COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF LOUISVILLE GAS AND ELECTRIC COMPANY AND KENTUCKY UTILITIES COMPANY FOR APPROVAL OF A SOLAR POWER CONTRACT AND TWO RENEWABLE POWER AGREEMENTS TO SATISFY CUSTOMER REQUESTS FOR A RENEWABLE ENERGY SOURCE UNDER GREEN TARIFF OPTION #3	))))))))	CASE NO. 2020-00016

ORDER

The Commission, on its own motion, schedules an informal conference on Tuesday, March 10, 2020, at 1 p.m. Eastern Daylight Time, at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. The purpose of the informal conference is to discuss the legal standard(s) that Louisville Gas and Electric Company and Kentucky Utilities Company (LG&E/KU) must satisfy for the entire solar purchase power agreement (PPA) at issue in this matter, but particularly the 25 percent of energy obtained through the PPA to serve native load and to address inconsistencies between LG&E/KU's prior representations made in previous cases and those made in this proceeding.

Regarding approval of the 25 percent portion of energy from the PPA proposed to be allocated to native load, it is well settled that the Commission must review the entire proposed PPA as an evidence of indebtedness under KRS 278.300 and under the certificate of public convenience and convenience and necessity statute, KRS 278.020.[1]

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[1] Case No. 2009-00545, *Application of Kentucky Power Company for Approval of Renewable Energy Purchase Agreement for Wind Energy Resources Between Kentucky Power Company and FPL Illinois Wind, LLC* (Ky. PSC June 28, 2010); Case No. 2013-00144, *Application of Kentucky Power*

This is because even though LG&E/KU are not proposing to construct new generation, their proposal to enter into a 20-year contract to purchase the entirety of the output from a solar facility, including the 25 percent of energy allocated to native load, still acts as a long-term burden to LG&E/KU's balance sheet and represents a cost burden to their ratepayers similarly to had the proposal been to construct new generation.[2] KRS 278.300(3) requires that the "purposes and uses" of the proposed PPA be for a "lawful object within the corporate purposes of the utility," and that it be "reasonably necessary and appropriate" for that corporate purpose. KRS 278.020(1) requires that a utility must establish a need for additional generation and the absence of wasteful duplication. Thus, under established Commission precedent, in evaluating the statutory criteria for approving a PPA:

> the Commission views the purpose and use of the PPA as the acquisition of new generation and, for [the PPA] to be a "lawful object within the corporate purposes of the utility," there must be a need for additional generation and the absence of wasteful duplication.[3]

Thus, pursuant to Commission precedent, we must evaluate whether LG&E/KU have established a need for the PPA and, in particular, the 25 percent of energy from the proposed PPA allocated to serve native load and whether the proposal results in the absence of wasteful duplication. LG&E/KU's response to Commission Staff's Second

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Company for Approval of the Terms and Conditions of the Renewable Energy Purchase Agreement for Biomass Energy Resources Between the Company and ecoPower Generation-Hazard LLC; Authorization to Enter into the Agreement; Grant of Certain Declaratory Relief; and Grant of All Other Required Approvals and Relief (Ky. PSC Oct. 10, 2013); Case No. 2018-00050, *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for Approval off Master Power Purchase and Sale Agreement and Transactions Thereunder* (Ky. PSC Oct. 1, 2018).

[2] *See* Case No. 2009-00545, final Order at 5–6; Case No. 2018-00050, final Order at 6–7.

[3] Case No. 2018-00050, final Order at 7; *See* Case No. 2009-00545, final Order at 6.

Request for Information (Staff's Second Request), Item 1, did not address whether there is a need for the 25 percent of energy for native load from the PPA, but instead addressed the PPA as satisfying KRS 278.020(1) and KRS 278.300 because it is akin to an economic energy purchase. LG&E/KU also asserted that the 25 percent of energy allocated to native load would not result in wasteful duplication of facilities because LG&E/KU are only purchasing energy and not constructing new facilities, even though such an assertion is inconsistent with Commission precedent discussed above.

Regarding inconsistencies, the Commission, through Commission Staff, seeks clarification at the informal conference regarding inconsistencies between LG&E/KU's responses to Staff's Second Request, Items 2, 4, and 8 filed in this case and LG&E/KU's direct testimony and responses to data requests in its recent rate case, which are attached as Attachments 1, 2, and 3 to this Order.

IT IS THEREFORE ORDERED that:

1. An informal conference will be held on Tuesday, March 10, 2020, at 1 p.m. Eastern Daylight Time, at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

2. Commission Staff shall contact participants by electronic mail to provide details for joining the conference by telephone.

By the Commission

ENTERED

MAR 02 2020

KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Executive Director
for Kent A. Chandler

Case No. 2020-00016

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00016 DATED MAR 0 2 2020

Direct Testimony of Robert M. Conroy
filed in
Case Nos. 2018-00294 and 2018-00295

THREE PAGES TO FOLLOW

on the non-demand rate schedules will allow for the Variable Energy Charge to be consistently shown for all rate schedules.

