COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE UNION LIGHT, HEAT AND POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE TO ACQUIRE CERTAIN GENERATION RESOURCES AND RELATED PROPERTY; FOR APPROVAL OF CERTAIN PURCHASE POWER AGREEMENTS; FOR APPROVAL OF CERTAIN ACCOUNTING TREATMENT; AND FOR APPROVAL OF DEVIATION FROM REQUIREMENTS OF KRS 278.2207 AND 278.2213(6)	)	CASE NO. 2003-00252

O R D E R

On December 16, 2005, The Union Light, Heat and Power Company ("ULH&P") submitted a quarterly compliance filing in accordance with the Commission's June 17, 2005 Order in this proceeding. Among other things, this compliance filing included a status report on ULH&P's plans for procuring coal, fuel oil, coal and lime transportation services, and the parts inventory at one or both of the coal-fired generating units acquired from its parent, The Cincinnati Gas and Electric Company ("CG&E"), which was previously approved by the Commission as part of this proceeding.

BACKGROUND

ULH&P proposes to implement purchase arrangements which will provide it the flexibility to acquire coal, fuel oil, coal and lime transportation services, and replacement parts from CG&E, all at CG&E's cost. Because of the shared nature of many facilities at the Miami Fort Station, including the coal pile for Miami Fort Units 5, 6, and 7, ULH&P states that it is logical and economical for CG&E to use its purchasing power to purchase coal for all three units and sell to ULH&P the coal necessary to operate ULH&P's generating unit, Miami Fort Unit 6. In addition, ULH&P states that being able to purchase coal from CG&E to supply its East Bend generating station will allow it to leverage CG&E's large scale coal purchasing activity, to the benefit of its customers.

In addition to its coal purchases, ULH&P states that relying on CG&E's existing arrangements for acquiring fuel oil and and transporting coal and lime to its newly acquired coal generating facilities, will benefit its customers, given the terms of CG&E's existing contracts, and will be more economical than ULH&P entering into stand-alone contracts. ULH&P states that CG&E maintains a common inventory of replacement parts for the Miami Fort Generating Station and that it believes that purchasing parts from CG&E at CG&E's cost would be more economical than if it purchased and maintained a separate inventory of parts solely for Miami Fort 6. In addition, ULH&P states that Miami Fort's docking and loading facilities can serve only one barge at a time and that separate shipments of high sulfur coal for Miami Fort 6 are not feasible.

ULH&P submits that the pricing of these purchases from CG&E complies with the Commission's rules on pricing for affiliate transactions, specifically, KRS 278.2207(1)(b) and 278.2213(6), because such pricing follows the asymmetrical pricing methodology (at or below market) included in its wholesale market-based rate tariff on file with and approved by the Federal Energy Regulatory Commission ("FERC").[1] In the alternative, ULH&P requests that the Commission grant a deviation under KRS 278.2219 to permit

[1] ULH&P enclosed with its compliance filing a letter to FERC's general counsel describing its plans to purchase various items from CG&E in which it requested that FERC issue a no-action letter because these practices comply with its FERC-approved asymmetrical pricing methodology. FERC issued a no-action letter to ULH&P on January 25, 2006.

it to enter into its proposed coal, fuel oil, coal and lime transportation, and parts inventory contractual arrangements with CG&E because compliance with Kentucky's affiliate pricing rules would unreasonably prevent ULH&P from acquiring these commodities and services under terms which would lower costs for its customers.

DECISION

The Commission, having considered the record and being otherwise sufficiently advised, finds that the proposed arrangements under which ULH&P will purchase coal, fuel oil, coal and lime transportation services, and inventory parts from CG&E are reasonable and that the transactions should be beneficial to ULH&P and its customers. We further find that the transactions proposed by ULH&P comply with the asymmetrical pricing methodology (at or below market) contained in ULH&P's wholesale market-based FERC rate tariff and that as such they comply with the affiliate transaction pricing rules provided in KRS 278.2207(1)(b).

KRS 278.2213(6) requires all dealings between a utility and a non-regulated affiliate to be conducted at arm's length. However, pursuant to KRS 278.2219(3) a deviation shall be granted if the Commission finds that compliance with the requirements is unreasonable or impracticable. The Commission finds that ULH&P has made the requisite showing that compliance with KRS 278.2213 would be impracticable and that a deviation should be granted.

IT IS THEREFORE ORDERED that:

1. ULH&P's proposed plans for procuring coal, fuel oil, coal and lime transportation services, and inventory parts from its parent company, CG&E, are in compliance with the affiliate pricing requirements of KRS 278.2207(1)(b).

2. ULH&P is granted a deviation from the affiliating pricing requirements of KRS 278.2213(6).

Done at Frankfort, Kentucky, this 15th day of March, 2006.

By the Commission

ATTEST:

Executive Director