrial customer has "energy intensive processes," and (b) proposes to implement energy efficiency measures for that customer's facility. MHC supported the Commission Order directing a study of the potential for energy-efficiency programs for its industrial customers, and is pleased that the study identified measures that could be implemented that would help the industrial customers (which represent some 30% of the utility load), to become more energy-efficient. MHC supports the proposed DSM-EE programs for industrial customers that are proposed in the filing.

With respect to Wal-Mart's argument that energy-intensive commercial customers taking service under an industrial tariff should be eligible for the opt-out provision, MHC is not unsympathetic to the concern, as it is not unappreciative of the efforts that Wal-Mart has implemented across its supply chain and its own facilities to improve energy efficiency.

MHC believes, however, that the dispute is not one with the utility or this Commission, but is instead a legislative determination as to the eligibility for the "opt-out," and one that should be addressed to *that* body for consideration of an amendment to the existing statute regarding the ability of individual commercial customers to request an "opt-out." The statute does not offer an "opt-out" based on the *tariff* under which service is being taken, but instead speaks to the "individual industrial customer" being eligible to demonstrate that it has programs in place

implementing cost-effective energy-efficiency measures. The Commission was accurate in its observation in the November 14, 2014 Order in Case No. 2014-00003 that:

> The industrial opt-out is available only for industrial customers, not commercial customers, even if those commercial customers are energy intensive and have implemented energy-efficiency measures.

Order, Joint Application of Louisville Gas And Electric Company and Kentucky Utilities Company For Review, Modification, and Continuation of Existing, And Addition of New, Demand-Side Management And Energy-Efficiency Programs, Case No. 2014-00003 (November 14, 2014) at p. 26.

II. MHC SUPPORTS THE POINTS RAISED IN THE POST-HEARING BRIEF OF THE OFFICE OF THE ATTORNEY GENERAL

MHC concurs with the concerns identified by the Office of the Attorney General regarding capacity valuation, the effects of approval of the Wal-Mart opt-out request, and the lack of robust engagement with stakeholders in the revision of DSM-EE programs. MHC appreciates the Attorney General's support for "sustained and enhanced support for programs targeted towards low-income customers."

III. AVOIDED COSTS OF GREENHOUSE GAS EMISSION REGULATION SHOULD BE INCLUDED IN THE COST AND BENEFITS ANALYSIS OF THE DSM-EE OFFERINGS PROPOSED TO BE CURTAILED OR ELIMINATED

In the Initial Brief, Intervenor MHC demonstrated that while LGE/KU completely discounted future greenhouse gas emission (GHG) requirements as an avoided cost and ignored the benefits of reducing GHG emissions in assessing the DSM-EE programs that it seeks to curtail or

terminate, it has in the past relied on GHG reduction and compliance cost-avoidance in justifying investments in solar and gas capacity. In Case No. 2014-00002, when applying for a certificate of public convenience and necessity for a new natural gas combined cycle plant and a new photovoltaic facility, the Companies justified the investments in solar and gas capacity as a hedge against greenhouse gas emission regulations, utilizing a CO_2 price in six of the twelve scenarios used in evaluating resource options. Case No. 2014-00002, Exhibit DSS-1, p. 15, Table 9. The compliance costs used by LGE/KU in that case represented a mid-case carbon price forecast prepared by Synapse Energy Economics, 2012 Carbon Dioxide Price Forecast. Case No. 2014-00002 Exhibit DSS-1, p. 14, Table 8.

So to, this Commission has made note of the likelihood of "more constraints" on "utilities whose main source of supply is coal-based generation" in encouraging "conservation, energy efficiency and DSM[.]"*In the Matter of Application of Meade County Rural Electric Cooperative Corporation to Adjust Electric Rates*, Case No. 2010-00222, Order at 15-16 (Feb. 17, 2011). The Commission underscored this concern again in noting that "with the potential for huge increases in the costs of generation and transmission as a result of aging infrastructure, low natural gas prices, and stricter environmental requirements, we will strive to avoid

taking actions that might disincent energy efficiency." Case No. 2012-00221, December 19-20, 2012, p. 11.

