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**John J. Finnigan, Jr.**  
Senior Counsel

**VIA OVERNIGHT MAIL**

May 27, 2005

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

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MAY 31 2005

PUBLIC SERVICE  
COMMISSION

Re: In the Matter of The Application of The Union Light, Heat and Power Company for Approval of Modification to Accounting Practices to Establish Regulatory Assets and Liabilities Related to Certain MISO-Related Costs and Revenues Not Already Included in Existing Base Rates  
Case No. 2005-00096

Dear Ms. O'Donnell:

I have enclosed for filing an original and twelve copies of The Union Light, Heat and Power Company's Comments in the above-referenced case.

Please date stamp and return the two extra 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

cc: Hon. Elizabeth E. Blackford (with enclosures)

In the Matter of: )  
 )  
 APPLICATION OF THE UNION LIGHT, HEAT )  
 AND POWER COMPANY FOR APPROVAL OF )  
 MODIFICATION TO ACCOUNTING )  
 PRACTICES TO ESTABLISH REGULATORY )  
 ASSETS AND LIABILITIES RELATED TO )  
 CERTAIN MISO-RELATED COSTS AND )  
 REVENUES NOT ALREADY INCLUDED IN )  
 EXISTING BASE RATES )

PUBLIC SERVICE  
COMMISSION

Case No. 2005 -00096

**COMMENTS OF**  
**THE UNION LIGHT, HEAT AND POWER COMPANY**

Pursuant to the Commission’s April 11, 2005 Order in this proceeding, The Union Light, Heat and Power Company (“ULH&P”) submits the following comments.

ULH&P filed this application to obtain approval to establish deferred regulatory assets and liabilities, respectively, related to incremental costs incurred and revenues received from the Midwest Independent Transmission System Operator, Inc. (“MISO”). The Kentucky Attorney General requested full intervention, which the Commission granted.<sup>1</sup> The Attorney General submitted one set of data requests and the Commission Staff submitted two sets of data requests, to which ULH&P responded.

ULH&P receives transmission service from transmission facilities owned by its parent company, The Cincinnati Gas & Electric Company (“CG&E”).<sup>2</sup> When the MISO Day 1 market commenced, ULH&P received transmission service over these CG&E-

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<sup>1</sup> *In the Matter of Application of The Union Light, Heat And Power Company For Approval of Modification to Accounting Practices to Establish Regulatory Assets and Liabilities Related to Certain MISO-Related Costs and Revenues Not Already Included in Existing Base Rates, Case No. 2005-00096 (Order)(April 11, 2005).*

<sup>2</sup> *Id.* (Application at 3)(March 3, 2005).

owned transmission facilities pursuant to the MISO Open Access Transmission Tariff (“OATT”).<sup>3</sup> MISO modified its OATT to provide for the terms and conditions of service for the new MISO Day 2 markets. ULH&P now takes transmission service from the same CG&E-owned transmission facilities under this new MISO Open Access Transmission and Energy Markets Tariff (“TEMT”). ULH&P will continue to receive service from CG&E-owned transmission facilities under the MISO TEMT after CG&E transfers the three generating plants to ULH&P, which the Commission conditionally approved in Case No. 2003-00252.<sup>4</sup>

The MISO’s day-ahead and real-time energy markets commenced on April 1, 2005.<sup>5</sup> At that time, ULH&P began to incur new charges for new transmission services provided by the MISO under Schedules 16 and 17, for which ULH&P seeks to establish deferrals.<sup>6</sup> ULH&P also seeks deferrals for Schedule 10 and Schedule 10-FERC costs not currently reflected in ULH&P’s rates.<sup>7</sup> Additionally, ULH&P has incurred new charges since April 1, 2005 under MISO’s new TEMT.<sup>8</sup> ULH&P seeks to defer all of the foregoing costs on a going-forward basis, from April 1, 2005 onward.<sup>9</sup> ULH&P does not request a Commission ruling that these charges are currently recoverable in ULH&P’s retail rates; rather, ULH&P will request such a ruling in its next electric general rate case.<sup>10</sup>

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<sup>3</sup> *Id.* (page 3 of the application incorrectly described ULH&P as taking service under the Cinergy Services, Inc. OATT)

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* (ULH&P Response to AG-DR-01-001)(April 26, 2005).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* (ULH&P Response to AG-DR-01-002)(April 26, 2005).

<sup>8</sup> *Id.* (Application at 5)(March 3, 2005).

<sup>9</sup> *Id.* (ULH&P Response to AG-DR-01-003)(April 26, 2005).

