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

ORDER

On January 17, 2014, Louisville Gas and Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (collectively the "Companies") filed a joint application ("Application") pursuant to KRS 278.285 requesting approval of their proposed 2015-2018 Demand-Side Management ("DSM") and Energy Efficiency ("EE") Program Plan ("DSM/EE Program Plan") and proposed DSM tariffs to permit recovery of the costs associated with the Program Plan through their proposed DSM rates. The Companies are requesting an additional $33 million of incremental DSM/EE expenditures for years 2015-2018.[1] The Companies met three times, on December 12, 2012,[2] June 26, 2013,[3] and October 29, 2013,[4] with the EE Advisory Group to present their proposed DSM/EE Program Plan and to receive feedback.[5]

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[1] Response of LG&E and KU to Commission Staff's First Request for Information ("Staff's First Request"), Item 2, dated Mar. 3, 2014.

[2] Application, Direct Testimony of Michael E. Hornung ("Hornung Testimony"), Appendix D.

[3] *Id.*, Appendix E.

[4] *Id.*, Exhibit F.

[5] *Id.*, pp. 7-9.

The Companies are requesting that the Commission issue a final order in this proceeding by November 17, 2014, with the Companies' revised tariff sheets to be effective for service rendered on and after January 1, 2015. On January 30, 2014, the Commission issued an Order establishing a procedural schedule and suspending the proposed DSM rates from February 16, 2014, up to and including July 15, 2014. The following sought and were granted full intervention: the Attorney General of the Commonwealth of Kentucky, through his Office of Rate Intervention ("AG"); the Association of Community Ministries, Inc. ("ACM"); the Community Action Council for Lexington-Fayette, Bourbon, Harrison and Nicholas Counties, Inc. ("CAC"); the Kentucky Industrial Utility Customers, Inc. ("KIUC");[6] Metropolitan Housing Coalition ("MHC"); Wallace McMullen and Sierra Club (collectively "Sierra Club"); and Wal-Mart Stores East, LP and Sam's East, Inc. (collectively "Walmart").

The procedural schedule allowed for intervenor testimony and discovery to the Companies and intervenors, and also provided for requests for an evidentiary hearing. The Companies responded to two rounds of discovery from the AG, ACM, and Sierra Club, and three rounds of discovery from Commission Staff. ACM, MHC, Sierra Club, and Walmart filed testimony, but were not subject to any requests for information.

At the request of the Companies, an Informal Conference was held on June 30, 2014. An evidentiary hearing was held on September 3, 2014. The Companies filed responses to post-hearing requests for information on September 12, 2014, and post-

[6] The LG&E and KU customers who are members of KIUC and who are participating customers are AAK, USA K2, LLC, Carbide Industries LLC, Cemex, Clopay Plastic Products Company, Corning Incorporated, Dow Corning Corporation, E.I. du Pont de Nemours and Company, Ford Motor Company, Lexmark International, Inc., MeadWestvaco, NewPage Corp., North American Stainless, Schneider Electric USA and Toyota Motor Manufacturing Kentucky, Inc.

hearing briefs were filed by the parties on September 30, 2014. The matter now stands submitted for decision.

COMPANIES' DSM PORTFOLIO

The Companies propose that certain programs that were approved in Case No. 2007-00319[7] through 2014 be allowed to expire because they will reach the end of their approval cycle and useful life by the end of 2014.[8] The programs are:

1. Residential High Efficiency Lighting – This program promotes an increased use of Energy Star-rated compact fluorescent light ("CFL") bulbs within the residential customer sector. The Companies use this program to increase customer awareness of the environmental and financial benefits of CFLs. The program distributes the CFLs through direct mail.

2. Residential New Construction – This program is designed to reduce residential energy usage and facilitate market transformation by creating a shift in builders' new home construction to include energy-efficient construction practices. Builders who are part of the program can take advantage of technical training classes, gain additional exposure to potential customers, and receive incentives to help offset costs when including more energy-efficient features during home construction. The Companies reimburse the cost of plan reviews and inspection costs related to an Energy Star or Home Energy Rating System ("HERS") home certification.

3. Residential and Commercial HVAC Diagnostic and Tune-up Program – The objective of this program is to reduce peak demand and energy use by conducting

[7] Case No. 2007-00319, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company Demand-Side Management for the Review, Modification, and Continuation of Energy Efficiency Programs and DSM Cost Recovery Mechanisms (Ky. PSC Mar. 31, 2008).

[8] Application, Hornung Testimony, p. 10, lines10-11.

a diagnostic performance check on residential and small commercial unitary air conditioning and heat pump units, air-restricted indoor and outdoor coils, and over- and under-refrigerant charge. The program targets customers that likely have heating, ventilation, and air conditioning ("HVAC") system performance issues. There are no incentives paid directly to customers. Customers are charged a discounted fixed fee for the diagnosis and, if needed, a similar fee for implementation of corrective actions. The program pays the portion of diagnostic and tune-up cost in excess of the fixed charge.

4. Dealer Referral Network – This program provides a web-based Dealer Referral Network designed to deliver the following services to program constituents:

- Assisting customers in finding qualified and reliable personnel to install energy-efficiency improvements recommended and/or subsidized by the various EE programs;
- Identifying energy-related subcontractors for contractors seeking to build energy-efficient homes or improve EE of existing homes; and
- Fulfillment of incentives and rebates.

The Companies propose that the following programs remain unchanged and continue at their currently approved funding levels and duration (through 2018). Through ongoing and comprehensive analysis, the Companies will determine whether to pursue these programs further in a later DSM expansion filing or discontinue the programs in 2018. The program performance of each of these programs indicates no program change is necessary at this time.[9]

[9] *Id.*, Hornung Testimony, Exhibit MEH-1, pp. 44-45.

1. Smart Energy Profile Program – This program provides a portion of the highest-consuming residential customers with a customized report containing tips, tools and EE programming recommendations based on individual household energy consumption. These reports are benchmarked against similar properties in the same locality. The report includes a comparison of the customer's energy usage to that of similar houses (collectively) and a comparison to the customer's own energy usage in the prior year. The report is designed to help customers understand and make better-informed choices relating to energy usage and associated costs.

2. Residential Load Management/Demand Conservation Program – This program employs switches in homes to help reduce the demand for electricity during peak times. The program is designed so the Companies can communicate with the switches to cycle central air conditioning units, heat pumps, electric water heaters, and pool pumps off and on through a predetermined sequence.

3. Residential Refrigerator Removal Program – This program provides removal and recycling of working, inefficient secondary refrigerators and freezers from customer households. Customers participating in this program are provided a one-time incentive.

4. Residential Low Income Weatherization Program ("WeCare") – The WeCare program is an education and weatherization program designed to reduce energy consumption of low-income customers. The program provides energy audits, energy education, blower-door tests, and installation of weatherization and energy-conservation measures. Qualified customers receive energy-conservation measures

ranging from $0 to $2,100, based upon the customer's most recent 12-month energy usage and the results of an energy audit.

5. Program Development and Administration – This program was established to capture costs incurred in the development and administration of EE programs in which it is difficult to assign costs specifically to an individual program. The function of the program includes, but is not limited to: new program concept and initial design; market research related to new programming; research and technical evaluation of new technologies and programs; overall program tracking and management; development of key personnel; and membership in associated trade organizations.

The Companies propose that the following programs be continued and enhanced through 2018, with the cost of enhancements included in the requested $33 million of additional funding:[10]

1. Commercial Load Management/Demand Conservation Program – This program employs switches or interfaces to customer equipment in small and large commercial businesses to help reduce the demand for electricity during peak times. The program communicates with the switches or interfaces to cycle equipment.

The Companies are proposing to enhance this program by placing more focus on the large commercial aspect of the program. The small commercial program has been available since 2001 and has produced approximately 4 megawatts ("MW") of demand reduction. The large commercial program has provided 10 MW of demand reduction in two years of operation. Due to its success, more focus is proposed to be placed on the

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[10] *Id.*, Response of LG&E and KU to Staff's First Request, Item 2, dated Mar. 3, 2014.

large commercial program, with an additional $5.7 million[11] in capital, operation and maintenance funding for 2015-2018. The small commercial program is proposed to remain unchanged, with currently enrolled customers still eligible for incentives and eligible customers still able to enroll.[12]

2. Residential Incentives Program – The Residential Incentives Program encourages customers to purchase and install various Energy Star appliances, HVAC equipment, or window films that meet certain requirements, qualifying customers for an incentive.

The program has experienced success since its inception due to its simple design and variety of appliances rebated. As such, through November 2013, the Companies have surpassed their anticipated rebated appliances by 125 percent and their forecasted financial spend by 107 percent. To address the exceedingly high customer participation and prevent early program termination, the Companies seek approval for increased incentive dollars available to customers to fund the program through 2018 consistent with the original filing for this program.[13] The Companies are proposing an additional $5.7 million[14] in funding.

3. Customer Education and Public Information Program – This program is designed to help customers make sound energy-use decisions, increase control over energy bills, and empower them to actively manage their energy usage. The Customer

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[11] *Id.*, Hornung Testimony, Exhibit MEH-1, p. 23.

[12] Response of LG&E and KU to the Attorney General Initial Data Requests ("AG's Initial Request"), Item 16, dated Mar. 3, 2014.

[13] Application, Hornung Testimony, Exhibit MEH-1, p. 25.

[14] *Id.*, Hornung Testimony, Exhibit MEH-1, p. 28.

Education and Public Information program is implemented through a mass media campaign and an elementary and middle school program. The mass media campaign includes public service advertisements that encourage customers to implement steps to reduce their energy usage. The elementary and middle school program provides professional development and innovative materials to teach concepts such as basic energy and energy-efficiency concepts.

The Companies propose the following enhancements to this program: (1) continuing funds that will allow for further outreach to the current residential and commercial segments through mass media outlets and "future customer" education efforts through school-based programming; (2) adding training opportunities for home construction professionals; and (3) extending the program through 2018[15] with proposed funding of $16.6 million.[16]

The Companies propose to continue the following programs through 2018 with enhancements; however, the enhancements involve no increase in expenditures.

1. Commercial Conservation/Commercial Incentives Program – This program is designed to increase the implementation of EE measures by providing financial incentives to assist with the replacement of aging and less efficient equipment and for new construction built beyond code requirements. The program also offers an online tool providing recommendations for EE improvements. Incentives available to all commercial customers are based upon a $100 per kilowatt ("kW") removed for calculated efficiency improvements. A prescriptive list provides customers with

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[15] *Id.*, Hornung Testimony, p. 21.

[16] *Id.*, Hornung Testimony, Exhibit MEH-1, p. 37.

incentive values for various efficiency-improvement projects. Additionally, a custom rebate is available based upon company engineering validation of sustainable kW removed. New construction rebates are available on savings over code plus bonus rebates for Leadership in Energy & Environmental Design ("LEED") certification. The maximum annual incentive per facility is $50,000. Customers can receive multiyear incentives in a single year when such multiyear incentives do not exceed the aggregate of $100,000 per facility and no incentive was provided in the immediately preceding year. The program is applicable for combined prescriptive, custom and new construction rebates.

The Companies are requesting to eliminate on-site commercial audits from this program. The Companies propose to provide a rebate to commercial customers who have an independent third-party on-site commercial audit performed and verify that they have implemented the recommended energy-saving measures from the audit. The Companies are also proposing an online tool for their Business Service Centers and commercial customer segment to provide recommendations for EE improvements. This will allow the Companies to provide EE programming to these customers and further support customer goals. The intent is to encourage new construction efforts to implement design options for efficient construction that is above building code that will further increase energy savings.[17]

2. Residential Conservation/Home Energy Performance – This program provides a comprehensive on-site audit from a certified auditor. For a fee of $25, residential customers receive incentives to support the implementation of energy-saving

[17] *Id.*, pp. 30-31.

measures. Customers are eligible for incentives ranging from $150 to $1,000, based on EE measures that are purchased and installed and validated through a follow-up test.