The Commission staff has also recognized in the report on the LGE/KU 2011 Integrated Resource Plan (IRP) that the exclusion of CO_2 costs from that IRP was a shortcoming:

> [T]he Commission expects that environmental compliance planning be performed comprehensively, considering not only existing and pending regulations, but also those reasonably anticipated, including, but not limited to CO_2. Comprehensive planning is essential in ensuring that compliance measures proposed to be implemented and to allow the Commission adequate time to perform its statutory duties in determining that new facilities and modifications are necessary in order to provide safe and adequate service, and that the rates charged are fair, just, and reasonable.

Staff Report on the 2011 Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company, Case No. 2011-00140 (2013) at p. 41.

As with resource planning, consideration of avoided compliance costs for CO_2 in valuing the benefits of DSM and EE programs is essential in order not to undervalue such programs. By increasing compliance costs associated with coal-fired generation, the likely imposition of greenhouse gas emission requirements on existing generation capacity will increase the value of DSM and EE programs, and in this case might have led the Companies to retain (or even expand) one or more of the programs that they now proposed to curtail or terminate.

In this case, LGE/KU justified not considering as a benefit the savings associated with implementation of DSM and EE measures that avoid or reduce greenhouse gas emissions, explaining that:

> [t]he Companies exclude GHG emission costs as a benefit in the cost-effectiveness testing because there are presently no such costs to avoid, as there is no legally binding value or price currently assigned to carbon emissions in Kentucky, and the Companies do not anticipate there will be one through 2025."

Response to Metropolitan Housing Coalition First Set of Data Requests Dated January 28, 2018 at p.13.

As stated above, LGE/KU justified the selective exclusion of greenhouse gas emission compliance costs as a benefit in the cost-effectiveness testing "because there are presently no such costs to avoid, as there is no legally binding value or price currently assigned to carbon emissions in Kentucky, and the Companies do not anticipate there will be one through 2025." *Id.* Yet as noted by Commission staff, it is not "only existing and pending regulations, but also those reasonably anticipated, including, but not limited to CO_2" that should be evaluated. *Staff Report on the 2011 Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company*, *supra* at p. 41.

The lack of a current "legally binding value or price" on carbon emissions in Kentucky was no impediment to reliance by the Company on the value of reduction of CO_2 emissions in justifying the gas and solar facilities in Case No. 2014-00002. According to LGE/KU's Vice President for

Energy Supply and Analysis, the *potential* for future regulation of greenhouse gas ("GHG") emissions by the U.S. Environmental Protection Agency was one of five factors justifying those facilities. *Direct Testimony of David S. Sinclair, Vice President, Energy Supply and Analysis, Kentucky Utilities Company and Louisville Gas And Electric Company,* Case No. 2014-00002, at p. 4. When asked whether he still believed in 2014 that "regulation of CO_2 was "essentially 'unknown and unknowable,'" Sinclair stated that while "much remains unknown about if, when, and how CO_2 might be regulated in the future… the Companies feel that enough is known that the risk of future CO_2 regulations should be part of a 30-year analysis related to the next generation resource and that a resource should be economically robust with or without future CO_2 regulations." *Id.* at p. 24-25. Sinclair further supported the solar array as being "a prudent hedge against both GHG regulations and natural gas price risk" that "will reduce the Companies' GHG emissions[.]" *Id.* at p. 27.In order to account for uncertainty regarding the pricing of carbon emissions, the company considered a range of values rather than simply discounting the benefits as being "externalities." *Id.* at p. 25. They did not, as LGE/KU has done here, sidestep the issue entirely.

