

# BATES & SKIDMORE

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JACK B. BATES

IRIS G. SKIDMORE

Via Hand-Delivery

June 23, 2009

Mr. Jeff Derouen  
Executive Director  
Kentucky Public Service Commission  
211 Sower Blvd.  
Frankfort, KY 40601

RE: Case No. 2007-00319

Dear Mr. Derouen:

Enclosed please find and accept for filing in the above styled action the original and ten copies of an Entry of Appearance and a Motion for Informal Conference filed on behalf of the Community Action Council for Lexington-Fayette, Bourbon, Harrison, and Nicholas Counties, Inc.

Sincerely,



Iris G. Skidmore

Enclosures

RECEIVED

JUN 23 2009

PUBLIC SERVICE  
COMMISSION

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF LOUVILLE GAS )  
AND ELECTRIC COMPANY AND KENTUCKY )  
UTILITIES COMPANY DEMAND-SIDE )  
MANAGEMENT FOR THE REVIEW, )  
MODIFICATION, AND CONITNUATION OF )  
ENERGY EFFICIENCY PROGRAMS AND DSM )  
COST RECOVERY MECHANISMS )

CASE NO. 2007-00319

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PUBLIC SERVICE  
COMMISSION

**ENTRY OF APPEARANCE**

\* \* \* \* \*

Comes the undersigned counsel and enters her appearance in this matter on behalf of the  
Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties,  
Inc.

Respectfully submitted,



IRIS G. SKIDMORE  
415 W. Main St., Suite 2  
Frankfort, KY 40601  
Telephone: (502)-352-2930  
Facsimile: (502)-352-2931

COUNSEL FOR CAC

**CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2009, a true and accurate copy of the foregoing Motion  
for Informal Conference was served by United States mail, postage prepaid, to the following:

Hon. Dennis G. Howard II  
Assistant Attorney General  
Office of the Attorney General  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

Hon. Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202-4434

Hon. Kendrick R. Riggs  
Stoll Keenon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, Kentucky 40202-2828

Hon. Joe F. Childers  
Getty & Childers  
1900 Lexington Financial Center  
250 West Main Street  
Lexington, KY 40507

A handwritten signature in black ink, appearing to read "Joe F. Childers", written over a horizontal line.

Counsel for CAC

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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COST RECOVERY MECHANISMS )

**MOTION FOR INFORMAL CONFERENCE**

\* \* \* \* \*

Comes the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. (CAC), by counsel, and moves the Commission to schedule an informal conference for the purpose of reviewing the implementation of the Settlement Agreement in this matter. As grounds for this motion, the CAC states as follows:

1. The Settlement Agreement was entered into on January 17, 2008 by the Kentucky Utilities Company and Louisville Gas and Electric Company (hereinafter, the Companies), Office of the Attorney General of Kentucky Office of Rate Intervention, the Kentucky Association for Community Action, Inc. ( hereinafter KACA), the Kentucky Industrial Utilities, Inc., and Movant CAC.

2. The Settlement Agreement was accepted and approved by the Commission in its Order dated March 31, 2008.

3. The Settlement Agreement provides that the Companies will contract with KACA to perform intake and audits for the WeCare program, a low income weatherization program that is part of the Companies' portfolio of energy efficiency and demand-side management programs.

4. The Settlement Agreement states that because KACA is required to perform intake for the U.S. Department of Energy Weatherization Program and the federal Low-Income

Home Energy Assistance Program, KACA has access to certain information concerning applicants for the WeCare program not in the Companies' possession. Further, it states that KACA performing intake for WeCare will achieve efficiencies and avoid duplication.

5. The Settlement Agreement states that KACA, a network of community action agencies as operators of the Energy Weatherization Program, currently perform home energy audits using an industry-recognized and approved tool, the National Energy Audit Tool. The Settlement Agreement further states that in order to eliminate redundant audits and to avoid wasteful duplication if the Energy Weatherization Program and the WeCare programs continued to perform separate audits, the Companies will contract with KACA to perform the audits necessary for the WeCare program. The intake and audits, as well as an energy education component constitute Phase I of the DSM plan.

6. The Settlement Agreement provides that the Companies will conduct a reasonable Request for Proposals process to choose the weatherization vendor, which is part of Phase II of the DSM plan.

7. After KACA (now Community Action Kentucky, Inc) determined that it would not assume implementation of Phase I of the Companies' DSM plan, on January 21, 2009, CAC met with representatives of the Companies and expressed its willingness to assume Phase I of the DSM plan.

