

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE JOINT APPLICATION OF THE LOUISVILLE GAS	)	
AND ELECTRIC COMPANY AND KENTUCKY UTILITIES	)	
COMPANY FOR THE REVIEW, MODIFICATION AND	)	CASE NO.
CONTINUATION OF DSM PROGRAMS AND COST	)	2000-459
RECOVERY MECHANISMS	)	

O R D E R

On September 29, 2000, a joint application was filed by the Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies”) for approval of their Demand-Side Management (“DSM”) 2000-2007 Program Plan. The plan, filed pursuant to KRS 278.285, includes details and budgets for six DSM programs, a budget for future administration and development of DSM programs, and tariffs designed to recover DSM program costs, lost revenues and incentives associated with the programs. This is the first combined application by the Companies, the first DSM application filed by either LG&E or KU pursuant to KRS 278.285 and the first ever DSM application filed by KU.<sup>1</sup>

Intervening in this proceeding are the Attorney General of the Commonwealth of Kentucky (“AG”), Metro Human Needs Alliance and People Organized and Working for Energy Reform (“MHNA and POWER”), the Kentucky Natural Resources and Environmental Protection Cabinet’s Division of Energy (“DOE”), Kentucky Industrial

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<sup>1</sup> LG&E had previously submitted DSM applications on behalf of its DSM Collaborative. That collaborative was dissolved and this application was filed with input from former members who now make up the DSM Joint Advisory Group for LG&E and KU.

Utility Customers, the Kentucky Association for Community Action, the Community Action Council for Lexington-Fayette, Bourbon, Nicholas and Harrison Counties and the Air Pollution Control District of Jefferson County (“APCD”). A procedural schedule was established which included an informal conference, one round of discovery, and the opportunity for any party to request a public hearing. The informal conference was held December 18, 2000 and responses to discovery were submitted January 18, 2001. Upon the AG’s motion for a second round of discovery in lieu of a public hearing, the Commission revised the procedural schedule to include a second round of discovery and the filing of written comments by the parties in lieu of a hearing. All responses to discovery have been received and comments were filed by the AG, MHNA and POWER, DOE and APCD.

#### BACKGROUND

The proposed programs were chosen by the Companies as a result of the evaluation of DSM programs performed as part of their 1999 Joint Integrated Resource Plan (“IRP”).<sup>2</sup> The plan includes three residential programs: residential conservation; residential load management; and residential low-income weatherization: two commercial programs: commercial conservation and commercial load management: and one industrial program: industrial lighting. For LG&E, the residential low-income and commercial conservation programs represent a restyling of previously approved DSM programs.

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<sup>2</sup> Case No. 99-430, The Joint Integrated Resource Plan of Louisville Gas and Electric Company and Kentucky Utilities Company, filed November 22, 1999. The final Order closing the case was entered September 29, 2000 after issuance of the Commission Staff’s Report on the IRP.

Benefit/cost tests were conducted for the programs based on the DSM tests included in the California Standard Practice Manual (“California Tests”). The California Tests are one of the industry standards used in the evaluation of the effectiveness of DSM programs and are used by Kentucky’s jurisdictional electric utilities in the evaluations of DSM programs contained in their IRPs.<sup>3</sup> Each of the proposed programs passed two of the four California tests, the Utility Test and the Total Resources Cost Test. As a group, the six programs passed those two tests and the Participant Test and had a benefit-to-cost ratio of .95 on the other primary test, the Ratepayer Impact Measure Test.

The six programs are projected to achieve annual electric savings of 29,722 megawatt-hours, 132 megawatts and annual gas savings of 1,219 Mcf by calendar year 2007. The total combined budget of the Companies for all DSM programs for the period 2001-2007 is approximately \$50 million. The Companies will conduct ongoing monitoring and evaluation of the programs and propose to cancel or discontinue any program deemed to be ineffective with a letter or motion to the Commission.

To fully understand some of the issues raised in this case requires a review of LG&E’s prior DSM filings. In 1993 the Commission approved, on a three-year pilot basis, three DSM programs and a DSM cost recovery mechanism, all developed by LG&E and its DSM Collaborative.<sup>4</sup> In 1996 the Commission approved several

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<sup>3</sup> A benefit-to-cost ratio of 1.0 or greater is required to “pass” the benefit-cost tests.