Having recognized that consideration of GHG emission controls is a sufficient possibility that it should factor into CPCN evaluation, the Companies cannot credibly argue that the benefits and value of

reductions in greenhouse gas emissions are too speculative to be considered in the cost and benefits analysis.[1]

Greenhouse gas emission avoidance or reduction due to DSM-EE plan implementation is an "avoided" regulatory compliance cost that should be considered by both the Companies in evaluating DSM-EE plan offerings, and by this Commission in determining the "reasonableness" of the present proposal by LGE/KU to curtail or eliminate certain existing DSM plan offerings. Consideration of the avoided cost of complying with future federal CO_2 regulation could increase the benefits of the Companies DSM programs, and those benefits should be included in the Utility Cost test and TRC test, because these benefits help reduce electricity system costs.

IV. NON-ENERGY BENEFITS ARE SQUARELY WITHIN THE JURISDICTION OF THE COMMISSION, AND CONSIDERATION OF SUCH BENEFITS IS ESSENTIAL IN DETERMINING COST EFFECTIVENESS OF CONTINUATION OF DSM-EE MEASURES

[1] As to the reasonableness of the LGE/KU position that ignoring GHG emission avoidance as an issue in assessing the benefits of DSM-EE programs is justified because "there are currently no costs to avoid" and because the Companies "do not anticipate there will be one through 2025," the *New York Times* reported on July 5, 2018 that "[t]he Trump administration has drafted a new proposal to regulate carbon dioxide emissions from coal-fired power plants[.]" The article, captioned "E.P.A. Drafts Rule On Coal Plants To Replace Clean Power Plan," reported that industry lawyers familiar with the plan explained that "the new proposal…would recommend regulating the emissions of individual coal plants, which would call for modest upgrades, such as improving efficiency or substituting fuel." The Companies' failure to consider avoided GHG emission costs in assessing DSM-EE benefits is arbitrary.

In defending the exclusion of "non-energy" benefits from consideration in applying the cost-benefit analysis to justify elimination or curtailment of some existing DSM-EE offerings, LGE/KU argues that such benefits "do not affect utility rates or service" and thus are outside of the purview of the Commission.[2] According to the utilities, the jurisdiction of the Commission is limited to "the rates and service of utilities" and thus any consideration of non-energy benefits is *ultra vires.*

The utilities are as correct in stating a core principle of administrative law as they are mistaken in their conclusion regarding the *application* of that principle to the scope of Commission jurisdiction pursuant to KRS Chapter 278. The Commission is, in fact, "a creature of statute and has only such powers as granted by the General Assembly. Thus, any issue involving the PSC's authority is necessarily one of statutory analysis. *PSC v. Jackson County RECC*, Ky.App. 50 S.W.2d 764 (2001), citing *Boone Co. Water and Sewer District v. PSC*, Ky. 949 S.W.2d 588 (1997).

KRS 278.040 establishes the jurisdiction of the Commission, and states plainly the scope of that jurisdiction:

> **278.040 Public Service Commission; jurisdiction; regulations**
>
> (1) The Public Service Commission shall regulate utilities and enforce the provisions of this chapter. . . . .

[2] MHC disputes that consideration of NEBs has no effect on rates. Inclusion of NEBs in the cost and benefits analysis would better reflect the true value of EE, increasing the likelihood of further investment in EE– which lowers rates in the long term as a low cost resource.

> (2) The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.

KRS 278.040.

Properly read, the grants of power to the Commission are (1) to regulate utilities "*and enforce provisions of this chapter[,]"* and (2) to have exclusive jurisdiction over the regulation of rates and service of utilities" with the caveats contained in subsection (2).

The word "exclusive," when read in context, does not mean that the extent of the jurisdiction of the Commission pursuant to KRS Chapter 278 is **limited** to "regulation of rates and service of utilities;" rather it means that the jurisdiction of the Commission over regulation of rates and service of utilities is *exclusive* of other entities regulating such matters, except as provided otherwise in the statute.