The Companies are proposing to enhance this program with a multi-family property incentive tier in order to capture energy saving in a multi-family environment. The proposed insulation and weatherization tier is targeted to implementation of insulation and weatherization measures identified in the completed on-site audit reports. The proposed participation goals are unchanged and there are no energy or demand reductions expected.

ADVANCED METERING SYSTEMS

The Companies are proposing a new voluntary Advanced Metering Systems ("AMS") program. The offering is limited to 5,000 LG&E and 5,000 KU residential and general service customers on a first-come-first-served basis, and will include a website-portal to display consumption data to customers.[18] The Companies state that the primary purpose for proposing the AMS is to put in place the communications and control infrastructure necessary for possible future advanced-meter deployments, as well as to provide participating customers more detailed information about their consumption.[19] The Companies state that their proposal is consistent with KRS 278.285(1)(h), which includes among the factors to be considered when the Commission undertakes a review of a utility's proposed DSM-EE plan, "[n]ext-generation residential utility meters that can provide residents with amount of current utility usage, its cost, and can be capable of being read by the utility either remotely or

[18] *Id.*, Hornung Testimony, Exhibit MEH-1, p. 47.

[19] Application, Direct Testimony of David E. Huff ("Huff Testimony"), p. 5, lines 13-16.

from the exterior of the home." The Companies indicate that the advanced meters they would deploy as part of the proposed AMS meet these requirements.[20] Through the AMS, the Companies would remotely read participating customers' meters and provide the customers with hourly energy usage data using a website portal, according to the Companies, with a customer's data available on the website within 48 hours of collection.[21] The Companies state that the benefits are unknown, and will depend on what customers do with the enhanced consumption information from the advanced meters and the associated portal.[22]

The Companies state that no lost sales from demand or energy have been included for AMS in this filing because energy savings are unclear at this time, but they may include lost sales in future DSM cases as they gain more experience and data from AMS. The Companies did not conduct the total resource cost test ("TRC") or any other benefit-cost metrics for the AMS, and did not include the expense of this program in the California benefit-cost metrics for their proposed DSM-EE portfolio because the benefits from these meters are uncertain.[23] The proposed costs of the AMS are $5.7 million for 2015-2018,[24] which includes $3.8 million in capital costs and $1.9 million for operation and maintenance costs.

The Companies indicated that they have been engaged with the Commission and various stakeholders since 2007 in considering the potential benefits and costs of

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[20] *Id.*, Huff Testimony, lines 17-23.

[21] *Id.*, Huff Testimony, p. 6, lines 1-4.

[22] *Id.*, Hornung Testimony, Exhibit MEH-1, p. 49.

[23] *Id.*

[24] *Id.*, Huff Testimony, p. 6, line 14.

Advanced Metering Infrastructure ("AMI") or smart-meter deployment and related service offerings. LG&E stated that it conducted a Responsive Pricing Program and Smart Meter Pilot from 2008-2011 to test certain smart meters and pricing alternatives in a geographically targeted area. The study tested the functionality of equipment available at that time and provided findings regarding customer engagement with rate and enabling technology options. The findings were presented to the Commission in a final report in July 2011.[25] Subsequently, LG&E requested cancelation of the program, citing equipment obsolescence, termination of the vendor providing hosting service, and increasing costs for a decreasing number of participants. In approving the cancellation, the Commission's Order encouraged ongoing study into the efficacy and potential costs and benefits of further smart-meter deployment and dynamic pricing.

According to the Companies, investing in AMS now is more economical than in the past due to the decline in advanced-meter costs in recent years. The *Smart Meter Study* conducted by DNV KEMA for the Companies (attached to the Huff Testimony, Exhibit DEH-1) suggests that these costs have now decreased sufficiently to consider targeted advanced-meter deployment. While full deployment remains uneconomical, the Companies believe that the cost decrease indicates that they should again explore this technology through voluntary customer participation for a limited number of customers.[26]

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[25] *Id.*, Huff Testimony, Exhibit DEH-2.

[26] *Id.*, Hornung Testimony, Exhibit MEH-1, pp. 47-48.

DSM/EE PROGRAM COST-EFFECTIVENESS AND ENERGY SAVINGS

The Companies stated that in determining the DSM/EE they propose to extend or implement, they used the industry-standard cost-benefit tests set out in the California Standard Practice Manual ("California tests") as required by the Commission. The results of the California tests performed on the Companies' proposed DSM/EE portfolio are provided and described on page 12 of the Direct Testimony of Michael E. Hornung. The Companies conclude that the proposed DSM/EE portfolio, taken as a whole and excluding the proposed AMS program as discussed earlier, passes the Participant, Utility Cost, and Total Resources Cost Tests.[27] The Companies project that the effect of all of their past and current DSM/EE programs, as well as those in the Proposed DSM/EE Program Plan, will create a cumulative demand reduction of 500 MW and cumulative energy and gas savings of 1.6 million MWh and nearly 13.4 million ccf by 2018.[28]

DSM PROGRAM REVIEW

The Companies, in response to the Commission's Order in Case No. 2011-00375,[29] contracted The Cadmus Group, Inc. ("Cadmus") to conduct a DSM Program Review[30] ("Review") of the technical and economic potential and the achievable potential of the residential and commercial sectors of the Companies' DSM/EE portfolio.

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[27] *Id.*, Hornung Testimony, p. 12.

[28] *Id.*, Hornung Testimony pp. 12-13.

[29] Case No. 2011-00375, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and Site Compatibility Certificate for the Construction of a Combined Cycle Combustion Turbine at the Cane Run Generating Station and the Purchase of Existing Simple Cycle Combustion Turbine Facilities from Bluegrass Generation Company, LLC in LaGrange, Kentucky (Ky. PSC May 3, 2012).

