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JOHN J. FINNIGAN, JR.
Senior Counsel

VIA OVERNIGHT MAIL

October 1, 2004

CINERGY

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

Case 2004-00403

Re: ~~SA 7001~~
Case No. ~~2004~~-00092

RECEIVED

OCT 04 2004

PUBLIC SERVICE
COMMISSION

Dear Ms. O'Donnell:

Enclosed please find an original and eleven (11) copies of ULH&P's Motion for Extension of Filing Date and Continuation of the Current Rider AMRP Rates, for filing in the above-referenced case. Please return to me one (1) file-stamped copy in the enclosed overnight mail envelope. Should you have any questions, please do not hesitate to contact me at (513) 287-3601.

Sincerely,



John J. Finnigan, Jr.

JJF/mak

Enclosures

Cc: Elizabeth Blackford
Assistant Attorney General
1024 Capital Center Drive
Frankfort, KY 40601-8204

COMMONWEALTH OF KENTUCKY

RECEIVED

BEFORE THE PUBLIC SERVICE COMMISSION

OCT 04 2004

PUBLIC SERVICE
COMMISSION

In the Matter of Adjustment)	
of Gas Rates of The Union Light,)	Case No. 2001-00092
Heat and Power Company)	2004-00403

MOTION OF
 THE UNION LIGHT, HEAT AND POWER COMPANY
 FOR EXTENSION OF FILING DATE
 AND CONTINUATION OF THE CURRENT
 RIDER AMRP RATES

The Union Light, Heat and Power Company (ULH&P) moves the Commission for an order extending the "rates effective" date for its next general gas rate case for up to six months, to no later than March 1, 2006, and allowing ULH&P to continue in effect the current Rider AMRP rates through the effective date of such new base rates.

In the January 31, 2002, Order herein, the Commission approved Rider AMRP, which allowed ULH&P to timely recover its capital expenditures associated with its Accelerated Main Replacement Program (AMRP). Although ULH&P planned for the AMRP program to last ten years, the Commission approved recovery via Rider AMRP for only three years. The Commission required ULH&P to file another general gas rate case in three years, if it wished to continue Rider AMRP. The Commission further instructed ULH&P that, in ULH&P's next general gas rate application, ULH&P should

seek to transfer the Rider AMRP revenue requirements into base rates, and to justify whether ULH&P should continue the program. The Commission's Order stated:

The Commission finds the replacement of ULH&P's cast iron and bare steel mains within 10 years to be necessary and in the public interest. We also recognize the significant impact the accelerated main replacement program will have on ULH&P over the next 10 years. The Commission believes we have the statutory authority to establish, and that we should establish a method of recovery that will help to eliminate any impediment to the success of the program. However, because the AMRP Rider proposal is a case of first impression for the Commission, we believe that it should be established for an initial 3-year period. Having found that the replacement program is in the public interest and having recognized the impact on ULH&P, the Commission finds at this time no reason to believe that the mechanism cannot be continued for 10 years. However, we believe that establishing the Rider for an initial 3-year period will allow both ULH&P and the Commission an opportunity to review the operation of the mechanism and make a decision on its renewal.

* * *

Therefore, for the reasons mentioned earlier, the Commission believes it is reasonable to authorize the AMRP Rider for an initial 3-year period. The 3-year period will be effective as of the date of this Order. If ULH&P wishes to continue the AMRP Rider, it will need to file a general rate application to "roll-in" the Rider and to justify its continuation. The Commission believes it will be necessary to examine ULH&P's total gas operations in conjunction with a review to continue the AMRP Rider. It will also allow the Commission the opportunity to "roll-in" the replacement lines into the base rates of ULH&P and, if the AMRP Rider is continued, prevent the AMRP Rider from becoming too large a portion of the customer bill.¹

The Commission stated that ULH&P should file its application to adjust Rider AMRP rates by March 31 each year, and that the Commission would attempt to process

¹ January 31, 2002 Order at 78-80.

the applications within 60 days, such that the new rates would become effective by June 1 each year.² In its Order on Rehearing herein, the Commission clarified that, in order for ULH&P to continue Rider AMRP, it should file its next general gas rate case such that the “rates effective” date of the new rates would be June 1, 2005.³ In the first year of the Rider AMRP program, the Commission utilized a five-month investigation period before approving new Rider AMRP rates, instead of the 60-day period proposed in its earlier Order. Responding to an Application for Rehearing filed by ULH&P, the Commission extended the time period for ULH&P to file its next general base rate case such that the “rates effective” date of the new rates would be on and after September 1, 2005.⁴

ULH&P now seeks an order extending the filing date of its next general gas rate case for a period of up to six months, such that the “rates effective” date of the revised rates would be no later than March 1, 2006, and allowing ULH&P to continue the current Rider AMRP rates through the effective date of such new rates. ULH&P is considering use of a forecasted test period for its next general gas rate case, and extending the filing date by up to six months, while continuing the current Rider AMRP rates during such time, would enable ULH&P: (1) to utilize Cinergy Services Inc.’s (Cinergy) new software suite of financial tools; (2) to incorporate company-wide changes in its budgeting, forecasting, and financial reporting processes; (3) to present budgeted data based on a current budget that has been submitted to the Board of Directors that would include budget data for the entire forecasted test period; and (4) to present forecasted data

² *Id.* at 79.

³ Order dated March 13, 2002 at 24.