In short, the jurisdiction of the Commission extends both to regulation of rates and service of utilities, and to enforcement of all of the provisions of KRS Chapter 278. Such provisions are not limited simply to regulation of rates and service of utilities, pursuant to KRS 278.030, but include, in a number of instances, consideration of *non-energy* matters such as the potential impacts on the natural and built environment, of the activities or proposed facilities of utilities and other entities regulated under KRS Chapter 278.

For example, KRS 278.216 requires a "site compatibility certificate" for any post-2002 utility facility for the generation of electricity capable of generating in aggregate more than ten megawatts (10MW). As part of the application for a site compatibility certificate, a site assessment report is required to evaluate, and the Commission is specifically authorized to "require reasonable mitigation of impacts disclosed in the site assessment report," including a number of impacts having to do neither with the reasonableness of rates or the quality of service, but instead relating the "social" and "environmental" impacts of the generation facility. Such mitigation measures that the Commission is authorized to impose include "planting trees, changing outside lighting, erecting noise barriers, and suppressing fugitive dust" – all issues that speak neither to rates or service in the narrow sense that LGE/KU use, but which are plainly addressed to both the consideration of and mitigation of the *effects* of the choice of siting and facility operation *on* the nearby public. The scope of Commission jurisdiction under KRS 278 is by statute far broader than simply regulating rates and service.

Another example of the Commission's authority pursuant to KRS Chapter 278 to regulate utility matters beyond the reasonableness of rates and delivery of services, is the Commission role in "voluntary energy cost assistance fund" programs. KRS 278.287 provides for voluntary establishment by regulated utilities of an "energy cost assistance fund" in

order to receive voluntary contributions from customers and to disburse subsidies on recommendation of community action agencies to residential low-income customers. Plainly, the motivation of the General Assembly in establishing a mechanism for development of such a program, and in tasking the Commission to oversee the solicitation and receipt of contributions to those utility programs, is the recognition that *affordability* of service, in additional to the quality of service or the reasonableness of rates, is a significant issue for low- and fixed-income ratepayers. Such a fund addresses neither the reasonableness of rates or quality of service, but instead is a recognition of the social and moral mandate to address *affordability* of rates and *access* to service.

Elsewhere in the chapter, the Commission is tasked with matters extending beyond the regulation of utility rates and service. Examples include KRS 278.457, which tie the Commission to notifying the Department of Parks of potentially available rails-to-trails offerings; and KRS 278.650, which require consideration by the Commission of the "character of the general area and likely effects of the installation" of cellular antenna towers on "nearby land uses and values."

Finally, another example is in the regulation of the siting of merchant electric generating facilities, pursuant to KRS 278.702. The Commission members are by law made a permanent presence on the "Kentucky State Board on Electric Generation and Transmission Siting" and

Commission staff are tasked with serving as administrative staff to the Board. Among the considerations of the Board in granting or denying a certificate to a "merchant electric generating facility" (which by definition is a wholesale generating facility whose rates are not regulated by the Commission) are "the compatibility of the facility with scenic surroundings," "potential changes in property values and land use," "anticipated peak and average noise," impact "on road and rail traffic" including "fugitive dust" and "degradation of roads and lands in the vicinity of the facility." KRS 278.708.

Clearly, the Commission's jurisdiction under KRS Chapter 278, both with respect to regulated utilities and wholesale power generators, extends beyond "rates and service" and includes the *effects* of decisions regarding the siting and operation of electric generation facilities on the built and natural environment – even where such effects do not affect either the reasonableness of rates or delivery of service.

Turning to KRS 278.285, the Commission is granted specific statutory authority to determine the "reasonableness of demand-side management plans proposed by any utility under its jurisdiction." This authority *is in addition to* the authority to determine the reasonableness of rates and the quality of service under KRS 278.030, and pursuant to KRS 278.040 the Commission has explicit statutory authority to "enforce the

provisions of this chapter" in addition to having "exclusive" jurisdiction over utility rates and service.