[30] *Id.*, Hornung Testimony, Exhibit MEH-2.

The objective of the Review was to provide options for consideration to improve program efficiency, support program expansion, or capture higher energy savings.[31] Many of the Companies' proposals regarding program expiration or enhancements resulted from the recommendations contained in the Cadmus Review.

ENERGY EFFICIENCY POTENTIAL STUDY

The Companies provided an Energy Efficiency Potential Study[32] ("Potential Study") which was also prepared by Cadmus. The scope of the Potential Study separately assessed technical and economic potential for electricity and natural gas EE in the residential and commercial sectors. The Potential Study did not include any EE potential study of the industrial sector. Within each utility's sector-level assessment, the Potential Study further distinguished among market segments or business types, vintage, and applicable end uses within each. The study included six residential segments (existing and new construction for single-family, multi-family, and manufactured homes) and 22 commercial segments (11 building types within existing and new construction).

Cadmus first assessed the technical potential for 252 unique electric and 113 unique gas energy efficiency measures[33] representing a comprehensive set of electric and natural gas energy-efficiency measures applicable to local climate and customer characteristics. The Potential Study results indicate 5,390 gigawatt hours ("GWh") of technically feasible electric EE potential savings by 2033, the end of the 20-year

[31] *Id.*, Hornung Testimony, p. 7, lines 17-19.

[32] *Id.*, Hornung Testimony, Exhibit MEH-3, Volumes I-II.

[33] *Id.*, Hornung Testimony, Exhibit MEH-3, Table 25, p. 31.

planning horizon, with approximately 2,527 GWh of these resources proving cost-effective. The identified economic potential amounts to 10 percent of forecast load in 2033.[34] The Potential Study results indicate over 96 million therms of technically feasible, natural gas EE potential by 2033. The identified economic potential of 47 million therms amounts to 16 percent of forecast load in 2033.[35]

SUMMARY OF THE COMPANIES' POSITION

The proposed 2015 DSM/EE Plan expenditures, including capital costs for the AMS, are $41.636 million.[36] The proposed monthly rate impacts from the proposed modifications to the DSM programs are incremental increases in the amount of $0.29 per month for residential electric customers of both LG&E and KU, and $0.22 per month for LG&E's residential gas customers.[37]

The Companies propose to continue to use the DSM Capital Cost Recovery component to recover and earn a return on the capital deployed through DSM/EE programs, including continuing to use the return on equity the Commission approved in Case No. 2011-00134.[38] The Companies' Proposed DSM/EE Program Plan includes two programs with capital components, the Residential and Commercial Load Management/Demand Conservation Program and the proposed AMS.[39] The

[34] *Id.*, Hornung Testimony, Exhibit MEH-3, p. 32.

[35] *Id.*

[36] Response to Staff's First Request, Item 2, dated Mar. 3, 2014.

[37] Application, p. 12, paragraphs 26-27.

[38] Case No. 2011-00134, 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 (Ky. PSC Nov. 9, 2011).

[39] Application, Direct Testimony of Robert M. Conroy, p. 5, lines 6-11.

Companies' current DSM return on equity ("ROE") is 10.5 percent. In their last general rate proceedings, the Commission awarded an ROE of 10.25 percent to both companies.[40] When questioned by both Commission Staff[41] and the AG[42] regarding the reasonableness of the Companies' requested 10.5 percent ROE, their responses referenced KRS 278.285(1)(c), which states that a factor to be considered when reviewing a utility's DSM plan is "[a] utility's proposal to recover in rates the full costs of demand-side management programs, any net revenues lost due to reduced sales resulting from demand-side management programs, and incentives designed to provide positive financial rewards to a utility to encourage implementation of cost-effective demand-side management programs," and KRS 278.265(2)(b), which provides that the Commission may approve DSM programs that include "incentives designed to provide financial rewards to the utility for implementing cost-effective demand-side management programs."

The Companies state in their post-hearing brief that the Commission should approve the Companies' Application as filed in this proceeding. The Companies assert that no party has contested, with the possible exception of the AMS customer offering, that the proposed DSM/EE portfolio is economical and should be approved. The Companies point out that the Sierra Club argues that the proposed programs are even

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[40] Case No. 2012-00221, Application of Kentucky Utilities Company for an Adjustment of its Electric Rates (Ky. PSC Dec. 20, 2012), and Case No. 2012-00222, 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 (Ky. PSC Dec. 20, 2012).

[41] Response of LG&E and KU to Commission Staff's Second Request for Information ("Staff's Second Request"), Item 2, dated Apr. 3, 2014.

[42] Response of LG&E and KU to AG's Initial Requests, Item 13, dated Mar. 3, 2014.

more economical than the Companies have reported. Concerning the AMS customer offering, the Companies state that KRS 278.285(1)(h) provides special consideration for such offerings independent of cost-benefit considerations, and that the Commission has indicated a special preference for such offerings by requiring LG&E to make a proposal such as the AMS customer offering. In addition, the Companies claim that they have provided evidence that the AMS offering may provide benefits to customers beyond the informational benefits customers and the Companies will receive. The Companies aver that the Commission can therefore approve the entirety of the Companies' proposed DSM/EE portfolio—including AMS—with full confidence that its approval is in accord with KRS 278.285 and provides benefits to customers.

The Companies state that the Commission should also grant the requested continuation of the existing 10.5 percent Commission-approved ROE for equity capital invested in DSM/EE programs, claiming that it is precisely the kind of "positive financial reward" explicitly provided for in KRS 278.285(1)(c) and (2)(b). The Companies assert that the ROE is the only reward the Companies will receive for the two programs with capital components. Since the Companies have not requested any incentive related to the operation and maintenance costs associated with capital projects, the ROE is the only incentive the Companies will receive for such programs.[43] The Companies claim that denial of their requested ROE would be contrary to the General Assembly's clear directive to provide utilities "positive financial rewards" for DSM/EE.

