

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

**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)**

CASE NO. 2017-00441

INITIAL BRIEF
OF LOUISVILLE GAS AND ELECTRIC COMPANY
AND KENTUCKY UTILITIES COMPANY

Filed: June 26, 2018

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INTRODUCTION

The Kentucky Public Service Commission (“Commission”) should approve the application of Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively “Companies”) as filed in this proceeding. The Companies’ proposed 2019-2025 Demand-Side Management and Energy Efficiency (“DSM-EE”) Program Plan is the product of rigorous analysis and stakeholder involvement. It provides a portfolio of DSM-EE programs that is reasonable in view of all the items KRS 278.285(1) asks the Commission to consider, of which cost-effectiveness is only one. Notably, no party has raised a serious concern about any particular program the Companies have proposed, and the Association of Community Ministries (“ACM”) has filed comments affirmatively supporting WeCare, the Companies’ DSM-EE program designed to provide DSM-EE services and assistance to low-income customers.¹ Further, the Companies’ proposed return on equity of 10.20% is reasonable and provides the incentive contemplated in KRS 278.285 for having made and continuing to support reasonable DSM-EE programming. The Companies therefore respectfully ask the Commission to approve the entirety of their application in this proceeding, including their proposed 2019-2025 DSM-EE Program Plan and requested return on equity, as well as the Companies’ proposed industrial DSM-EE opt-out for industrial customers, which is true to the letter and intent of KRS 278.285(3).

The Companies further ask the Commission to reject proposals by intervenors Metropolitan Hosing Coalition (“MHC”) and Wal-Mart Stores East, LP and Sam’s East, Inc. (collectively “Walmart”) regarding additional DSM-EE programs. As argued below, the Commission lacks the authority to require the Companies to engage in DSM-EE programs

¹ Comments of ACM filed via email (June 12, 2018).

beyond what they have proposed, and there is no need for such additional programs. The Commission should also reject Walmart's attempt to make a way for large commercial customers to opt out of DSM-EE programs because an opt-out for such customers would be contrary to KRS 278.285(3).

Therefore, the Companies respectfully ask that the Commission approve the proposed 2019-2025 DSM-EE Program Plan to be effective with services rendered on and after January 1, 2019.

ARGUMENT

I. The Commission Should Approve the Companies' Application as Filed Because the Proposed 2019-2025 Program Plan Is Reasonable and Consistent with KRS 278.285.

Although there has rightly been much focus in this and other DSM-EE proceedings on the cost-effectiveness of the proposed programs, the ultimate statutory criterion for approving any given program or portfolio of programs is overall reasonableness: "The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction."² Cost-effectiveness is just one factor among many that KRS 278.285(1) provides to be considered in evaluating reasonableness;³ others are whether the plan was developed in consultation with the Attorney General and customer representatives, consistency with the utility's integrated resource plan, and the extent to which programs are available and useful to customers without resulting in any unreasonable prejudice or disadvantage.⁴ There is even an explicit consideration given to encouraging the deployment of "[n]ext-generation residential utility meters."⁵ Considering all the factors the General Assembly has prescribed

² KRS 278.285(1).

³ KRS 278.285(1)(b).

⁴ KRS 278.285(1)(d)-(g).

⁵ KRS 278.285(1)(h).

concerning reasonableness, the Companies' proposed 2019-2025 Program Plan is indeed reasonable and worthy of Commission approval.

The 2019-2025 Program Plan is study-supported and well-developed. The Companies commissioned and considered three separate studies conducted by a reputable outside expert, The Cadmus Group, Inc. ("Cadmus"), in formulating the proposed portfolio: the Residential and Commercial Energy and Efficiency Potential Study,⁶ the Industrial Sector DSM Potential Assessment for 2016–2035,⁷ and the DSM Program Review.⁸ Taken together, those studies demonstrate that there is technically and economically achievable DSM-EE potential across residential, commercial, and industrial rate classes.