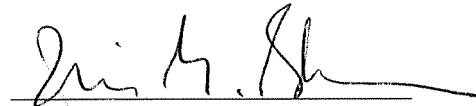
8. After receiving no prompt response from the Companies, Jack Burch, Executive Director of CAC sent a letter to Cheryl Bruner, Director of Customer Energy Efficiency for E.On U.S. again expressing CAC's interest in assuming the implementation of Phase I of the DSM plan. Jack Burch's letter is attached as Exhibit 1.

9. On June 18, 2009, Cheryl Bruner responded to Jack Burch's letter stating that the Companies would not contract with CAC for Phase I. Cheryl Bruner's letter is attached as Exhibit 2.

10. CAC believes that this decision by the Companies violates the spirit and intent of the Settlement Agreement. Moreover, CAC believes that the decision is unreasonable in light of the relationship between CAC and KACA when the agreement was signed, and the capabilities and vast experience of CAC in this area.

WHEREFORE, CAC requests that the Commission hold an informal conference to review implementation of the Settlement Agreement in this matter.

Respectfully submitted,



IRIS G. SKIDMORE  
415 W. Main St., Suite 2  
Frankfort, KY 40601  
Telephone: (502)-352-2930  
Facsimile: (502)-352-2931

COUNSEL FOR CAC

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1900 Lexington Financial Center  
250 West Main Street  
Lexington, KY 40507

  
Counsel for CAC



May 5, 2009

Cheryl Bruner  
Director of Customer Energy Efficiency  
E.On U.S.  
220 West Main Street  
Louisville, KY 40202

Dear Ms. Bruner,

Thank you for the opportunity to propose how Community Action Council would operate Phase I of the Company's Demand Side Management program, WeCare. As you know, Community Action Council and the Company have worked closely on this and other programs, including WinterCare Energy Fund and the Kentucky Utilities Home Energy Assistance Program.

As regards Community Action Kentucky's recent decision to not assure the implementation of Phase I in accordance with the settlement, Community Action Council proposes to operate Phase I of WeCare including participant intake and eligibility determination, energy audits, and energy education. The Council agrees to perform all Phase I functions as described in the settlement signed by all parties and agreed by the Public Service Commission.

In order to operate these portions of the program, the Council will pursue a series of options. First, the Council will provide all Phase I services itself in Lexington-Fayette, Bourbon, Harrison and Nicholas counties. The Council operates nine neighborhood and community centers in those four counties and, as you already know, successfully operates a number of programs there including the Low-Income Home Energy Assistance Program, federal Weatherization program and various additional housing, child development, safety net and family development programs.

For the remaining counties, we propose to pursue the following actions: 1.) We will offer to subcontract with the local community action agency in all counties of the Kentucky Utilities and Louisville Gas & Electric service territories. 2.) In the event a community action agency declines to participate, we will recruit other well qualified organizations with an established record of local service delivery to subcontract the local provision of Phase I services. 3.) Finally, in the event a suitable organization cannot be found in a county, the Council will hire and train appropriate staff to directly operate Phase I of WeCare in that county. These options were also available to Community Action Kentucky, however, neither the Council or Community Action Kentucky have the authority to compel a community action agency to participate in this or any other program service. Additionally, while we submit the third option as an assurance to the company, we believe it is unlikely that there is not a competent, capable provider in every county in the Company's two distribution areas.





Page 2  
Ms. Cheryl Bruner  
May 5, 2009

The Council's proposal to operate WeCare directly and through subcontractors is not without precedent even among E-On U.S. programs. In 1983 Kentucky Utilities and the Council jointly founded the WinterCare Energy Fund which provides emergency energy assistance in 119 of 120 Kentucky Counties. WinterCare is operated directly by the Council which subcontracts with community action agencies across the state to perform intakes and assistance payments for the program. A similar structure is in place throughout the Kentucky Utilities service territory for the KU Home Energy Assistance Program. The Council contracts with Community Action Kentucky (official sponsor of the HEA program) to perform all program administration requirements. The Council then subcontracts with other community action agencies throughout the KU service territory to perform local program intakes and operations using the Council's Web based Intake Referral and Information System. Finally, the Council operates similarly structured multi-county programs through the Migrant Head Start program, Columbia Gas Energy Assistance Program, Kentucky American Water H2O Program and others.

