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VIA OVERNIGHT MAIL

February 1, 2005

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PUBLIC SERVICE
COMMISSION

John J. Finnigan, Jr.
Senior Counsel

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: Case No. 2004-00253

Dear Ms. O'Donnell:

Enclosed please find an original and ten (10) copies of the Reply Comments of ULH&P in the above-referenced matter.

ULH&P also respectfully requests that the Commission revise the procedural schedule set forth in its January 7, 2005 order, to provide for ULH&P's reply comments to be filed by February 2, 2005, and for any party to request a hearing or informal conference by February 9, 2005. ULH&P consulted on this revised schedule with the Attorney General's office, which does not object to ULH&P's request.

Please return two (2) file-stamped copies in the enclosed overnight envelope. If you have any questions, please do not hesitate to contact me at (513) 287-3601.

Sincerely,

John J. Finnigan, Jr.
Senior Counsel

JJF/sew
Enclosures

cc: Hon. Betsy Blackford (w/ encl)

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of an Application of The Union)
Light, Heat and Power Company for Approval) Case No. 2004-00253
of its Proposed Economic Development Riders)

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PUBLIC SERVICE
COMMISSION

REPLY COMMENTS OF THE UNION
LIGHT, HEAT AND POWER COMPANY

As the Attorney General's comments noted, ULH&P amended Rider DIR and Rider BR to require that a special contract be approved in conjunction with service under these tariffs. The special contract would be subject to Commission review and approval. The Attorney General proceeds to argue, however, that the proposed tariffs conflict with KRS 278.170 because they would allow for service at free or reduced rates to classes of persons not specified in the statute.

ULH&P respectfully submits that this objection is not well-taken because the Commission can approve service at reduced rates for economic development purposes. This Commission has investigated this matter and established guidelines under which it will approve special contracts with economic development rates.¹ The Commission stated that in that case:

1. EDRs [economic development rates] will provide important incentives to new large commercial and industrial customers to locate facilities in Kentucky and to existing large commercial and industrial customers to expand their operations, thereby bringing much needed jobs and capital investment into Kentucky.

2. Utilities should have the flexibility to design EDRs according to the needs of their customers and service areas and to offer EDRs to those new and existing

¹ *In the Matter of an Investigation into the Implementation of Economic Development Rates by Electric and Gas Utilities*, Administrative Case No. 327 (Order) (September 24, 1990).

customers who require such an incentive to locate new facilities in the state and to expand existing ones.

3. EDRs should be implemented by special contracts negotiated between the utilities and their large commercial and industrial customers.²

ULH&P's proposed tariffs provide for the rates to be approved through a special contract process. This conforms to the procedure approved by the Commission in Administrative Case No. 327. Accordingly, the Commission has already addressed this matter and concluded that it has the requisite legal authority to approve economic development rates.

The Attorney General also objects that the tariffs' billing procedure could conflict with KRS 278.225. This statute requires a utility to bill for its service within two years of the date of service. The Attorney General objects to the tariff requirement in Rider DIR that the customer must take service for two years following the end of the 12-month incentive period, and failure to do so will result in the Company re-billing the customer at the standard tariff rates for the customer's usage during the incentive period.

ULH&P respectfully suggests that this objection is also without merit. The statute cited by the Attorney General applies to situations where the utility has failed to render a bill for service. In the present case, ULH&P will render a timely bill for its service and the customer will agree, at the outset of service, that the incentive rates are conditional upon the customer's taking service for two years after the end of the incentive period. In those cases where the customer fails to do so, the customer will have failed to satisfy a condition precedent for the applicability of the incentive rates. ULH&P would then re-issue its bill to eliminate the incentive rates, because the customer failed to satisfy


² *Id.* at 25.

the condition precedent for the incentive rates to apply. This re-issuance of a bill where the customer failed to satisfy an agreed condition precedent is different from a situation where a utility has simply failed to render any bill for service provided. In fact, if ULH&P failed to re-bill in the situation posited by the Attorney General, this would cause ULH&P to provide service at terms other than approved in the Commission-approved special contract.

ULH&P originally proposed these economic development rates to stimulate economic growth in its service area. If approved by the Commission, these tariffs would be posted on Cinergy's website. This would allow ULH&P to publicize the availability of economic development rates, and thereby economic growth. This also conforms with Kentucky policy favoring sustainable economic development, and with the economic development objectives of the Kentucky Economic Development Partnership.

Based on the foregoing, ULH&P respectfully requests that the Commission approve its amended application.

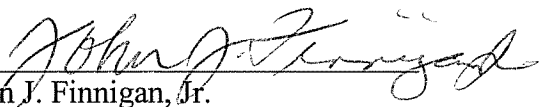
THE UNION LIGHT, HEAT AND
POWER COMPANY



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CERTIFICATE OF SERVICE

I hereby give notice that on this 1st day of February, 2005, I have sent by overnight mail for filing an original and ten true copies of the foregoing Amendment to Application with the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601, and I further certify that this same day I have served the parties listed below by overnight mail or electronic mail delivery.


John J. Finnigan, Jr.

Elizabeth E. Blackford
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