In addition, this DSM-EE Program Plan was developed in repeated consultation with the Companies' DSM Advisory Group. The DSM Advisory Group includes representatives from the Kentucky Energy and Environment Cabinet, the Kentucky Attorney General, the Kentucky Industrial Utility Customers, Inc., community-action agencies, educational institutions, governmental environmental protection agencies, and businesses.⁹ The Companies met with the DSM Advisory Group three times in 2016 and twice in 2017. These five meetings addressed a number of topics relevant to what became the proposed 2019-2025 Program Plan: the results of the EE Industrial Potential Study and the impact those findings might have; how to define and implement an industrial opt-out for DSM-EE; the historical performance of the Companies' DSM-EE programming was presented; and the Proposed DSM-EE Program Plan itself.¹⁰ Though it appears there is not complete unanimity among the DSM Advisory Group participants

⁶ Lawson Exh. GSL-3.

⁷ Case No. 2014-00003, Industrial Sector DSM Potential Assessment for 2016–2035 (May 26, 2016).

⁸ Lawson Exh. GSL-2.

⁹ The Companies invited all members to attend all DSM Advisory Group meetings, although not all members were able to attend all meetings.

¹⁰ See Attachment to Companies' Response to MHC 1-8 for all materials provided by Companies to participants at the five DSM Advisory Group meetings.

that have intervened in this proceeding concerning every aspect of the proposed Program Plan—and KRS 278.285(1) does not require unanimity—there does appear to be broad acceptance of the plan, with the possible exception of MHC regarding the AMS Customer Offering and Walmart regarding the industrial opt-out proposal. Notably, ACM filed comments in the record affirmatively supporting the WeCare program,¹¹ and MHC is advocating for changed cost-benefit test components that would tend to increase the cost-effectiveness of the proposed Program Plan.¹² In short, the Companies extensively consulted with the Attorney General and customer advocates in formulating the 2019-2025 Program Plan, which supports its reasonableness under KRS 278.285(1)(f).

As the Companies have acknowledged and their 2019-2025 Program Plan reflects, significant recent changes have occurred in load forecasts and in actual customer demand and energy usage that have reduced the avoided costs associated with DSM-EE programs; recognizing these changes, the Companies' 2019-2025 Program Plan reduces the number of DSM-EE programs offered to customers from the current ten to just six. The Companies believe this is a positive development; it reflects the success of the Companies' DSM-EE programs to date, as well as customers' own increased energy efficiency resulting from increased LED lighting installations and more efficient appliances and other energy-consuming devices in their homes and businesses.¹³ That has resulted in the Companies having no expectation of needing any new capacity over the 2019-2025 period and beyond, barring unforeseen significant increases in demand or unit retirements or extended outages.¹⁴ As a result, the Companies have

¹¹ Comments of ACM filed via email (June 12, 2018).

¹² Hinko at 12.

¹³ Huff at 8-10.

¹⁴ Huff at 12-13.

reasonably used an avoided capacity cost of \$0 per kW-year.¹⁵ In addition, reduced fuel prices have driven down avoided energy costs to less than \$0.03 per kWh.¹⁶ These reductions in avoided costs are a net positive for customers' bills, including in reduced DSM-EE charges as programs that once were cost-effective are now being phased out during calendar year 2018 and are not part of the 2019-2025 Program Plan.¹⁷

The programs that do remain in the 2019-2025 Program Plan are cost-effective in their own right, make use of capital assets already deployed as part of previous cost-effective DSM-EE programs and plans, are otherwise reasonable and deserving of approval as advancing DSM-EE availability and usefulness to customers, or support advanced-metering deployment:

- The Nonresidential Rebates Program is cost-effective under three of the four California Standard Practice Manual cost-benefit tests the Commission has historically required utilities to perform.¹⁸ Notably, its benefits exceed its costs under the Total Resource Cost test. Commercial customers have extensively used the program to obtain rebates for implementing energy-saving measures before and after facility construction. The Companies propose to open the program to industrial customers.¹⁹
- The Residential and Small Nonresidential Demand Conservation Program and the Large Nonresidential Demand Conservation Program, though not cost-effective under the Commission-required cost-benefit tests, were previously some of the most cost-effective DSM-EE programs the Companies deployed. Indeed, the programs sometimes proved to

¹⁵ Huff at 12.

¹⁶ Huff at 12.

¹⁷ See Lawson at 20-21 (noting DSM-EE charges will drop by more than 50% for LG&E and KU electric customers from 2017 levels and by more than 90% for LG&E gas customers compared to 2017 levels).

¹⁸ Lawson at 17.