⁴ *In the Matter of an Adjustment of Rider AMRP of The Union Light, Heat and Power Company*, Case No. 2002-00107 (Order dated May 24, 2002).

that contains the same assumptions and methodologies as used in the forecast prepared for management. Finally, such an order would be consistent with the Commission's expressed intent to continue Rider AMRP for the duration of the main replacement program, and would avoid possible customer confusion associated with removing the Rider AMRP charge from their bills for a period of up to six months followed by increasing customers' bills for the new base rates.

Cinergy is currently replacing its budgeting, forecasting, and financial reporting systems. Cinergy has recently purchased software and is improving processes throughout the organization to track and report budgeted, forecasted, and actual data for Cinergy and its affiliates, including ULH&P. The project goals are to improve the planning and budgeting process, streamline the processing of financial transactions, and refine both internal and external reporting processes. The software and new systems are currently being implemented and will become fully operational in early 2005. Detailed budget data will be available for a two-year period and will enable ULH&P to compare budget and actual financial results more effectively, which will enhance the Commission's ability to review the Company's upcoming rate application.

The revised "rates effective" date would also enable ULH&P to employ the same assumptions and methodologies used in the Company's forecast for management and for the financial community. The Commission's rules state that a company using a forecasted test period must base the forecast on the same assumptions and methodologies used by management, or state the reasons why the same assumptions and methodologies

were not used.⁵ If a revised “rates effective” date is authorized, the assumptions and methodologies would be the same for this case as used for internal management, because this would enable ULH&P to use budget data available as of early 2005, as submitted to Cinergy Corp.’s Board of Directors, to prepare its base period and the forecasted test period. If a revised “rates effective” date is not authorized, ULH&P would need to use budget data approved in early 2004. This budget would include data for years 2004 and 2005 that would not be as timely as the data that would be available if the Commission approves this requested extension, and would not include any detailed data for year 2006, which would be part of the forecasted test period. Allowing ULH&P to continue the current Rider AMRP rate through the revised “rates effective” date would be consistent with statements in the Commission’s Order of January 31, 2002 herein that the main replacement program was necessary and in the public interest, but would have significant financial impact on ULH&P, causing the Commission to state that it could see no reason why Rider AMRP could not be continued for the full ten-year duration of the main replacement program. Finally, continuing Rider AMRP for the additional period of up to six months would avoid possible customer confusion that could arise from briefly removing the Rider AMRP charges as a line item from customer bills (even though the Commission has already reviewed and approved the justness and reasonableness of the Rider AMRP rates), then increasing customers’ bills for the new base rates that would “roll in” the Rider AMRP revenue requirement. Such a situation would not only be confusing to customers, but would also be inconsistent with good public policy and sound

⁵ 807 KAR 5:001 Section 10 (9)(e)(2).

ratemaking considerations. The Commission can avoid such a result by extending Rider AMRP for up to six months.

Neither the Staff nor the Attorney General, the only intervenor herein, has raised any objection to the value and efficacy of the AMRP program. The only objection to the program raised to date is the Attorney General's continuing objection that the Commission lacks statutory authority to approve a rate mechanism that only focuses on one area of the company's operations, and which is currently on appeal.⁶ If ULH&P is permitted to continue Rider AMRP for up to six months, this would facilitate ULH&P's ability to use a forecasted test year, and could possibly lead ULH&P to not request renewal of Rider AMRP in its next general rate case. Even though ULH&P has always maintained, and continues to maintain, that it is within the Commission's general ratemaking authority to approve Rider AMRP, not implementing Rider AMRP in the next case would eliminate the prospect of another round of appeals by the Attorney General.

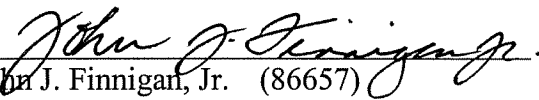
Notwithstanding the Attorney General's appeals, and given that no party has objected to the effectiveness of the AMRP program, ULH&P asks that the Commission allow it to continue to collect the Rider AMRP revenues at the rates set in the Commission's August 24, 2004 Order in Case No. 2004-00098 through the "rates effective" date of ULH&P's next general gas rate case, except (consistent with the Commission's prior orders) Rider AMRP should expire effective with the first billing

⁶ *Commonwealth of Kentucky, ex rel. A. B. Chandler, III, Attorney General vs. Public Service Commission of Kentucky and ULH&P*, Case No. 02-CI-00499 (Franklin Circuit Court) (Complaint dated April 5, 2002).

cycle in September 2005 if ULH&P has not filed an application for a new general gas rate increase by such date.

WHEREFORE, ULH&P requests that the Commission approve the revised "rates effective" date with continuation of the current Rider AMRP rate, as requested herein.

THE UNION LIGHT, HEAT AND
POWER COMPANY

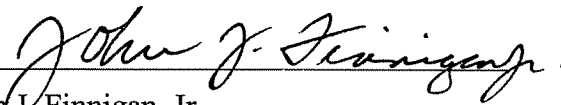
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CERTIFICATE OF SERVICE

I hereby give notice that on this 1st day of October, 2004, a copy of the foregoing Motion of The Union Light, Heat And Power Company for Extension of Filing Date and Continuation of the Current Rider AMRP Rates on the following party by regular U.S. mail, postage prepaid.


John J. Finnigan, Jr.

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