

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN ADJUSTMENT OF RIDER AMRP OF THE ) CASE NO.  
UNION LIGHT, HEAT AND POWER COMPANY ) 2002-00107

O R D E R

On September 19, 2002, The Union Light, Heat and Power Company ( ULH&P ) filed a petition for rehearing on three issues arising from the Commission s August 30, 2002 Order establishing the first Accelerated Mains Replacement Program ( AMRP ) Rider under the mechanism approved in Case No. 2001-00092.<sup>1</sup> Based on the petition, the Commission makes the following findings.

Subject to Refund Provision

The Commission acknowledged in its Order of August 30, 2002 that its decision in Case No. 2001-00092 authorizing the AMRP Rider had been appealed to the Franklin Circuit Court by the Attorney General and that the outcome of the appeal is uncertain. Based on that uncertainty, we found that it was reasonable to order the revenues collected under the AMRP Rider to be treated as revenues subject to refund pending the outcome of that appeal so that ULH&P would maintain its records in such a manner that we could ascertain the amounts to be refunded to whom. ULH&P contends that it would be unreasonable and poor public policy for the Commission to order a refund. It asserts that our decision to order the rates subject to refund exceeds our statutory

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<sup>1</sup> Case No. 2001-00092, Adjustment of Gas Rates of The Union Light, Heat and Power Company.

authority, contradicts the mandate of KRS 278.390, constitutes retroactive rate-making and vitiates the purpose of the approved Rider.

In addition to asserting that the Commission lacks the authority to order the AMRP revenues subject to refund, ULH&P also asserts that the Commission should not order a refund after final adjudication by the Court. ULH&P states that the Supreme Court of Ohio clearly explained in Keko Industries, Inc. v. The Cincinnati & Suburban Bell Tel. Co., 151 N.E. 2d 465 (1957) why revenues collected prior to a court's decision should not be refunded when a court vacates a commission order. The Commission finds that this issue is not ripe and should not be addressed at this time.

The issue presently before the Franklin Circuit Court is whether the Commission had the statutory authority to approve the AMRP Rider. The Commission has not intended, and does not intend, to order a refund unless the court determines that the Commission exceeded its authority and rules that the Commission's Order was unlawful. Therefore, the Commission grants rehearing on this issue to this extent: we clarify our Order of August 30, 2002 simply to require ULH&P to maintain its records in such a manner that ULH&P, the Commission, or any of ULH&P's customers will be able to determine the amounts to be refunded and to whom in the event the Court rules that the Commission lacked the requisite authority to approve the AMRP Rider.

#### Maintenance of Records

In its Order of August 30, 2002, the Commission directed ULH&P to maintain its records such that ULH&P will be able to refund the AMRP Revenues collected to the customers who paid the fees if a refund is ordered. ULH&P asserts that this requirement will be unduly burdensome. It states that it would be required to write a

substantial amount of computer code to comply. It also contends that it will be required to attempt to locate customers who terminate service during the appeal process. It proposes that, if a refund is ordered, it be allowed to adjust the amounts of the AMRP revenues on a going forward basis to all active accounts until all amounts are refunded. It further states that, if refund is ordered, it will present a specific refund plan to the Commission for approval.

The Commission is required to establish fair, just and reasonable rates. Therefore, the Commission finds that the issue is what is fair, just and reasonable. Under KRS 278.190, the Commission may require rates implemented on an interim basis to be collected subject to refund and require such utility or utilities to refund to the persons in whose behalf the amounts were paid that portion of the increased rates or charges as by its decision shall be found unreasonable. It is the Commission's belief that the same basic fairness that is implied in the provision of that statute should apply to this proceeding. In addition, we find that the concept of generational equities which dictates that today's customers should not have to pay the cost of providing service to past customers should also dictate that customers that provided the revenues that were disallowed should receive the refund. The Commission also finds that if the Court rules that the Commission exceeded its authority to authorize the AMRP Rider, ULH&P's proposal to diminish the AMRP Rider revenues is untenable. There would be no Rider to adjust. Therefore, the Commission finds that rehearing on this issue should be denied.

### Allowed Depreciation Expense and Accumulated Depreciation on AMRP Projects

ULH&P requests that the Commission revise the calculation of the first AMRP revenue requirement to include the first-year depreciation expense and the corresponding impact of the accumulated depreciation for three work orders that were listed as less than 100 percent complete as of December 31, 2001. ULH&P contends that, while the projects were less than 100 percent complete, the mains in question had been replaced and the new mains were rendering service as of the filing date for this case. ULH&P notes that the work remaining on the work order is primarily related to site restoration work. Citing standard rate-making practice, ULH&P argues that it is entitled to the first year depreciation expense on the three work orders and that, therefore, the revenue requirement for the first AMRP Rider should be increased by \$83,440.

