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VIA OVERNIGHT MAIL

December 19, 2003



Thomas Dorman
Executive Director,
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

DEC 22 2003

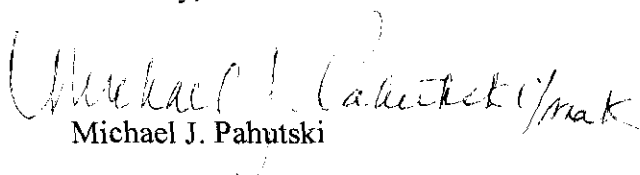
Re: Case No. 2003-00252

Dear Mr. Dorman:

Enclosed please find an original and 12 copies of ULH&P's Petition for Reconsideration of Commission's Denial of Confidential Treatment for filing with the Commission. Please file-stamp the extra 2 copies and return them to me in the overnight envelope provided.

If you have any questions, please do not hesitate to contact me at (513) 287-3075.

Sincerely,


Michael J. Pahutski

MJP/mak

Enclosures

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

REC-2003-00252
DEC 2 2 2003

In the Matter of the Application of The Union)
Light, Heat and Power Company for a)
Certificate of Public Convenience and Necessity)
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

**THE UNION LIGHT, HEAT AND POWER COMPANY'S
PETITION FOR RECONSIDERATION OF
COMMISSION'S DENIAL OF CONFIDENTIAL TREATMENT**

The Union Light, Heat and Power Company (ULH&P), respectfully requests the Commission to reconsider its denial of confidential treatment requested by ULH&P for the information provided in response to the Staff's and the Attorney General's (AG) data requests in this proceeding.

ULH&P, along with The Cincinnati Gas & Electric Company (CG&E) sought confidential treatment of competitively sensitive information. This information generally pertained to the operation, condition and costs associated with the generating assets ULH&P proposes to acquire from CG&E. (Plants) As more specifically discussed below, this information, if openly disclosed, would enable competitors in the wholesale power market to ascertain the manner in which CG&E manages and operates its portfolio of generation assets. Historical non-public information would provide competitors insight into CG&E's considerations in responding to market conditions, the manner in which it is

likely to participate in the market in the future, and more fundamentally, its ability to compete in the marketplace given certain future market conditions. With this information, a competitor could reasonably ascertain CG&E's ability to serve load and trade power in any given set of circumstances, and then take actions designed to artificially inflate the price of electricity or otherwise unfairly manipulate the marketplace to its advantage, ultimately resulting in higher consumer prices for electricity.

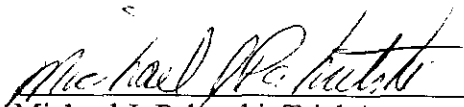
Likewise, projected information provides power marketing competitors with knowledge that will allow them potentially to manipulate the marketplace so as to unnecessarily cause consumers to pay more for electricity than they otherwise would. For example, scheduled outages of CG&E's plants could grant competitors a distinct advantage in that they would be able to anticipate when CG&E plants would be down or otherwise constrained and where CG&E may be in either a long or short position relative to its supply of electricity. With this information, a competitor could take actions that in the absence of this information it would not take. Such actions might include adjusting its prices, either to win contracts on which CG&E may also be bidding — business the competitors otherwise would not be in a position to win, or to set its prices artificially high to take advantage of an overall short market, the latter action obviously forcing consumers to pay higher prices for power.

ULH&P has attached as Exhibit A a detailed discussion of each of the discovery requests that were denied confidential treatment. ULH&P respectfully requests the Commission to reconsider its treatment of this information in light of the effects disclosure of this information could have on CG&E and ULH&P, as described herein.

WHEREFORE, The Union Light, Heat and Power Company, on behalf of itself and The Cincinnati Gas & Electric Company, respectfully requests the Commission to grant confidential treatment to the information previously denied this treatment, as described herein.

Respectfully submitted,

THE UNION LIGHT, HEAT AND POWER
COMPANY



Michael J. Palutski, Trial Attorney
John J. Finnigan, Senior Counsel
The Union Light, Heat and Power Company
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Exhibit A

ULH&P's responses to Commission Staff's Initial Data Requests

ITEM	INFORMATION	REASON FOR CONFIDENTIAL TREATMENT
3(b)	East Bend Outage Summary Report	<p>Although historical in nature, Competitors can use this outage summary report to determine the manner in which CG&E schedules outages of its units, and can further use this information to determine potential vulnerabilities at the plant. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage or reap undeserved windfall profits.</p>
8(d)	Summary of outages at Miami Fort	<p>Although historical in nature, Competitors can use this summary of outages at Miami Fort to determine the manner in which CG&E schedules outages of its units, and can further use it to determine potential vulnerabilities at the plant. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage or reap undeserved windfall profits.</p> <p>This information also contains some information regarding future planned outages, which, as with historical information, can be used by competitors to predict CG&E's ability to serve the wholesale market in the future, to CG&E's detriment.</p>
47(a) 47(b)	Generation-related O&M and A&G expenses related to the Plants	<p>This cost information can be used by competitors to understand CG&E's cost structure and the costs CG&E must incur in serving the wholesale competitive marketplace. As with any competitor in the wholesale market, CG&E closely safeguards its generation-related costs because this information can readily be used to predict the prices at which CG&E may be able to sell into the marketplace, thus allowing competitors to undercut CG&E's pricing where they otherwise would not, or to charge more than they otherwise would (if they knew they could increase their prices and still remain below CG&E's)</p>