In KRS 278.285, the Commission is given wide latitude in the factors it employs in determining the "reasonableness" of the DSM plans, including consideration of a number of enumerated statutory factors that go beyond "rates and service," and the ability to consider other factors beyond those listed ("Factors to be considered in this determination include, but are not limited to, the following[.]") The enumerated factors that are to be considered at a minimum include factors such as:

- Evaluation of the customer consumption behavior that the utility is attempting to influence;
- Creation of "positive financial rewards to the utility" to encourage implementation of "cost-effective demand-side management programs;"
- Avoidance of "unreasonable prejudice" or disadvantage to any class of customers;
- The extent of involvement of the Attorney General and customer representatives in the development of the DSM plans; and
- The extent to which the plan provides programs which are available, affordable, and useful to all customers[.]"

KRS 278.285(1).

Several of these factors are unrelated to "rates and service" in the narrow sense that LGE/KU impute to the phrase, including a mandate that the Commission consider of the extent of stakeholder input and the

affordability of DSM-EE programs, in determining the "reasonableness" of the DSM plan.

One factor is of particular interest, which is the allowance of "financial rewards" to the utility for encouragement of implementation of cost-effective demand-side management programs. If the General Assembly were indifferent to matters beyond "rates and service," and if the General Assembly intended that the Commission have authority to consider nothing more, it would not have enacted the last clause of KRS 278.285(1)(c), since the first clause of that subsection already provided for no net revenue loss due to the DSM plan impact on electricity sales or gas usage. Indeed, it is doubtful that it would have enacted KRS 278.285 at all, for that matter, since the General Assembly would be indifferent to whether the use of the utility-delivered gas and electric service was being used *efficiently;* only that the rates were reasonable and the service was reliable. Instead, in KRS 278.285 (and elsewhere as we have seen), the General Assembly has empowered the creation of programs intended to address the *effects* of the utility services on customers. KRS 278.285(1)-(3) express a clear policy preference for energy efficiency (which helps maintain reasonable rates as a low cost resource) and for demand management over new generation, and creating a financial reward over any above being made whole for revenue loss. KRS 278.285 is neither agnostic nor indifferent regarding the values of energy and efficiency and

demand management, but reflects an intentional legislative policy choice of encouraging efficiency in the **use** of the electricity or gas, and in the management of demand as an alternative to avoiding or delaying *future* capital construction for generation.

Indeed, if all that the statute intended the Commission to consider in reviewing and determining the "reasonableness" of a proposed DSM plan was the impact on rates and service, it would not have enacted KRS 278.285(4), which not only allows "home energy assistance programs" to be considered a part of the DSM plan, but *exempts* those programs from all of the statutory factors of subsection (1) *other than* those of involving stakeholders in development of the DSM plan and of assuring that the costs of the DSM plan are assigned to the customer class or classes benefiting from the DSM programs. The home energy assistance programs (such as the WeCare program) are exempt from the requirement of a "cost and benefit analysis and other justification" – a requirement that applies to all other proposed DSM programs and measures in the proposed plan (including, *sub nom*, "next-generation residential utility meters" which are not exempted from KRS 278.285(1)(b)). Exclusion of those programs from a cost and benefits analysis again reflects consideration by the General Assembly that such programs have value and should be encouraged above and beyond the reasonableness of rates and reliable delivery of services. It reflects a policy choice that

the utilities should include such programs and that the Commission should review them under a preferential standard due to the "non-energy" impacts of poverty and energy affordability on low- and fixed-income customers.

There is nothing in KRS 278.285 that precludes Commission consideration of the full range of costs and benefits (including non-energy benefits, or NEBs) associated with DSM programs when determining the reasonableness of the programs. Nor is there any language indicating that the Commission's determination of "reasonableness" of a DSM plan is limited to whether the *cost* of the plan is "reasonable." A home energy assistance program addresses neither the reasonableness of rates or quality of service, but instead seeks to improve quality of life for those taking service who have limited means. Encouragement of stakeholder involvement affects neither rates nor service in a direct sense, but represents a judgment that the Commission's determination of "reasonableness" should include factors such as involving stakeholders and seeking community support for the plan.