<sup>4</sup> Case No. 93-150, A Joint Application for the Approval of Demand-Side Management Programs, a DSM Cost Recovery Mechanism, and a Continuing Collaborative Process on DSM for Louisville Gas and Electric Company, Order dated November 12, 1993.

additional DSM programs also developed by LG&E and its DSM Collaborative. However, the Commission also identified several concerns regarding LG&E's original DSM programs, such as the cost effectiveness of certain programs and the manner in which the DSM Collaborative and the DSM vendors were tracking and accounting for various program costs. Due to those concerns, the Commission required LG&E's DSM programs to be subject to a management audit in conjunction with the review of the three-year DSM pilot.<sup>5</sup>

The management audit of the DSM programs and the DSM Collaborative's administration of them was performed by Corporate Economic Strategies in 1997. Based on the results of the audit, the Commission required that two of the original programs be terminated.<sup>6</sup> At the time of that proceeding there appeared to be several problems within the DSM Collaborative, seemingly due to its rather rigid bylaws which included the requirement that all decisions be made by unanimous vote of the members. Until the filing of the proposed DSM programs in this case there had been no new DSM filings by LG&E on behalf of its DSM Collaborative since the conclusion of that proceeding in 1998.

The role of LG&E's former DSM Collaborative versus that of the current LG&E/KU DSM Advisory Group has become an issue in this proceeding. The Companies, via their application, have indicated their intent to pursue DSM programs

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<sup>5</sup> Case No. 93-150, Order dated June 24, 1996.

<sup>6</sup> Case No. 97-083, The Joint Application of the Members of the Louisville Gas and Electric Company Demand-Side Management Collaborative for the Review, Modification, and Continuation of The Collaborative, DSM Programs, and Cost Recovery Mechanisms, Order dated April 27, 1998.

without the structure of a DSM collaborative. This was one of several issues addressed in the comments submitted by the intervenors. The AG, MHNA and POWER, DOE and APCD are the only intervenors that have actively participated in this proceeding and all filed comments addressing various issues raised in the course of this proceeding. A synopsis of each party's comments follows:

#### AG

The AG advocates that the Commission approve the Companies' DSM programs as proposed. The AG favors eliminating the LG&E DSM Collaborative due to past operational problems. Noting that the majority of the collaborative members represent one main segment of one customer class, the AG argues against continuing the collaborative even if the requirement of a unanimous member vote on decisions is modified or eliminated.

The AG argues that certain costs incurred by LG&E for its existing programs since 1998 should not be allowed for recovery through the DSM cost recovery mechanism because the Collaborative did not approve their continuation beyond 1998. The AG claims that because LG&E did not properly market the programs after 1998, the number of participants failed to meet expectations. This resulted in reduced savings even though certain costs that were part of a fixed payment arrangement with a program vendor were still incurred.

#### MHNA AND POWER

MHNA and POWER endorses the Companies' proposed DSM programs but argues that all programs should be funded for 7 years rather than some, particularly the low-income weatherization program, for only 5 years. MHNA and POWER favors

retaining the LG&E DSM Collaborative to operate as set out in its original bylaws, rather than have the members act as a DSM Advisory Group for LG&E. MHNA and POWER specifically argues in favor of the Residential Low-Income Weatherization Program, stating that without such a program the proposed DSM plan will not include a component that is affordable and useful to low-income customers.

#### DOE

DOE argues against Commission approval of the proposed industrial lighting program stating that similar programs have been ineffective in other instances. DOE also argues that the Companies' DSM screening process, which selected such a program, is fundamentally flawed. DOE recommends that the proposed residential and commercial conservation programs be broadened to include an element that would improve the energy efficiency of new buildings being constructed in the Companies' service territories.

#### APCD

APCD's comments focus on the environmental benefits of reduced energy consumption and, particularly, reduced electricity generation. APCD argues for the implementation of the proposed residential conservation program on a much larger scale than proposed by the Companies and for a longer period of time. APCD also argues for extending the term of the Low-Income Weatherization Program from 5 to 7 years, consistent with the recommendation of MHNA and POWER. APCD also endorses retaining the LG&E DSM Collaborative, but states that Collaborative decisions should be made based on a majority vote rather than a unanimous vote.