ULH&P's responses to Attorney General's Initial Data Requests

ITEM	INFORMATION	REASON FOR CONFIDENTIAL TREATMENT
15	Mr. EGE's notes regarding his visit to the Plants	This information generally consists of information regarding the operating characteristics of the plants, plant capability, etc. Although historical in nature, Competitors can use this information to determine vulnerabilities in CG&E's generation portfolio. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.
16, 17	<ul style="list-style-type: none"> • Net Heat Rate, • Equivalent Availability 	Although historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.
24	<ul style="list-style-type: none"> • MWH supplied for the year • Hours at max. capacity • Hours at derated capacity • Hours down for forced outages • Hours of planned outages 	Although this highly sensitive information is historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage. Competitors can manipulate prices to charge more than they otherwise would where they can predict other suppliers, such as CG&E, to be short. This affects the rates paid for economy power and replacement power purchased when utilities experience forced outages.
31, 33	<ul style="list-style-type: none"> • Annual capital additions and maintenance expense. • Final retirement dates and source documentation. • Depreciation studies 	Although historical in nature, Competitors can use this information to determine the condition of and the manner in which CG&E manages its plants, and can further use it to determine potential vulnerabilities at the plant. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.
43	Audit reports, management letters, consultant's reports	All of the information ULH&P and CG&E requested confidential treatment of has a direct bearing on the condition of the plants and thus CG&E's ability to compete in the wholesale market place. Thus, all of this information is competitively sensitive as generally described herein and should be granted confidential treatment.

ULH&P's supplemental responses to Commission Staff's Initial Data Requests

ITEM	INFORMATION	REASON FOR CONFIDENTIAL TREATMENT
37(a), 39	Fixed and variable O&M expenses	This cost information can be used by competitors to understand CG&E's cost structure and the costs CG&E must incur in serving the wholesale competitive marketplace. As with any competitor in the wholesale market, CG&E closely safeguards its generation-related costs because this information can readily be used to predict the prices at which CG&E may be able to sell into the marketplace, thus allowing competitors to undercut CG&E's pricing where they otherwise would not, or to charge more than they otherwise would (if they knew they could increase their prices and still remain below CG&E's)
53(a), 53(b), 53(d)	Historical and projected capital additions, retirements	<p>Although historical in nature, Competitors can use this information to determine the condition of and the manner in which CG&E manages its plants, and can further use it to determine potential vulnerabilities at the plant. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.</p> <p>Note that the Commission granted confidential treatment to ULH&P's original response – its denial of confidential treatment of the supplemental responses is accordingly arbitrary and capricious.</p>

ULH&P's supplemental responses to AG's Initial Data Requests

ITEM	INFORMATION	REASON FOR CONFIDENTIAL TREATMENT
56	<ul style="list-style-type: none"> • Current rated capacity • Annual generation (kWh) • Annual capacity factor • Annual availability • Average variable cost per kWh • Average fuel cost per kWh 	<p>Although this highly sensitive information is historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.</p> <p>Competitors can manipulate prices to charge more than they otherwise would where they can predict other suppliers, such as CG&E, to be short. This affects the rates paid for economy power and replacement power purchased when utilities experience forced outages.</p>

ULH&P's responses to AG's Second Data Request

ITEM	INFORMATION	REASON FOR CONFIDENTIAL TREATMENT
2	<ul style="list-style-type: none"> • Current rated capacity • Annual generation (kWh) • Annual capacity factor • Annual availability • Average variable cost per kWh • Average fuel cost per kWh 	<p>Although this highly sensitive information is historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage. Competitors can manipulate prices to charge more than they otherwise would where they can predict other suppliers, such as CG&E, to be short. This affects the rates paid for economy power and replacement power purchased when utilities experience forced outages.</p>
13	<ul style="list-style-type: none"> • Time of system peak. • System coincident peak. • Capacity available at time of system peak. 	<p>Although this highly sensitive information is historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage. Competitors can manipulate prices to charge more than they otherwise would where they can predict other suppliers, such as CG&E, to be short. This affects the rates paid for economy power and replacement power purchased when utilities experience forced outages.</p>
29	<ul style="list-style-type: none"> • Net Heat Rate, • