

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

JUL 29 2005

THE APPLICATION OF THE UNION LIGHT, HEAT )  
AND POWER COMPANY FOR APPROVAL OF )  
FIXED BILL PROGRAM RIDERS APPLICABLE TO )  
RESIDENTIAL CUSTOMERS )

PUBLIC SERVICE )  
COMMISSION )  
Case No. )  
2004-00503 )

**Comments of the Attorney General Following the Additional  
Presentation of ULH&P on the Proposed Fixed Bill Pilot Program**

Following the Commission’s decision to deny East Kentucky Power Cooperative’s (EKPC) request to be allowed to implement a fixed bill in Case No. 2004-00330, ULH&P was given an opportunity to conduct further research and to present further evidence in support of its proposed pilot fixed bill offerings for both electric and gas service. Under the expanded procedural Order, comments of the Parties are allowed. These are the comments of the Attorney General.

**ULH&P should not be allowed to offer the fixed bill rate.**

Nothing in ULH&P’s additional research and presentation demonstrates that the fixed bill is appropriate for use in Kentucky. Its invitation to and expectation of added use runs counter to specific statutory provision encouraging reduced usage through demand side management. Price signals become so remote as to be meaningless. On the gas side, it encourages added usage without improving load factor, the fixed bill’s claim to fame on the electric side of the utility services provided by ULH&P. As was made clear in the response to the Commission’s request for information,<sup>1</sup> the fixed bill has the potential to reduce the amount of off-system electric sales, thereby profiting participants at the expense of non-participants. It also provides the potential for cherry picking by allowing the company to boot those customers who do not satisfy the

<sup>1</sup> Response to KyPSC Staff Third Set of Data Requests, KyPSC-DR-03-003.

Company's payment and usage profile requirements from the fixed bill and to place such customers back onto the standard residential rate.

Most importantly, the fixed bill pilot program should not be allowed because the fixed bill rate gives regulated treatment and monopolistic protection to a service that is not inherently monopolistic.<sup>2</sup> The fixed bill is more than just a billing option. It is a new rate that compensates the utility for the management of usage/financial risk of the customer who takes electric or gas service. The severance of the link between actual usage and the usage paid for together with the addition of a premium specifically designed to compensate the utility for the risk management makes the fixed bill a new rate for a new add-on service, the service of usage/financial risk management.

Usage/ financial risk management lies beyond the provision of safe and adequate service of gas and electricity within a certified service territory. Unlike the underlying utility service, there is nothing about risk management that warrants monopolistic treatment. It is wrong to give regulated rate governance to an added risk management service that it is not inherently monopolistic in nature because this allows the utility the opportunity to garner added profit for services that are competitive in nature based upon solely upon its position as the monopoly provider of the underlying utility services. To expand the regulated compensable service a monopoly utility provider is authorized to provide into services that are not inherently monopolistic by nature and to give that service monopolistic treatment as a regulated rate not open to competition from other potential providers in the name of providing another billing option is anti-competitive and wrong.

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<sup>2</sup> In its the Comments of the Attorney General filed April 14, 2005, in this case, the AG argued that the Company was seeking to create an added opportunity for profit with the YFB offering on the same provision of utility services by creating a risk and charging for the management of that risk. Those comments did not emphasize that the usage/financial risk created by the YFB offering and the management of the risk is a newly offered service and that the charge for that newly offered service is a new rate.

**If the pilot program is implemented, the Commission rather than the utility should dictate the premium charged for the risk management element of the fixed bill.**

ULH&P has repeatedly stated that while it plans to charge a risk adder of 10% during the first year of the fixed bill offering, it wants to be able to lower that risk premium as history proves participants to be worthy of a lesser premium. In accord with that goal, it has asked to be allowed to determine the risk adder it will charge to each individual customer under the fixed bill rate. While lowering the premium is a worthy goal, leaving a monopoly provider the right to determine the amount it sees fit charge to customers under a rate is contrary to KRS 278.160, which requires that all rates be filed and prohibits any charge for service rendered other than that prescribed in the filed schedules.

**Conclusion**

ULH&P should not be allowed offer the fixed bill rate. If it is allowed, the Commission should set the amount of the risk premium, annual re-enlistment should be required, the penalties should be made as prominent as the benefits in the advertising and solicitation, and clear data showing the cost-benefits of participation should be required.

Respectfully submitted

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NOTICE OF FILING AND CERTIFICATION OF SERVICE

I hereby give notice that I have filed the original and ten true copies of the foregoing with the Executive Director of the Kentucky Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky, 40601 this the 29<sup>th</sup> day of July, 2005, and certify that this same day I have served the parties by mailing a true copy, postage prepaid, to the following:

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