

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSTRUCTION OF A GAS DISTRIBUTION	)	
SYSTEM AND ASSESSMENT OF CERTAIN	)	CASE NO.
CHARGES BY THE UNION LIGHT, HEAT	)	90-207
AND POWER COMPANY	)	

O R D E R

On August 1, 1990, the Commission initiated this investigation of The Union, Light, Heat & Power Company's ("ULH&P") construction of a gas distribution system in Williamstown, Kentucky and assessment of non-tariffed charges for inspecting housepiping and customer-owned gas service lines. On January 3, 1991, ULH&P and Commission Staff filed a stipulation of facts pursuant to 807 KAR 5:001, Section 4(6). The stipulation encompasses all relevant factual issues within the scope of this investigation and obviates the need for an evidentiary hearing.

Inspection Charges

ULH&P has, at least since 1980, treated the inspection of housepiping and customer service lines as a non-utility activity. In 1982, the charges for these inspections and for ULH&P's installation of service lines were the subject of an informal customer complaint. After conducting an investigation and review, the Commission determined that the installation of service lines was a non-utility activity and the associated charges were non-utility rates. While the inspection charges were not

specifically addressed by the Commission's determination, the implication was that they too were non-utility rates.

ULH&P consistently accounted for the revenues and expenses associated with these inspections as non-utility activities until recently. As a result of a review of these inspections in Case No. 90-041,<sup>1</sup> the Commission determined that they were utility activities and any charges needed to be filed as tariffs. Since that time, ULH&P has not charged for these inspections.

The Commission finds that ULH&P's past imposition of non-tariffed charges for inspecting housepiping and customer service lines was done in good faith in reliance on the Commission's disposition of the 1982 complaint. The evidence demonstrates that ULH&P's actions did not constitute a willful violation of KRS Chapter 278 or the regulations promulgated thereunder.

#### Gas Distribution System

In 1989, ULH&P received authorization in Case No. 89-066<sup>2</sup> to bid on a gas franchise in the city of Williamstown, Kentucky. There was no existing gas distribution system in Williamstown and ULH&P had existing gas facilities within 100 feet of the city

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<sup>1</sup> Case No. 90-041, An Adjustment of Gas and Electric Rates of The Union Light, Heat and Power Company.

<sup>2</sup> Case No. 89-066, Application of The Union Light, Heat and Power Company for a Certificate of Public Convenience and Necessity to Bid on a Gas Franchise in the City of Williamstown, Commonwealth of Kentucky.

limits. ULH&P was the successful bidder, and construction began in August 1989.

Construction of the distribution system was divided into three phases to be completed over two years. The facilities to be installed include over 110,000 feet of gas pipe and based upon ULH&P's estimate will have the potential to serve 1,789 new customers in Williamstown. At the time ULH&P bid on the franchise, the estimated cost of the facilities was \$4.1 million. Upon completion of phase two of the facilities, the total cost estimate was revised downward to \$2.66 million.

ULH&P did not apply to the Commission for a Certificate of Public Convenience and Necessity prior to commencing construction. ULH&P stipulated that: (1) no internal discussions on the need for such a certificate were held; and (2) had such discussions been held, ULH&P would have concluded that no certificate was needed because the estimated cost of the facilities did not exceed ten percent of their net rate base. Approximately \$693,000 in costs associated with the Williamstown facilities were included in ULH&P's gas rate base in its most recent rate case, Case No. 90-041.


No utility may begin the construction of any plant, equipment, or facility to provide utility service, except ordinary extensions of existing systems in the usual course of business, unless the Commission has issued a certificate that public convenience and necessity require such construction. KRS 278.020(1). Although during the 1970s the Commission did utilize a 10 percent threshold for assessing the need for a certificate,


that informal rule of thumb has not been utilized for almost ten years now. The record indicates that ULH&P was not aware that the 10 percent threshold was not the criteria for determining the need for a certificate pursuant to KRS 278.020(1). Under the facts of this case, the Commission finds that ULH&P's actions do not constitute a willful violation of KRS 278.020(1).

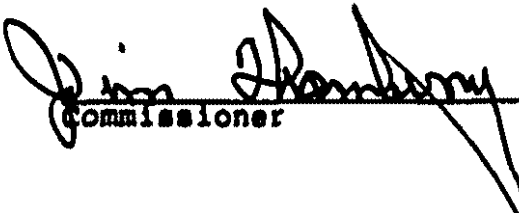
IT IS THEREFORE ORDERED that this investigation be and it hereby is terminated.

Done at Frankfort, Kentucky, this 12th day of March, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director