V. OTHER ELECTRIC RATE AND TARIFF CHANGES

A. Standard Rate Schedule TODS

Q. What change does the Companies propose to make to Standard Rate Schedule TODS?

A. The Companies propose to change the demand billing for Rate TODS to be on the basis of kVA instead of kW. Over the last several base rate proceedings, the Companies have transitioned the large commercial and industrial customer's rate schedules to kVA billing. Rate TODS is the last of these schedules to be transitioned to kVA billing.

B. Late Payment Charges

Q. What is the Companies' proposal regarding late payment charges?

A. The Companies propose to waive a residential customer's late payment charge if the customer requests it and has not incurred a late payment charge in the previous eleven billing cycles. In other words, the Companies propose to permit only one such waiver per twelve billing cycles. This would allow residential customers who ordinarily pay on time but occasionally pay late not to be charged while retaining a general incentive for customers to pay on time.

C. Green Tariff

Q. Please describe the Companies' new Green Tariff.

A. The Companies are adding a new Green Tariff to each of their electric tariffs to ensure that businesses inside and outside Kentucky know that the Companies have multiple renewable offerings. The new Green Tariff provides three options for customers seeking to support the development of renewable energy resources.

The first option is the continuation of the Companies' existing Small Green Energy and Large Green Energy programs (Riders SGE and LGE), which the Companies propose to remove from their tariffs as separate riders and incorporate into a single option under the new Green Tariff. None of the pricing or substantive terms of the existing Riders SGE and LGE will change in Green Tariff option 1.

The second option in the new Green Tariff is the Business Solar option. This option will continue and formalize as a tariff offering the Companies' existing Business Solar program. The program is for non-residential customers seeking to have solar facilities constructed and owned by the Companies. The Companies arrange for the design, installation, and ongoing operation and maintenance of the facilities. Business Solar customers receive two significant benefits: (1) the benefit of additionality, i.e., causing entirely new solar facilities to be constructed, and (2) the benefit of receiving the value of the facilities' output.

The Companies plan that Green Tariff option 2 will build on the success of the existing Business Solar program, under which LG&E successfully engaged with the Archdiocese of Louisville to install a solar array on the premises of the Archdiocese. As with the Business Solar arrangement LG&E has with the Archdiocese, the Companies will require a contract with a customer under the Business Solar option to obtain reasonable assurances of cost recovery, and will file all such contracts with the Commission.

The third Green Tariff option will allow customers to engage with the Companies to consider entering into renewable energy purchase agreements to supply some or all of a customer's energy needs. To be eligible for option 3, a customer must have load of 10 MVA or more and be willing to enter into an obligation for 10 MW or more of new (not already existing) renewable capacity. The energy from the new renewable facility must be delivered to the Companies' transmission system. The minimum term of the contract into which the customer must enter with the Companies is five years and is equivalent to the term of the agreement with the renewable energy provider. The Companies will file all such contracts with the Commission. The Companies propose to limit this offering to 50 MW for each of the Companies, i.e., no more than 100 MW total, which should be absorbable in the Companies' system without material integration issues.

D. <u>Removal of School Power Service (Rate SPS) and School Time-of-Day Service (Rate STOD); Retention of Outdoor Sports Lighting Service (Rate OSL)</u>

Q. Why have the Companies removed Rates SPS and STOD from their electric tariffs?

A. The Companies added Rates SPS and STOD to their tariffs as pilot rates in accordance with the April 19, 2017 Stipulation and Recommendation in the Companies' most recent rate cases. The Commission's June 22, 2017 orders in those proceedings approved the pilot rates, but limited the time they could remain in effect: "[T]he Commission will place a limit on the amount of time the pilot tariffs will be in effect and finds that the pilot tariffs should be effective for three years, or until LG&E

APPENDIX B

APPENDIX TO AN ORDEROF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00016 DATED MAR 0 2 2020

Response to Attorney General's Initial Data Requests for Information,
Item No. 170
filed in Case No. 2018-00294

THREE PAGES TO FOLLOW

KENTUCKY UTILITIES COMPANY

Response to Attorney General's Initial Data Requests for Information
Dated November 13, 2018

Case No. 2018-00294

Question No. 170

Responding Witness: Robert M. Conroy / David S. Sinclair

Q-170. Refer to the direct testimony of Robert M. Conroy, page 22, wherein he discusses the "third Green Tariff option" and the proposed Green Tariff.

a. Explain the purpose and need for the eligible customer to "be willing to enter into an obligation for 10 MW or more of new (not already existing) renewable capacity."

b. Do the Companies anticipate that either Company may be the entity that develops the "renewable resource" envisioned under Option #3?