In sum, nothing in KRS Chapter 278, and specifically in KRS 278.265, precludes the Commission from considering "non-energy benefits" when reviewing a DSM-EE plan for "reasonableness."

LGE/KU indicated that it utilized the California Standard Practice Model in the assessment of costs and benefits. When asked in a data request to

"explain the basis for choosing to use the California Standard Practice Model in assessing costs and benefits of various DSM measures," the Companies responded that:

> The Commission requires the use of the Ratepayer Impact Measurement ("RIM"), Total Resource Cost ("TRC"), Participant, and Utility Cost Tests prescribed in the California Standard Practice Manual: "Any new DSM program or change to an existing DSM program shall be supported by…[t]he results of the four traditional DSM cost/benefit tests." [citation to Case 1997-00083 Order at p. 20 omitted]. The California Standard Practice Manual is the most widely recognized and utilized guidance on cost effectiveness testing across the industry.

Id., A-1j at p. 3.

It is curious that LGE/KU would recognize the value and widespread adoption of the California Standard Practice Manual (CSPM), yet choose not to use all of the factors that the Manual suggests should be considered. In *Understanding Cost-Effectiveness of Energy Efficiency Programs: Best Practices, Technical Methods, and Emerging Issues for Policy-Makers* (2008) Energy and Environmental Economics, Inc. and Regulatory Assistance Project, a tabular summary of the five standard cost-effectiveness tests in the California Standard Practice Manual (CSPM) indicates that in *both* the Participant Test and the Societal Test (which the CSPM recognizes as a variant of the Total Resource Cost Test)[3], non-

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[3] The CPUC Standard Practice Manual (2001) notes that "[a] variant on the TRC test is the Societal Test. The Societal Test differs from the TRC test in that it includes the effects of externalities (e.g. environmental, national security), excludes tax credit benefits, and uses a different (societal) discount rate. *Id*. at p. 21.

energy benefits to *participants* are factored in as among the benefits to be evaluated. *Id.,* Table 6-7; CSPM pp. 8, 19-21.

In a recent survey of 41 states, 12 (or 29%) states indicated that they included NEBs in their cost-benefit tests. Kushler et al. *A National Survey Of State Policies And Practices For The Evaluation Of Ratepayer-Funded Energy Efficiency Programs,* 2011).[4] Of those using NEBs, seven (7) states included water and other fuel savings, two (2) reduced maintenance (Vermont and Washington), and one had a general adder (Colorado). Thirteen (13) states indicated that they included environmental externality benefits in their cost-benefit tests, and another five (5) states included "other societal benefits" (excluding environmental benefits) in their cost-benefit tests (Kushler et al. 2011).

Among the findings and observations of the authors of the survey was that "the TRC suffers from a fundamental imbalance in that all participant costs for an energy efficiency upgrade are counted as costs, but most or all of the customer benefits outside of utility fuel savings are not counted." *Id.* at p. 36. The authors noted that the failure to consider all customer benefits rather than just utility fuel savings, skewed the cost-benefit analysis:

> This can have a very adverse effect on programs that require large customer investments in energy retrofits that are motivated in part by other "non-energy" benefits. Our survey results clearly document

[4] Available at http://aceee.org/sites/default/files/publications/researchreports/u122.pdf

> that this imbalance exists in terms of how states are implementing the TRC test.

Id. at p. 36.

In order to address this imbalance in the broad scope of participant costs and narrow scope of participant benefits evaluated in the TRC test, the Commission should direct that the application of the TRC test to those programs proposed to be curtailed or eliminated, be revised to consider the participant non-energy benefits, such as other fuel savings, reduced maintenance, increased productivity, improved health, and increased safety, many of which are program benefits of particular importance to low-income customers.