The Companies, in their Post-Hearing Brief, conclude that the Application demonstrates the Companies' willingness to take early advantage of opportunities to

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[43] Post-Hearing Brief of LG&E and KU ("Companies' Post-Hearing Brief"), filed Sep. 30, 2014, pp. 1-3.

improve their DSM/EE portfolio. The Companies stated that they developed the proposed DSM/EE portfolio – and have developed all of their DSM/EE portfolios – with input from their EE Advisory Group, which includes several of the intervenors. The Companies argue that their proposed DSM/EE portfolio is solidly economical, worthy of the incentives provided by statute, beneficial to customers, and recommend that the Commission approve it as filed.[44]

INTERVENORS' POSITIONS

The AG did not file testimony, but did file a post-hearing brief which contained his recommendation that the Commission approve the programs proposed in the Companies' DSM/EE Application, with the exception of the AMS proposal. As an alternative to rejecting the AMS proposal, the AG recommends that the Commission hold in abeyance any decision on approval of the AMS pending resolution of Case No. 2012-00428.[45] In that case, the Commission is studying the issue of smart meters, *inter alia*, from the global perspective, including the Companies' prior deployment of smart meters. The AG states that he does not oppose the economical and cost-effective investment in and use of smart technologies, but he reserves his position subject to a case-by-case review. In the instant case, the AG believes the Companies have failed to demonstrate that the investment is economical and cost-effective, and that the costs of the proposed AMS program should therefore not be recovered under the DSM surcharge.[46]

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[44] *Id.*

[45] Case No. 2012-00428, Consideration of the Implementation of Smart Grid and Smart Meter Technologies, Initiating Order (Ky. PSC Oct. 1, 2012).

[46] AG's Post-Hearing Brief, pp. 6-7, filed Sep. 30, 2014.

ACM's testimony emphasized the importance of affordable energy efficiency opportunities for low-income customers, including tenants, and encouraged LG&E to aggressively market the Residential Conservation/Home Energy Performance Program to owners of multi-family properties that rent to low-income customers. ACM expressed concern as to the level of participation in high-poverty ZIP codes. ACM also expressed concern regarding the proposed AMS program as to the uncertainty of energy savings, its relevance to low-income customers, and the possibility of future remote disconnection of low income-customers who are struggling with payment of their energy bills.

ACM's post-hearing brief recommended that the Commission approve the proposed enhancements to the Residential Conservation/Home Energy Performance Program subject to certain reporting requirements. ACM recommended that the Companies track and report on efforts to market the program so as to maximally benefit low-income customers, including tracking indicators of participation by low-income populations. ACM further stated that approval of the proposed additional funding for the Residential Incentives Program should be conditioned on the requirement that the Companies work to devise ways to increase low-income participation and to track their progress. ACM recommended denial of the Companies' proposed AMS program.[47]

KIUC did not file testimony, but did file a post-hearing brief requesting that the Commission approve the Companies' DSM plan without requiring that the Companies

[47] Post-Hearing Brief of ACM, filed Sep. 30, 2014, pp. 2 and 14.

begin offering DSM programs to industrial customers during the plan period, as urged by several intervenors in this case.[48] KIUC stated:

> Given the strong incentives for Kentucky industrial customers to engage in energy efficiency efforts on their own, the evidence that those customers have undertaken and can continue to undertake such efforts, the unique position of industrial customers compared to residential and commercial customer classes, the potentially adverse consequences of utility-sponsored DSM programs on the competitiveness of industrial customers, as well as their legal right to opt out of any utility-sponsored DSM programs, it is reasonable that the Companies decided not to propose to establish DSM programs for industrial customers in this case. The Commission should uphold the Companies' decision.

MHC's testimony addressed affordability of energy bills and payment assistance. It also discussed the energy efficient rehabilitation of and the use of DSM programs for providing affordable shelter to low-income households. It is MHC's position that DSM funds expended in low-income neighborhoods should be proportional to the funds that are collected in those neighborhoods.

MHC's post-hearing brief recommended that the Commission find that Companies' application falls short of being "reasonable" with respect to: (1) the failure to propose and implement DSM/EE programs for industrial customers; (2) the failure to demonstrate the cost-effectiveness of the proposed "next generation" or AMS proposal; and (3) the lack of emphasis on investment in programs that are tailored to low- and fixed-income renters and homeowners relative to the contribution from low- and fixed-income ratepayers to DSM/EE funding. MHC recommended that the proposed DSM/EE Plan be approved, excluding the AMS proposal, only on condition that:

[48] Post-Hearing Brief of KIUC, filed Sep. 30, 2014, pp. 8-9.

> (1) LGE/KU be directed to broaden the scope of the Potential Study to include an assessment of utility-sponsored DSM/EE program options that could be developed for industrial customers; and
> (2) LGE/KU be directed to evaluate and report to the Commission on whether the DSM/EE programs are adequately serving low-income customers in neighborhoods that contain the oldest, least energy efficient homes and the highest percentage of minority population; and the relationship of DSM program cost recovery from low- and fixed-income residents to the distribution of benefits of the various programs for low- and fixed-income homeowners and renters.[49]

The Sierra Club's testimony stated that the Companies' existing DSM/EE programs are highly cost-effective and provide significant benefits to customers, but expressed concern that the Companies were not seeking to extend some of their programs past 2014. The Sierra Club was also concerned that the Companies had not evaluated the opportunities available from industrial DSM/EE programs and recommended that they offer EE services to industrial customers during the 2015-2018 plan period. The Sierra Club further stated that the Companies' Energy Efficiency Potential study suffered from several significant limitations that result in underestimating the economic and achievable potential for efficiency savings. The Sierra Club also recommended that the Companies increase the budget of certain DSM/EE programs.

The Sierra Club's post-hearing brief requested that the Commission direct the Companies to cure what the Sierra Club referred to as deficiencies in their analyses going forward. Specifically, the Sierra Club recommended that the Commission should:

[49] "Corrected" Post-Hearing Brief of MHC, p. 2, filed Sep. 30, 2014.