c. Do customers interested in Option #3 get to choose or have input into what type of "renewable resource" it receives electricity for under Option #3, or any input into which "renewable resource" developer is chosen?

d. Are any of the interconnection requests for solar located at the link below requested by either of the Companies?

https://www.oasis.oati.com/woa/docs/LGEE/LGEEdocs/LG&E_and_KU_GI_Queue_Posting_November_05,_2018.pdf

e. Will the projects chosen under Option #3 be pursuant to a formal RFP process?

f. If the response to subpart e., above, is in the affirmative, explain who sets the parameters of the RFP and if the ultimate customer will be consulted during the process.

g. Can customers with multiple locations throughout a service territory aggregate new load in order to participate under Option #3? If not, why not?

h. Have the Companies considered providing a pro-forma mock contract in the tariffs so that interested customers will understand the terms the Companies may consider under Option #3 (e.g., what effect the agreement may have on demand charges, ECR costs, etc.)?

i. If the Companies are unwilling to provide a pro-forma mock contract to provide interested customers additional certainty up-front, why do the Companies believe potential customers would be any more interested with Option #3 than they are now?

A-170.

a. Green Tariff Option #3 is targeted at customers who desire utility scale renewable options (hence 10 MW or more) that will support adding new renewable resources to the grid. The concept of supporting "additionality" (i.e., new renewables) is an important attribute of green tariffs since just purchasing energy from an existing project does nothing to alter the quantity of renewables on the grid.

b. As with all potential generation resources, the Companies may develop a "self-build option" as an alternative for the Green Tariff Option #3 customer to consider. However, the Companies are not proposing that they be required to develop a "self-build option" nor can they force the Green Tariff Option #3 customer to select a proposed "self-build option."

c. Yes.

d. The 10 MW Brown Solar facility is in the list and has been constructed. None of the other requests for solar are by the Companies or related to the Companies in any way.

e. Yes.

f. The Companies will work with the potential Green Tariff Option #3 customer throughout the RFP process.

g. For a customer that has multiple accounts, the renewable energy associated with Option #3 would be proportioned to those specific accounts through the mutually agreed to bilateral contract. The individual accounts will continue to be billed on their associated individual tariff rate. Option #3 is available to any customer addressed in the Availability section of the tariff and not just new loads.

h. No because the terms will be jointly determined in consultation with the potential Green Tariff Option #3 customer and what possible counterparties are willing to propose and accept.

i. The Companies experience in the wholesale marketplace tells us that there is no "certainty up-front" when one issues an RFP for capacity and energy. Any customer interested in pursuing Green Tariff Option #3 must be willing to accept the vagaries and realities of procuring utility-scale renewables in the wholesale electricity markets.

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2020-00016 DATED MAR 0 2 2020

Response to Attorney General's Supplemental Data Requests for Information, Item No. 57
filed in Case No. 2018-00294

TWO PAGES TO FOLLOW

KENTUCKY UTILITIES COMPANY

Response to Attorney General's Supplemental Data Requests for Information Dated December 13, 2018

Case No. 2018-00294

Question No. 57

Responding Witness: Robert M. Conroy / David S. Sinclair

Q-57. Reference the Companies' response to AG DR 1-170.

a. Explain to what degree the Company will allow customers interested in Green Tariff Option #3 to choose or have input into what type of "renewable resource" it receives electricity from under Option #3.

b. Explain whether a customer can replace 10MW of current capacity with capacity from Green Tariff Option #3.

c. Explain, in detail, what the Companies envision the process will be with customers in its response that "The Companies will work with the potential Green Tariff Option #3 customer in any way."

d. Is the Company's response to subpart (h) to AG DR 1-170 indicating that all terms and conditions resulting from Green Tariff Option #3 are negotiable, including how the contract relates to ongoing tariff and rate mechanisms? For instance, is the response indicating that the interaction with certain special contracts may impact certain customers differently as it relates to local school taxes, off-system sales, fuel adjustment clause, applicable demand rates, applicable customer charges, contribution in aid of construction, surcharges, etc.?

A-57.

a. The customer can have input into the type of renewable resource so long as there is a market to procure the requested generation source bound by the terms of the Green Tariff and bilateral contract between the customer and Company. The Company has no interest in limiting the type of renewable resource choices of its customers under Option #3.

b. No. A customer cannot replace any capacity under Option #3.

c. The Green Tariff Option #3 requires a mutually agreed-to bilateral contract between the Company and customer as well as the Company and the renewable energy provider. The terms of these contracts will be jointly determined in consultation with the potential customer.

d. No. The customer will continue to be billed under the appropriate Company tariff based on their usage and required facilities. The negotiable terms related to Option #3 only include the contractual terms for procuring the renewable resource and how the Company will recover its contract costs from the customer.

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