The Companies have rejected consideration of NEBs as "externalities," and "societal benefits." Yet so-called "externalities" have a propensity to ingratiate themselves into the process of utility planning after-the-fact, and often at greater direct and indirect cost than if they had been properly considered in the first place. At one time, SO_2, fine particulate pollution, NO_x contribution to ozone formation, and now GHG emissions, were all considered by utilities to be "externalities" that were beyond those factors to be evaluated in resource planning and capital construction decisions on new generation capacity. Yet in each case, the participant and societal impacts of enhanced morbidity and mortality associated with emissions, and downstream pollution burden, became so intolerable that the utilities were required to "internalize" those societal

costs, at a price to ratepayers likely far in excess than what it would have been required to pay had the planning considered such costs in the first instance.

The Companies' justification for selecting only part of the California Standard Practice Manual Participant Test for use in determining cost-effectiveness, and rejecting the Societal variant on the Total Resource Test is on shaky ground both legally and analytically. By understating and undervaluing the benefits, many of the Companies' proposals to end certain DSM and EE program offerings may miss significant opportunities to reduce customer costs and to improve the quality of customers' lives. Including the best available estimates of participant non-energy benefits, and of societal benefits, would make the cost and benefits analysis more accurate in terms of the true benefits of the DSM and EE service offerings to residential customers. In the final equation, after all, it is the promotion of the general health and welfare of the public through reliable and affordable energy that is the goal of regulation of public utilities, and not the regulation of rates or service for its own sake.

CONCLUSION

Respectfully, Metropolitan Housing Coalition seeks the following relief:

(1) An Order for the Commission directing that the analyses utilized by the Joint Applicants to end or curtail DSM and EE offerings be revised to account for GHG emission reduction or avoidance as an "avoided

cost" and that after conducting the revised analysis, the Companies be required to supplement their filing based on that revised analysis with respect to programs proposed for termination or curtailment;

(2) An Order from the Commission directing that the analyses utilized by the Joint Applicants to end or curtail DSM and EE offerings be revised in order to account for participant and societal non-energy benefits, and that once the full range of cost and benefits are ascertained, that the Companies be required to supplement their filing with respect to programs proposed for termination or curtailment;

(3) That the Commission revisit the question of whether advanced meter systems are exempted from the statutory requirement of assessing the costs and benefits, and that the Companies should be required to file a cost-benefit analysis for continuation of the AMS program; and

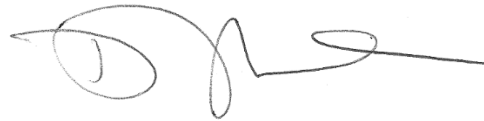
(4) That the Commission direct the Companies to commission a study on the distribution of the benefits of the DSM and EE programs within the residential customer class, and in particular, whether the array of DSM and EE offerings adequately address the specific needs of low- and fixed-income residents, including those in protected classes under the fair housing laws, and those in rental units; so as to satisfy the factors of KRS 278.285(1)(e) and (g);

(5) That the Commission approve the proposed DSM-EE Plan for continuation of the WeCare program under KRS 278.285(4);

(6) That the request of Wal-Mart that large commercial customers be allowed to opt out of utility-sponsored DSM-EE programs be denied; and

(7) For any and all other relief to which Intervenor Metropolitan Housing Coalition may be entitled.

Respectfully submitted,



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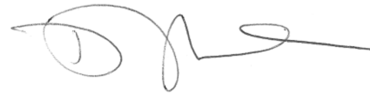
CERTIFICATE OF SERVICE

This is to certify that electronic version of the REPLY BRIEF OF INTERVENOR METROPOLITAN HOUSING COALITION 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 9, 2018; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; and that an original and six (6) copies in paper medium of the REPLY BRIEF OF METROPOLITAN HOUSING COALITION TESTIMONY will be filed with the Commission within two business days of July 9, 2018.



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