<sup>10</sup> *Id.* (ULH&P Response to AG-DR-01-007)(April 26, 2005).

These new MISO services have allowed ULH&P to improve service for its retail customers in the form of enhancing reliability, because the new MISO services allow MISO to better manage transmission congestion and provide for real-time balancing by dispatching generating units located throughout the Midwest on a real-time basis.<sup>11</sup> These new MISO services have resulted in significant new costs for ULH&P.<sup>12</sup>

ULH&P acknowledges entering into a settlement in Case No. 2001-00058, which effectively froze ULH&P's retail electric rates through December 31, 2003, and limited ULH&P from certain rate increases through December 31, 2006.<sup>13</sup> This settlement should not preclude ULH&P from obtaining cost recovery of these costs, however, because these costs are for new MISO services which could not have been contemplated by the parties at the time of the settlement in Case No. 2001-00058. Further, no recovery of such costs will take place until after December 31, 2006.

ULH&P also acknowledges that the Commission recently denied LG&E's and KU's request to establish a rate surcharge to recover MISO Day 2 costs or, in the alternative, to establish accounting deferrals to recover such costs.<sup>14</sup> The Commission denied LG&E's and KU's requests for accounting deferrals because LG&E and KU failed to establish certain pertinent information, such as the materiality of the costs and the propriety of recovering such costs over a future time period.<sup>15</sup> ULH&P has

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<sup>11</sup> *Id.* (Application at 4)(March 3, 2005).

<sup>12</sup> *Id.* (ULH&P Response to AG-DR-01-001, -002 and -009)(April 26, 2005); (ULH&P Response to KyPSC-DR-02-001)(May 23, 2005).

<sup>13</sup> *Id.* (ULH&P Response to KyPSC-DR-01-003)(April 26, 2005).

<sup>14</sup> *In the Matter of the Application of Louisville Gas and Electric Company for Approval of New Rate Tariffs Containing a Mechanism for the Pass-Through of MISO-Related Revenues and Costs not Already Included in Existing Base Rates and the Application of Kentucky Utilities Company for Approval of New Rate Tariffs Containing a Mechanism for the Pass-Through of MISO-Related Revenues and Costs not Already Included in Existing Base Rates*, Case Nos. 2004-00459 and 2004-00460 (Order)(April 15, 2005).

<sup>15</sup> *Id.* (Order at 6)(April 15, 2005).

established, however, that the MISO Day 2 costs are material,<sup>16</sup> that the accounting deferrals are appropriate based on the matching principle,<sup>17</sup> and that the deferrals would produce long-term benefits for customers.<sup>18</sup> ULH&P's application therefore is distinguishable from the LG&E/KU case.

### CONCLUSION

Based on the foregoing, ULH&P respectfully submits that it would be reasonable for the Commission to approve the accounting accruals requested by ULH&P based on the circumstances described herein. ULH&P therefore respectfully requests approval to establish deferred regulatory assets and liabilities, respectively, related to incremental costs incurred and revenues received from MISO, as requested in ULH&P's application in this proceeding.

THE UNION LIGHT, HEAT AND  
POWER COMPANY

By: 

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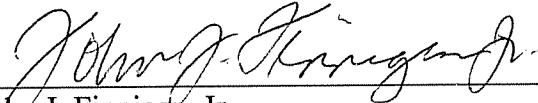
<sup>16</sup> *In the Matter of Application of The Union Light, Heat And Power Company For Approval of Modification to Accounting Practices to Establish Regulatory Assets and Liabilities Related to Certain MISO-Related Costs and Revenues Not Already Included in Existing Base Rates*, Case No. 2005-00096 (ULH&P Response to KyPSC-DR-02-001, KyPSC-DR-02-003 and KyPSC-DR-02-005)(May 23, 2005).

<sup>17</sup> *Id.* (ULH&P Response to KyPSC-DR-02-001)(May 23, 2005).

<sup>18</sup> *Id.* (ULH&P Response to KyPSC-DR-02-007)(May 23, 2005).

CERTIFICATE OF SERVICE

I hereby give notice that on this 27<sup>th</sup> day of May, 2005, a copy of the foregoing Comments of The Union Light, Heat and Power Company was served on the following party by regular U.S. mail, postage prepaid.

  
\_\_\_\_\_  
John J. Finnigan, Jr.

Elizabeth E. Blackford  
Assistant Attorney General  
Office of Rate Intervention  
1024 Capital Center Drive, Suite 200  
Frankfort, Ky 40601