¹⁹ Lawson at 23-24.

be cost-effective across all four tests.²⁰ Moreover, these programs, which involve deploying load-control equipment the Companies can activate during times of peak demand, were the first DSM-EE programs the Companies deployed because their cost-benefit scores were so compelling. Notably, even in times of zero avoided capacity cost, the programs remain cost-effective going forward in a maintenance mode, i.e., not deploying any new load-control devices, when using the same kind of cost-benefit analysis the Companies use to evaluate economical reserve margins.²¹ These revised programs are economical largely because the Companies will pay incentives to customers only when the Companies actually use the load-control devices to reduce demand.²² Moreover, continuing the program in a maintenance mode allows customers to continue to receive benefits from the capital assets prudently deployed and for which cost recovery is included in rates. The Companies believe the reasonable and cost-effective approach is to continue the programs as proposed in the 2019-2025 Program Plan to help ensure reliable system operations and allow customers to receive benefits from these prudently deployed assets.

- The WeCare Program, which provides weatherization and other DSM-EE services and measures to low-income customers, is a vitally important program; indeed, it is the single largest component of the 2019-2025 Program Plan by a wide margin.²³ The Companies believe it is important to continue to assist vulnerable customers to obtain the benefits of increased energy efficiency. Although other customers might be able to replace older, less efficient devices with new, more-efficient devices, or to make energy-efficiency

²⁰ See, e.g., Case No. 2014-00003, Direct Testimony of Michael E. Hornung at 12 (Jan. 17, 2014).

²¹ Huff at 16-20.

²² Lawson at 21-23.

²³ Lawson Rebuttal at 3.

improvements to their homes, low-income customers often cannot do so without assistance. In addition, this program helps ensure that DSM-EE programs are genuinely available and affordable to all customers without any unreasonable prejudice or disadvantage to any class of customers, considerations contributing to reasonableness under KRS 278.285(1)(e) and (g).²⁴ Also, WeCare could be characterized as a home energy assistance program under KRS 278.285(4), which would require only that the program be unsubsidized by other customer classes and part of a plan developed in consultation with customer representatives and the Attorney General, both of which are true for WeCare as proposed. The Companies therefore propose to continue this program in the Proposed DSM-EE Program Plan.

- The AMS Customer Service Offering continues to be a success on the terms under which the Commission approved the offering as part of the Companies' 2015-2018 DSM-EE Program Plan.²⁵ As of March 31, 2018, nearly 8,100 customers were enrolled in the offering.²⁶ Those customers have demonstrated increased awareness of their energy usage and have reported implementing energy efficiency behaviors and efforts as a result of that awareness. For example, approximately 60% of participants surveyed reported upgrading to LED bulbs to save energy as a result of participating in the AMS Customer Service Offering, and nearly half of participants surveyed reported adjusting their thermostat settings as a result of participation.²⁷ In addition, because about 1/5 of the residential AMS meters deployed to date in Jefferson County have been installed in zip

²⁴ See Lawson Rebuttal at 4-7 (showing DSM-EE revenue sources and anticipated expenditures, largely driven by WeCare).

²⁵ Case No. 2014-00003, Order at 31 (Nov. 14, 2014).

²⁶ Case No. 2018-00005, Companies' Response to AG 1-9 (Apr. 13, 2018).

²⁷ Huff at 21.

codes with higher concentrations of low-income customers as identified by MHC, it appears customers of all income levels desire to participate in the offering.²⁸ Also, the offering has provided and is providing valuable data that has aided the Companies in formulating their full AMS deployment proposal that is now before the Commission in Case No. 2018-00005. In short, this offering is performing well on the terms approved by the Commission in Case No. 2014-00003 and should be continued as proposed in this proceeding.

- The School Energy Management Program (“SEMP”) was first approved in Case No. 2013-00067 and assists schools by funding energy management programs. The Commission subsequently approved additional extensions of SEMP through June 30, 2018.²⁹ In accordance with the Commission’s approved Stipulation and Recommendation in Case Nos. 2016-00370 and 2016-00371, the Companies have proposed a two-year extension of SEMP for July 1, 2018, through June 30, 2020, with a total annual level of funding of \$725,000.

In sum, these proposed programs meet the criteria for reasonableness set forth in KRS 278.285(1), and therefore merit the Commission’s approval.

II. The Commission Should Approve the Requested Return on Equity for DSM-EE Programs Because It Provides the Positive Financial Rewards for DSM-EE Contemplated by KRS 278.285.