## DISCUSSION

Although MHNA and POWER and APCD argue for extending to 7 years some programs that were proposed for 5 years, all parties endorse the proposed programs, with the exception of DOE's opposition to the proposed industrial lighting program. DOE's arguments against the industrial lighting program question the validity of the Companies' DSM screening process and point to the lack of success of similar programs elsewhere. However, that screening process is the same process by which all the proposed programs were evaluated and DOE did not question whether the other programs are also suspect because of this evaluation process. Likewise, the Commission has long recognized that not all DSM programs work for all utilities or in all circumstances. The lack of success of industrial lighting programs at other utilities is not adequate justification to reject the Companies' proposed program.

On the AG's issue of whether DSM program costs incurred after 1998 should be recovered through the DSM cost recovery mechanism, the Commission notes its April 27, 1998 Order in Case No. 97-083, addressing the matter of internal disputes within the Collaborative. In that Order the Commission found that, "The principles approved in Case No. 93-150 and the bylaws adopted by the Collaborative govern its operations. The Commission has no authority to intervene in or referee matters relating to the internal processes and operations of the Collaborative or to resolve internal Collaborative disputes." Likewise, the question of what was or was not agreed upon by members of the Collaborative concerning whether programs were to continue after 1998 is not within the purview of the Commission's authority. On the matter of the cost recovery of DSM program costs incurred since 1998, the Commission received no

request to terminate, and required no termination, of either the programs or the recovery of the related costs through LG&E's DSM cost recovery mechanism.

MHNA and POWER and APCD both advocate continuation of the LG&E DSM Collaborative rather than having its members serve on a DSM Advisory Group. The AG, citing the problems the collaborative has experienced during its existence, favors the Companies' proposal. As noted previously, the Commission found in Case No. 97-083 that it had no authority to referee the Collaborative's internal matters or to resolve its internal disputes. KRS 278.285, under which the Companies' application was filed, does not require that a utility's DSM programs be developed through a collaborative process. Rather, the Commission must only consider the extent to which customer representatives were involved in the development of such programs and their support for the programs. Whether DSM programs are developed through a collaborative process or with input from an advisory group is an issue to be resolved by the Companies and the interested parties.

The Commission believes there is merit to the intervenors' arguments that all of the proposed programs should be implemented for 7 years rather than limiting some programs to 5 years. We also find merit in the arguments for possibly implementing some programs on a larger scale than proposed by the Companies, and for considering additional programs targeted toward energy-efficient residential and commercial construction.

#### SUMMARY OF FINDINGS AND ORDERS

The Commission, based on the evidence of record and being otherwise sufficiently advised, finds that:

1. The Companies' proposed DSM programs and DSM cost recovery mechanism should be approved as proposed.

2. LG&E was under no obligation to discontinue any DSM programs at the end of 1998.

3. The Commission has no statutory authority to resolve internal matters or disputes within the LG&E Collaborative or among its members or former members.

4. The issues identified herein regarding the term of the proposed programs, the expansion of some programs, and possible additional programs involving energy-efficient residential and commercial new construction merit further investigation.

5. Therefore, the LG&E and KU Demand-Side Management 2001-2007 Program Plan ("DSM Plan") and their responses to data requests should be treated as the Companies' testimony in support of their proposed DSM programs.

6. The procedural schedule set forth in Appendix A should be followed for the issues identified in Finding No. 4.

IT IS THEREFORE ORDERED that:

1. The Companies' proposed DSM programs and DSM cost recovery mechanisms are approved, subject to future modification at the conclusion of this case, effective on and after the date of this Order.

2. The AG's request to exclude from cost recovery LG&E's DSM program costs incurred after 1998 is denied.

3. An investigation of the issues set forth in Finding No. 4, above, shall be conducted. The Companies' DSM Plan included in their application and their responses

to data requests shall be treated as their testimony. The procedural schedule set forth in Appendix A, attached hereto, shall be followed for the remainder of this investigation.

Done at Frankfort, Kentucky, this 11<sup>th</sup> day of May, 2001.

By the Commission

ATTEST:

  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2000-459 DATED MAY 11, 2001

Intervenors' testimony shall be filed in verified  
prepared form no later than . . . . . May 30, 2001

Requests for information to Intervenors shall  
filed no later than . . . . . June 15, 2001

Intervenors shall respond to requests for  
information no later than . . . . . June 29, 2001

LG&E and KU shall file rebuttal testimony in  
Verified prepared form no later than . . . . . July 16, 2001

Public hearing shall be held at 9:00 a.m.,  
Eastern Daylight Time, at the Commission's  
offices at 211 Sower Boulevard, Frankfort,  
Kentucky for the purposes of cross-examination  
of all witnesses . . . . . To be scheduled