- Direct the Companies to include in their cost-effectiveness analysis: (i) the avoided cost of complying with current and future state and/or federal environmental regulations, including carbon; and (ii) non-energy benefits.

- Direct the Companies to consider the potential for energy efficiency in the industrial sector and emerging technologies, and apply more reasonable approaches to estimate the achievable potential in future potential studies.

The Sierra Club further stated that the Commission should take the following action with respect to the Companies' proposed DSM/EE Plan to ensure that all components of the Plan as approved are reasonable pursuant to KRS § 275.285:

- Approve continuation of the Residential Load Management; Residential Refrigerator Removal; Smart Energy Profile; Residential Incentives; Customer Education & Public Information; and Residential Low Income Weatherization/WeCare programs.

- Approve the modified Residential Incentives and Customer Education programs.

- Approve the modified Residential Conservation and Commercial Load Management Program subject to program budgets increases so that:

  - The Residential Conservation Program can serve both multi-family and single-family residences; and

  - The Commercial Load Management Program can serve both large and small commercial customers.

- Reject the Companies' proposal to let the Residential High Efficiency Lighting and Residential New Construction programs expire.

- Direct the Companies to consider expanding the budget of the Residential Low Income Weatherization/WeCare Program.

- Direct the Companies to expand the Commercial Conservation program to provide tailored measures and services to industrial customers and analyze industrial efficiency for future DSM/EE plans.[50]

Walmart's testimony proposed that it not be subject to select North American Industry Classification System ("NAICS") codes,[51] stating that using select NAICS codes is arbitrary. Walmart argued that customers who reach a benchmark level of 15 million kWh per year should be able to elect whether to participate in the Companies' DSM programs and not be assessed the monthly commercial DSM surcharge. Walmart provided specific examples of its deployment of DSM/EE technology. It also stated that Walmart currently participates in approximately 12 utility or Independent System Operator ("ISO")/Regional Transmission Organization ("RTO") demand response programs nationwide.

Walmart's post-hearing brief recommended that the Commission revise the Companies' opt-out criteria to include large, energy intensive customers who invest in their own DSM/EE programs. Walmart proposed that a customer be able to aggregate its load through multiple meters with a 15 million-kWh collective annual usage threshold to establish opt-out eligibility for non-residential customers. In this way, according to Walmart, customers similarly situated with respect to rate schedule application, energy-intensive usage, and commitment to their own DSM/EE investment will be treated fairly.

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[50] Sierra Club's Post-Hearing Brief, filed Sep. 30, 2014, pp. 32-33.

[51] NAICS is one of the metrics used by which the Companies determine industrial status.

Further, this would ensure that customers like Walmart are effectively not paying twice for DSM/EE when such customers are providing system benefits "on their own dime."[52] Walmart states that this outcome would be consistent with the Commission's authority to ensure that the Companies' DSM/EE plan is reasonable and fair.

DISCUSSION

The Commission unanimously agrees with the Companies' proposed DSM/EE program portfolio for 2015-2018, except for the AMS program, which is approved by a two-to-one majority.[53] The majority believes that the Companies' AMS proposal is a good way to test this type of program on a limited scale as a pilot through a DSM program. The majority is not persuaded by certain arguments of the various intervenors opposing the AMS program. The majority is persuaded by the Companies' argument that KRS 278.285(1)(h) provides special consideration for such offerings independent of cost-benefit considerations. The majority notes that KRS 278.285(1) sets out the factors that the Commission may consider in determining the reasonableness of DSM/EE programs. The statute is permissive, not prescriptive. While the statute specifies certain factors to be considered, it expressly states that the "[f]actors to be considered in this determination [of reasonableness] include, but are not limited to" those enumerated in KRS 278.285(1). Thus the Commission may exercise its discretion in considering and weighing the factors enumerated in KRS 278.285(1), as well as any other relevant factors. The statute also does not restrict the Commission's consideration to the factors specified in the statute. In many of the states around the

[52] Post-Hearing Brief of Wal-Mart Stores East LP and Sam's East, Inc., p. 12.

[53] Vice Chairman James W. Gardner dissents on only this issue. His dissent is at the end of this Order.

country there are smart grid pilots and deployments,[54] and this voluntary pilot AMS program is another opportunity for Kentucky to participate in this effort. Customers benefit from smart meters because they have a level of information at their disposal that allows them to control their energy use and, therefore, exercise more control over their utility bills. Utilities, on the other hand, benefit from reduced field costs, improved revenue capture, improved system response, and expanded customer services.[55]

The Commission agrees with the Companies' requested continuation of the existing 10.5 percent Commission-approved ROE for equity capital invested in DSM/EE programs. None of the intervenors opposed this request.

ACM in its post-hearing brief recommended, aside from opposing the AMS program due to the uncertainty of the energy savings, that the Companies track and report on efforts to market the program so as to maximally benefit low-income customers, including tracking indicators of participation by low-income populations. ACM further stated that approval of the proposed additional funding for the Residential Incentives Program should be conditioned on the requirement that the Companies work to devise ways to increase low-income participation and to track their progress. The Companies work and encourage the local community action agencies ("CAAs") to promote DSM/EE programs that are designed for low-income customers. It is through these CAAs that the Companies should continue to inform, educate, and promote those programs designed for low-income participants throughout the Companies' service territories.

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[54] Huff Testimony, Exhibit DEH-1, p. 24.

[55] *Id.*, p. 53.

The Sierra Club, in its testimony and post-hearing brief, made similar arguments to those made by the MHC as to broadening DSM/EE programs for low- and fixed-income customers, offering DSM/EE programs to industrial customers, and reflecting the avoided cost of complying with current and future state and/or federal environmental regulations, including the cost of carbon, and non-energy benefits into the cost-effectiveness analysis. The Sierra Club also opposed the ending of certain DSM/EE programs at the end of 2014. The Commission, as discussed supra, and with the exception of the AMS program, unanimously finds the Companies' proposed 2015-2018 DSM portfolio to be reasonable, which includes the ending of those programs at the end of 2014. The Commission believes that the Companies sufficiently encourage participation to low- and fixed-income customers, by working with the local CAAs. The Commission disagrees with including the cost of non-energy factors and benefits, since these are not yet fully known.