Kentucky’s DSM-EE statute twice states that the Commission may find reasonable and approve a utility’s DSM-EE proposals, which may include “incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side

²⁸ Lawson Rebuttal at 12.

²⁹ Lawson at 26.

management programs.”³⁰ These statutory provisions are clear that the Commission should not just permit ordinary cost recovery and ROEs for DSM-EE investments, but rather should provide positive financial incentives to encourage such investments. In fact, the Commission has done so repeatedly in the Companies’ DSM-EE cases, permitting the Companies to earn an incentive of 5% of their DSM-EE-program non-capital expenditures,³¹ though the Companies currently project they will not earn any such incentive on non-capital expenditures, at least for calendar year 2019.³² The Companies have therefore proposed to continue to use the DSM Capital Cost Recovery component to recover and earn a return on the capital deployed through DSM-EE programs, though at a reduced return on equity of 10.20% (reduced from the current 10.50% return on equity for DSM-EE-related capital). The reduced return on equity provides a 50-basis-point incentive compared to the Commission’s most recently awarded base-rate return on equity for the Companies of 9.70%.³³ This approach is consistent with KRS 278.285’s clear guidance and the Commission’s long-established practice concerning providing utilities a financial incentive to implement DSM-EE programs.

III. The Intervenors’ Remaining Critiques and Proposals Tend to Support rather than Diminish the Reasonableness of the Companies’ Proposed 2019-2025 DSM-EE Program Plan.

The intervenors’ remaining points raised in testimony fall primarily into two categories:

(1) critiques of the Companies’ cost-benefit analyses that are contrary to statute or Commission

³⁰ KRS 278.285(1)(c) - (2)(b).

³¹ See, e.g., *In the Matter of: 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. 2011-00134, Order (Nov. 9, 2011); *In the Matter of: Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for Review, Modification, and Continuation of Energy Efficiency Programs and DSM Cost Recovery Mechanisms*, Case No. 2007-00319, Order (Mar. 31, 2008).

³² Lovekamp at 5.

³³ *In the Matter of: Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00370, Order (June 29, 2017); *In the Matter of: Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates and for Certificates of Public Convenience and Necessity*, Case No. 2016-00371, Order (June 29, 2017).

precedent and which, if implemented, would only enhance the cost-effectiveness of the Companies' proposed DSM-EE portfolio; and (2) proposals to require the Companies to alter their DSM-EE programs or administration in ways contrary to statute. Such critiques and proposals actually lend credibility to the Companies' proposed DSM-EE portfolio.

A. Non-Energy Benefits Are Outside the Commission's Jurisdiction, Do Not Affect the Companies' Costs or Benefits, and Are Not Included in the Commission-Required Cost-Benefit Tests.

The Commission has held, consistent with Kentucky's courts' holdings, that the Commission is a creature of statute, and may therefore exercise authority only within the boundaries of its statutorily granted jurisdiction, namely the rates and service of utilities.³⁴ By definition, non-energy benefits do not affect utility rates or service; if they did, they would be energy-related benefits, and the Companies would have accounted for them. But because they do not affect the Companies' rates or service, the Commission may not account for them or require the Companies to do so; therefore, the Commission should refuse MHC's request to include such benefits in DSM-EE cost-benefit calculations.³⁵ The Companies therefore correctly excluded them from their cost-benefit analyses in this proceeding, and the Commission should refuse to require including them in future DSM-EE cost-benefit analyses.

B. KRS 278.285(1) Prevents the Commission from Considering in this Proceeding DSM-EE Proposals Other Than Those Proposed by the Companies.

³⁴ See, e.g., *In the Matter of: Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Risers, and a Gas Line Surcharge*, Case No. 2012-00222, Order at 4 (Oct. 17, 2012) (quoting *Enviro Power, LLC v. Public Service Commission of Kentucky*, 2007 WL 289328 at 3 (Ky. App. 2007) (not to be published) (“[R]ates’ or ‘service’ ... are the only two subjects under the jurisdiction of the PSC.”)); *South Central Bell Telephone Company v. Utility Regulatory Commission*, 637 S.W.2d 649 at 643 (Ky. 1982) (“The legislative grant of power to regulate rates will be strictly construed and will neither be interpreted by implication nor inference. In fixing rates, the commission must give effect to all factors which are prescribed by the legislative body, but may not act on a matter which the legislature has not established.”). See also Companies' Response to MHC 3-2.