I hope this proposal adequately outlines our capabilities and plans to operate Phase I of WeCare as well as our deep experience in operating statewide and regional programming in partnership with other community action agencies. We are available to discuss further any element of this proposal or answer any questions or provide any needed information about our plans or capacity. If you have any questions or would like to continue our conversation, please don't hesitate to contact me or Charlie Lanter, Manager, Program Development, at (859) 244-2211 or [charles.lanter@commaction.org](mailto:charles.lanter@commaction.org).

Sincerely,



Jack Burch, CCAP  
Executive Director  
(859) 233-4600  
[jack.burch@commaction.org](mailto:jack.burch@commaction.org)

JEB:cdl

xc: Jim Christian, Manager, Housing Services



Energy Efficiency Department  
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Cheryl E. Bruner  
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**Via E-mail and U.S. Mail**

Mr. Jack Burch  
Executive Director  
Community Action Council  
710 W High Street  
Lexington, KY 40507

June 18, 2009

RE: Louisville Gas and Electric Company and Kentucky Utilities Company  
Administration of Residential Low Income Weatherization Program

Dear Jack:

This letter is in response to the recent proposal Community Action Council ("CAC") provided related to the LG&E/KU ("the Companies") WeCare low-income weatherization program. To recap, following the KPSC's approval of the Companies' Demand Side Management program in 2008, the Companies issued a Request for Proposal for the weatherization services of the WeCare program (known as "Phase 2"). The Companies also engaged in negotiations with Community Action of Kentucky ("CAK") in accordance with the settlement between them to contract for the performance of intake and audit portion of the WeCare program (known as "Phase 1"). CAK indicated it would not sign a contract before the Companies decided which bidder would be awarded the Phase 2 work, for which CAK was a bidder. CAK also expressed numerous concerns with the reporting requirements the Companies requested, safety and drug-testing requirements, contractor identification procedures and the three-tier structure of the WeCare program.

Along the way, CAK and CAC retained separate legal counsel as their interests in the WeCare program diverged. The Companies and their legal counsel met separately with CAK and its counsel, and then CAC and its counsel to understand the concerns about the Phase 1 proposed contract and Phase 2 pending decision.

After those meetings and follow up discussions, the Companies chose the incumbent business partner (Honeywell) to perform the Phase 2 portion of the WeCare program. This decision was communicated to both CAK and CAC in a meeting on April 9, 2009. During that meeting, the CAK Executive Director indicated CAK would likely no longer be interested in contracting with the Companies to perform the Phase 1 work. CAC indicated it would be interested in performing the Phase 1 work in place of CAK.

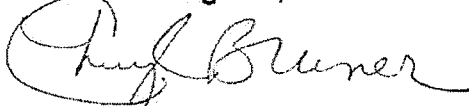
In early May, CAC provided a letter proposing how it would handle the Phase 1 portion of the program if given the opportunity to do so. Also in May, CAK Executive Director sent the Companies an email confirming CAK's decision not to become the contractor for the Phase 1 portion of the program.

After due consideration, the Companies have decided the low-income customers served through this program can be best served in the Phase 1 intake and audit process by our current business partner. While coordination of efforts to achieve efficiencies and avoid duplication were reasons stated by CAK and CAC for wanting to perform the intake and audit portion of the WeCare program, CAC's indication that it will not work with the Companies' business partner negates those efficiencies and would result in low-income customers receiving either WeCare benefits or federal WAP weatherization benefits, but not both.

It is unfortunate Community Action of Kentucky withdrew from the contracting process agreed to in the settlement. Given that, however, the Companies have determined it is appropriate to continue with our current business partner.

Although LG&E/KU has selected a different vendor in this instance, there may be opportunities for us to seek to work collaboratively in the future for the benefit of our customers. The Clean Energy Corps project is one such opportunity. Today, more than ever, is a critical time for Kentuckians to increase awareness and to become more educated about the urgent need for energy efficiency and the efforts to improve the building envelope of our homes and our habits within the home. LG&E/KU and CAC, as well as many other agencies and companies, are working hard to further those goals throughout Kentucky. With the leadership of our Governor in the Clean Energy Corps, the commitment of our state's community action agencies and utilities, and the need to prepare workers across the state for "green collar" jobs, I am certain our collective efforts in these various weatherization programs will yield much value for the citizens of Kentucky.

With kind regards,



Cheryl Bruner