Walmart filed testimony and a post-hearing brief. Its argument was that it should not be subject to the select NAICS codes, and that customers who reach a benchmark level of 15 million kWh per year should be able to elect whether or not to participate in the Companies' DSM/EE programs and not be assessed a monthly commercial DSM charge. 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. We nonetheless believe that Walmart has raised a legitimate concern about how the Companies use the NAICS codes. During the next general rate case for the Companies, we will review the Companies' definition of industrial customers by NAICS codes for reasonableness.

LOW-INCOME DSM/EE PROGRAMS

The Commission appreciates the Companies' efforts in offering low-income programs for its customers. The record in this proceeding reflects the Companies' efforts to work with CAAs and other interested parties to encourage participation by low-income customers in programs such as the WeCare and Residential Conservation/ Home Energy Performance programs, which encourage EE and energy savings and aid in reducing the cost of customers' energy bills.

INDUSTRIAL DSM/EE PROGRAMS AND INDUSTRIAL "OPT OUT"

The Companies have approximately 3,345 industrial electric customers.[56] These Industrial customers make up approximately 30 percent of the Companies' load.[57] Of the industrial customers, approximately 800 use the same amount of energy as an average residential customer.[58] However, the Companies do not currently provide DSM/EE programs for their industrial customers and have no plans to make such offerings.[59]

KRS 278.285(3) allows "individual industrial customers with energy intensive processes" to opt out of industrial DSM/EE programs if they have adopted "cost-effective energy efficiency measures." The Companies assert that, based on this language in KRS 278.285(3), they are not obligated to provide a DSM/EE program for industrial customers, concluding that KRS 278.285(3) provides industrial customers a

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[56] Response of LG&E and KU to Sierra Club's Supplemental Requests for Information ("Sierra Club's Supplement Requests"), Item 7, dated Apr. 3, 2014.

[57] Response of LG&E and KU to Sierra Club's Initial Requests for Information ("Sierra Club's Initial Requests"), Item 17.b., dated Mar. 12, 2014.

[58] Sierra Club's Supplemental Request, Item 6, dated Apr. 3, 2014.

[59] Sierra Club's Initial Request, Item 17.c., dated Mar. 12, 2014.

categorical opt-out of DSM/EE programs and the ability to avoid participation in and the costs of those programs.[60] The Companies define industrial customers pursuant to certain sections of the NAICS.[61] The Companies do not have different classifications of industrial customers based upon usage, treating large industrial consumers as equal to smaller industrial customers that consume the same amount of energy as the average residential customer.[62] Different tariff rates may apply, however, based upon average usage.[63]

The Companies state that they have previously explored their industrial customers' interest in DSM/EE measures via a 2012 survey of 300 of their industrial customers. The survey results indicated that approximately 20 percent of the respondents saw no value in industrial DSM/EE measures, approximately 45 percent of the respondents would adopt a "wait and see" approach, and a minority "probably would" participate.[64] The Companies assert that they continue to communicate on an ongoing basis with their industrial customers and that the customers' responses support the decision to not offer DSM/EE programs to industrial customers.[65]

The Companies expressed concern that, because the industrial customer base is relatively small, if it offered industrial DSM/EE programs and the larger energy

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[60] Companies' Post-Hearing Brief, p. 21.

[61] LG&E's Tariff P.S.C. Electric No. 9, First Revision of Original Sheet No. 86, KU's Tariff P.S.C. No. 16, First Revision of Original Sheet No. 86.

[62] Huff Video Testimony at 11:02-11:04.

[63] Conroy Video Testimony at 20:17:12.

[64] Huff Video Testimony from 10:29:23 to 10:31:15, and *generally*, Companies' Response to Sierra Club's Supplement Requests, Item 8, filed Apr. 3, 2014.

[65] Huff Video Testimony from 10:29:23 to 10:31:15.

consumers (such as Toyota Manufacturing) opted out of the program, the costs to the remaining industrial customers participating in DSM/EE programs would increase. This could create a "domino effect" or "death spiral" by encouraging other industrial customers to opt out, further increasing the costs on the industrial customers remaining in the programs.[66] The Companies also claim that they lack the expertise to design or recommend DSM/EE programs for industrial customers.

The Companies, when commissioning the CADMUS studies filed in support of the Application, did not require that EE programs for industrial customers be studied, limiting the study to commercial and residential customers. The Companies point to the lack of interest in industrial EE/DSM programs indicated in the 2012 industrial customer survey. [67] The Companies believed that the best use of customer money was to limit the scope of the study to residential and commercial customers.[68] The Companies also note that although the Commission had previously directed the commission of EE studies, the Commission had not specifically required that industrial EE programs be studied.[69] Thus, even though our previous Order in Case No. 2011-0375 did not exclude industrial customers from the EE study, the Companies took it upon themselves to not examine EE usage within the industrial class of customers, which constitutes 30 percent of the Companies' load.

The Companies' interpret KRS 278.235(3) in such a way that the intent of the statute is to treat large electric-consuming customers, such as an automobile

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[66] Companies' Post-Hearing Brief, pp. 21-22, and Huff Video Testimony at 11:04:36.

[67] Huff Video Testimony from 10:16:24 to 10:17:05.

[68] *Id.*

[69] *Id.* from 11:29:34 to 11:31:13.

manufacturer the same as the smallest industrial customer. However, the language of the statute presumes the existence of a program out of which to opt. Once a program is in place, KRS 278.285(3) employs a two-part analysis to enable an individual industrial customer to opt out. First, the industrial customer must be an energy-intensive customer, and second, the energy-intensive customer must have adopted cost-effective energy-efficiency measures. Thus, there is no justification for a categorical opt-out.