³⁵ Hinko at 12-13.

KRS 278.285(1) clearly limits the Commission's authority in this proceeding to reviewing for reasonableness the proposals made by the Companies: "The commission may determine the reasonableness of demand-side management plans proposed by any utility under its jurisdiction." This limit on the Commission's authority means the Commission may not require the Companies to extend, expand, or even offer DSM-EE programs; the Commission must focus only on the proposal before it.³⁶ For this reason, the Commission must decline MHC's request that "[o]ther programs should be considered as well,"³⁷ in addition to MHC's omission to provide specificity concerning a program or programs it desires, much less any details or cost-benefit analyses regarding such hypothetical programs.

The Commission must also decline Walmart's request for a self-direct program, which Walmart has requested in the alternative if the Commission does not define an industrial opt-out as Walmart has requested.³⁸ As shown above, KRS 278.285 prevents the Commission from approving or imposing a DSM-EE program that a utility has not proposed.

There are additional problems with Walmart's proposal. Notably, the program would essentially be an opt-out for commercial customers, violating the requirement of KRS 278.285(3) that customer classes benefitting from DSM-EE programs should pay the costs of the programs. Walmart admits it benefits from the Companies' DSM-EE programs as an active participant.³⁹ Therefore, it would be contrary to statute for Walmart to effectively opt out of the Companies' DSM-EE charges and programs for commercial customers. In addition, Walmart proposes a benchmark level of 15 million kWh per year aggregated across all sites in the particular utility

³⁶ In 2009, SB 51 was introduced to expressly permit the Commission to order a utility to file a DSM plan. (See <http://www.lrc.ky.gov/record/09RS/SB51.htm>, last visited Sept. 29, 2014). The General Assembly's refusal to enact this legislation is evidence of legislative intent to limit the Commission's authority to review DSM plans, not require them.

³⁷ Hinko at 15.

³⁸ Baker at 16-18.

³⁹ Baker at 5.

territory as a criterion for participating in Walmart’s proposed “self-direct” opt-out for commercial customers, which violates the prohibition of 807 KAR 5:041 §9(2) against using combined meter readings to obtain a lower rate. Also, the Companies already offer and propose to continue offering a program that is in many respects similar to, and even better than, a self-direct program: the Nonresidential Rebates Program. Therefore, Walmart’s proposed self-direct option—really a commercial DSM-EE opt-out—is contrary to statute and Commission regulation, and is essentially redundant and unnecessary because the Nonresidential Rebates Program largely already serves the function of a genuine self-direct program.

C. The Commission Should Approve the Companies’ Industrial Opt-Out Proposal and Reject Wal-Mart’s Request to Expand Industrial Opt-Outs to Include Non-Industrial Customers.

KRS 278.285(3) provides four criteria for an industrial customer to opt out of a utility’s DSM-EE programs and costs:

The commission shall allow [1] individual industrial customers [2] with energy intensive processes [3] to implement cost-effective energy efficiency measures in lieu of measures approved as part of the utility's demand-side management programs [4] if the alternative measures by these customers are not subsidized by other customer classes.

The Companies’ opt-out proposal attempts to give substance to each of the statutory criteria in a way that is consistent with the plain meaning of the text and other Kentucky statutes and Commission precedent:

1. Customers self-certify that they are industrial, where industrial customers are defined to be nonresidential customers engaged in activities primarily using electricity or gas in a process or processes involving either the extraction of raw materials from the earth or a change of raw or unfinished materials into another form or product.

2. Customers with energy-intensive processes are defined to be those taking service under rates for customers with high electric or gas demand. Only meters served under those high-demand rates are eligible to opt out.
3. Customers self-certify that they have implemented cost-effective energy efficiency measures not subsidized by other rate classes related to the meters they seek to opt out.
4. Customers cannot opt out any meter that has participated in a DSM-EE program for 36 full billing cycles after ceasing to participate in the program.

This approach to allowing genuinely industrial customers to opt out individual meters tied to energy-intensive processes regarding which the customers have implemented cost-effective energy-efficiency measures not subsidized by other rates classes keeps strictly to the letter and intent of KRS 278.285(3) while remaining reasonably simple and easy to administer.