ULH&P argues that the projects associated with the three work orders were used and useful in rendering service as of the filing date for this proceeding. However, ULH&P's application in this case clearly states that the three work orders in question were between 96 and 98 percent complete as of December 31, 2001. The application in this proceeding was filed on March 27, 2002. The first AMRP Rider deals with the AMRP activity in calendar year 2001. The percentage of work order completion must address the status of the projects as of December 31, 2001, not March 27, 2002.

The work order system is an integral part of the overall accounting system used by ULH&P and other utilities. The work order system is used to track all the costs incurred in conjunction with a construction project. However, the work order system does not establish when construction on a project becomes used and useful or is placed

into service. As ULH&P correctly notes, activities such as site restoration would result in a work order being considered less than 100 percent complete. The Commission agrees with ULH&P's reasoning. However, in order to determine whether the projects covered by the three work orders identified by ULH&P as being less than 100 percent complete are eligible to be depreciated, it will be necessary to examine other accounting records that are part of ULH&P's overall accounting system. Since the filing format focused on the work order percentage of completion, the information directed by the Commission to be filed in the first AMRP Rider filing does not provide this necessary accounting information.

Based on a review of ULH&P's argument, the Commission finds good cause to grant ULH&P's request for rehearing to the extent that it will accept evidence on the specific depreciation expense and accumulated depreciation for calendar year 2001 that should be reflected in the determination of the first AMRP Rider revenue requirement. Attached to this Order, as Appendix A, is a data request detailing the additional information needed to make that determination.

IT IS THEREFORE ORDERED that:

1. ULH&P's motion for rehearing on the issue of the appropriate level of depreciation expense and accumulated depreciation for calendar year 2001 AMRP activity to be included in the first AMRP Rider revenue requirement associated with three work orders is granted to the extent described in this Order.

2. ULH&P shall, no later than October 23, 2002, file with the Commission the original and 7 copies of the information listed in Appendix A, with a copy to all parties of record. Each copy of the requested information shall be placed in a bound volume with

each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. ULH&P shall

include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention shall be given to copied material to ensure its legibility.

3. ULH&P's motion for rehearing on the subject to refund provision is granted to the extent that the August 30, 2002 Order is clarified herein, and ULH&P shall maintain its records in a manner that will enable ULH&P, the Commission or any of ULH&P's customers to determine the amounts to be refunded and to whom in the event the Court rules that the Commission lacked the requisite authority to approve the AMRP Rider.

4. ULH&P's motion for rehearing concerning the maintenance of records is denied.

Done at Frankfort, Kentucky, this 7<sup>th</sup> day of October, 2002.

By the Commission

ATTEST:

  
Executive Director

## APPENDIX A

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2002-00107 October 7, 2002

1. As of December 31, 2001, ULH&P indicated that Work Order A5468 had costs of \$389,723.18 for plastic mains and \$589,470.01 for steel mains.

a. As of that date, indicate how much of these costs were recorded in:

- (1) Account No. 101 Gas Plant in Service.
- (2) Account No. 106 Completed Construction Not Classified.
- (3) Account No. 107 Construction Work in Progress.

b. Provide copies of ULH&P's accounting system documentation that shows the work order costs were reclassified from construction work in progress ( CWIP ) to plant in service by December 31, 2001. If the reclassification is not readily apparent on the face of the documentation, include a supplemental explanation tracking the move from CWIP to plant in service.

2. As of December 31, 2001, ULH&P indicated that Work Order A5469 had costs of \$421,275.87 for plastic mains and \$1,259,506.08 for steel mains.

a. As of that date, indicate how much of these costs were recorded in:

- (1) Account No. 101 Gas Plant in Service.
- (2) Account No. 106 Completed Construction Not Classified.
- (3) Account No. 107 Construction Work in Progress.

b. Provide copies of ULH&P's accounting system documentation that shows the work order costs were reclassified from CWIP to plant in service by December 31, 2001. If the reclassification is not readily apparent on the face of the



documentation, include a supplemental explanation tracking the move from CWIP to plant in service.

3. As of December 31, 2001, ULH&P indicated that Work Order A5470 had costs of \$213,104.49 for plastic mains and \$370,995.37 for steel mains.

a. As of that date, indicate how much of these costs were recorded in:

(1) Account No. 101 Gas Plant in Service.

(2) Account No. 106 Completed Construction Not Classified.

(3) Account No. 107 Construction Work in Progress.

b. Provide copies of ULH&P's accounting system documentation that shows the work order costs were reclassified from CWIP to plant in service by December 31, 2001. If the reclassification is not readily apparent on the face of the documentation, include a supplemental explanation tracking the move from CWIP to plant in service.

4. Would ULH&P agree that normal rate-making practices do not permit utilities to recognize or record depreciation expense on CWIP? Explain the response.