Additionally, the Companies presented no evidence, except for the 2012 survey, to support its contention that there is no wide-scale interest in industrial DSM/EE programs. The Companies have also not commissioned the study of potential benefits from industrial DSM/EE programs, deliberately excluding them from the CADMUS study. Essentially there is no way of knowing if industrial DSM/EE programs would be effective. The Companies make much of the assumption that the heavy-use industrial customers will opt out, neglecting the fact that approximately 800 industrial customers' usage is equal to that of the average residential customers. Thus, there is sufficient justification for the Companies to at least explore the potential benefits of industrial DSM/EE programs to industrial customers other than those that have energy-intensive processes. To further investigate this issue, we find that the Companies should commission a study that examines the potential benefits of industrial DSM/EE programs.

To be clear, the Commission is not directing the Companies to offer a particular program, nor is the Commission suggesting consideration of a particular program. The Commission's role is to review and approve (or reject) a particular program proffered for approval to the Commission. Therefore, we are not suggesting or ordering that any specific DSM/EE program for industrial customers be implemented. We are instead requiring that the Companies commission an energy-efficiency study for its industrial customers.

FINDINGS

Having reviewed the record, and being otherwise sufficiently advised, the Commission finds that:

1. The Companies' proposed DSM/EE Program Plan should be approved through 2018.

2. The Companies should prepare a report for the pilot AMS program through June 30, 2015, which should be filed with the Commission by July 31, 2015. Thereafter, an annual report providing similar information should be filed beginning on December 31, 2015, and due by January 31, 2016, and again through December 31, 2018, due by January 31, 2019. The reports should provide the number of participants by company, measurable energy savings, the information learned, any problems and the resolution, and whether the information was accessible to the participants in a 24- to 49-hour period.

3. The Companies' request to continue the Commission-approved 10.5 percent ROE for the capital portion of the DSM/EE Program Plan is reasonable and should be approved.

4. The Companies should continue encouraging participation in programs that help low-income customers to reduce energy consumption, thereby reducing monthly energy bills.

5. Within three months of the issuance of this Order, the Companies should commission an industrial potential or market-characterization study.

6. The Companies should file with the Commission the industrial potential or market-characterization study within 30 days of the date it is completed and finalized.

IT IS THEREFORE ORDERED that:

1. The Companies' proposed DSM/EE Program Plan is approved through 2018.

2. The Companies shall prepare a report for the pilot AMS program through June 30, 2015, which should be filed with the Commission by July 31, 2015. Thereafter, an annual report providing similar information should be filed beginning on December 31, 2015, and due by January 31, 2016, and again through December 31, 2018, due by January 31, 2019. The reports should provide the number of participants by company, measurable energy savings, the information learned, any problems and the resolution, and whether the information was accessible to the participants in a 24- to 48-hour period.

3. The Companies' request to continue the Commission-approved 10.5 percent ROE for the capital portion of the DSM/EE Program Plan is approved.

4. The Companies shall continue encouraging participation in programs that help low-income customers to reduce energy consumption, thereby reducing monthly energy bills.

5. Within three months of the issuance of this Order, the Companies shall commission an industrial potential or market-characterization study.

6. The Companies shall file with the Commission the industrial potential or market-characterization study within 30 days of the date it is completed and finalized.

7. The proposed costs of the DSM/EE Program Plan shall be included in the Companies' DSM surcharge rates effective for service rendered on and after January 1, 2015.

8. Within 20 days of the date of this Order, the Companies shall file with this Commission, using the Commission's electronic Tariff Filing System, revised tariff sheets setting out the rates approved herein and reflecting that they were approved pursuant to this Order.

By the Commission

ENTERED
NOV 14 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

Vice Chairman James W. Gardner dissents in part.

ATTEST:

Executive Director

Partial Dissenting Opinion of
Vice Chairman James W. Gardner
in Case No. 2014-00003

The majority approves the AMS program, believing that it is the best way to test that type of program on a limited scale. In doing so, the majority finds that KRS 278.285(1)(h) provides special consideration for such offerings independent of cost-benefit considerations. I disagree. I would not approve the program for two reasons: First, and most importantly, the proposed AMS program does not provide current electricity usage and cost to the Companies' customers as required by KRS 278.285(1)(h); and second, KRS 278.285(1) requires a cost-benefit analysis for *all* DSM/EE offerings.[1]

First, the usage information generated by the meters is not provided to the customers on a real-time basis, does not provide current pricing and, by the Companies' admission, is not designed to encourage reduction of energy consumption. KRS 278.285(1)(h) clearly intends that meters approved for the special cost recovery authorized by the demand-side management mechanism of KRS 278.285(2) must be "next-generation" by providing current utility usage and cost. The proposed AMS program provides neither.

Second, I believe that KRS 278.285(1) requires a cost-benefit analysis of all DSM/EE offerings, including the offering of next-generation residential utility meters. The Companies admit to not conducting a cost-benefit analysis, claiming that the

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[1] The only exception to the requirement for a cost-benefit analysis is under KRS 278.285(4) for home energy assistance programs, none of which are at issue in this case.

program is cost beneficial because the project will be competitively bid.[2] The Companies admit that they did not conduct a cost-benefit analysis because they did not consider how the customers would use the information from the AMS program to reduce energy consumption.[3] Although the Companies claim certain benefits for the program, such as having an infrastructure in place to offer other advanced meter offerings in the future, I am not convinced of the benefits of the proposed AMS program. Therefore, I do not believe that this meets the cost-benefit analysis required by KRS 278.285(1).

Therefore, while I join with the rest of the Commission in approving the other DSM/EE programs contained in Application, I do not join in their approval of the AMS program.

I respectfully dissent with respect to the AMS program only.

James W. Gardner, Vice Chairman
Kentucky Public Service Commission
dissenting.

ENTERED
NOV 14 2014
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Executive Director

[2] Huff Video Testimony at 12:06:52 and 12:43:30.

[3] *Id.* at 11:36:25.

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