Walmart's criticisms of the Companies' proposed opt-out approach have the plain intention of making a way for Walmart—a large but obviously commercial customer—to be able to opt out. For example, Walmart asserts the Companies' approach would exclude energy-intensive customers taking service under industrial rates, but the Companies do not have industrial electric rates, and Walmart does not take gas service under the one industrial gas rate LG&E offers.⁴⁰ Walmart asserts the Commission has wide latitude to define “industrial” under KRS 278.285, but overlooks the General Assembly's repeated definitions of “industrial” in other statutes, numerous energy-industry definitions of “industrial,” and the Commission's own approvals of the Companies' definition of “industrial,” all of which would exclude Walmart.⁴¹ Stated succinctly, there is no plausible definition of “industrial” that would include Walmart,

⁴⁰ Lovekamp at 3.

⁴¹ Lovekamp at 3-6.

whereas the Companies' definition is well-supported in law, the energy industry, and common sense.

Walmart's proposed definition of "industrial customer," on the other hand, overlooks entirely any concept of "industrial," opting instead to appeal solely to a customer's rate schedule.⁴² By Walmart's own admission, this approach would be over-inclusive because it would encompass more than just industrial customers: "This broad definition would capture all of the Companies' industrial energy users, as well as all of their largest users in general."⁴³

Walmart's definition of energy-intensive, though more plausible, suffers the infirmity of subsuming its proposed definition of "industrial" by defining "energy-intensive" to be customers taking service under the same rate classes as it uses to define "industrial," but adds the requirement of a 60% load factor.⁴⁴ Walmart's use of a 60% load factor to define "energy-intensive" appears to be entirely arbitrary and would exclude a number of unambiguously industrial processes, like arc furnaces, which are indisputably energy-intensive but tend to have relatively low load factors. Therefore, Walmart's definition of "energy-intensive," like its definition of "industrial," is implausible.

Walmart attempts to remedy these problems with its opt-out proposal by adding entirely separate "grandfathering" and large-load eligibility options for opt-out.⁴⁵ These do not save Walmart's proposal. First, there are currently no industrial customers that have opted out of the Companies' DSM-EE programs because the Companies do not currently offer DSM-EE programs to industrial customers.⁴⁶ Second, Walmart cannot have it both ways: either load

⁴² Baker at 11.

⁴³ Baker at 11.

⁴⁴ Baker at 12.

⁴⁵ Baker at 12.

⁴⁶ Lovekamp at 13.

factor is a component of energy intensity or it is not. The Companies respectfully submit that Walmart's patchwork opt-out proposal shows the difficulty of crafting an industrial opt-out that includes actual industrial customers while also making it possible for Walmart to opt out, all the while attempting not to make the opt-out so large as to be open to all commercial customers. The better approach is to reject Walmart's transparent attempt to formulate an opt-out for large commercial customers and approve the Companies' more sensible and workable opt-out approach, which also has the virtue of being consistent with the letter and intent of KRS 278.285(3).

CONCLUSION

The Companies' Proposed DSM-EE Program Plan is the product of rigorous analysis and stakeholder involvement, and provides a portfolio of DSM-EE programs that is reasonable under the terms of KRS 278.285(1). Ultimately, no party has raised a serious objection to or concern about any particular program the Companies have proposed. MHC and Walmart have proposed additional programs with little detail and no cost-benefit analysis, which programs the Commission lacks authority to approve and for which there is no current need. Further, the Commission should approve the Companies' proposed return on equity as reasonable while also providing the incentive contemplated in KRS 278.285 for having made and continuing to support reasonable DSM-EE programming. The Commission should also approve the Companies' proposed industrial DSM-EE opt-out for industrial customers, which is true to the text of KRS 278.285(3), and should reject Walmart's attempt to make a way for large commercial customers to opt out, which is contrary to the text of KRS 278.285(3).

Therefore, the Companies respectfully ask that the Commission approve the proposed 2019-2025 DSM-EE Program Plan to be effective with service rendered on and after January 1, 2019.

Dated: June 26, 2018

Respectfully submitted,



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CERTIFICATE OF COMPLIANCE

This is to certify that Louisville Gas and Electric Company and Kentucky Utilities Company's June 26, 2018 electronic filing of their Initial Brief 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 June 26, 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 copies in paper medium of the Initial Brief will be filed with the Commission within two business days from the date of the electronic filing.



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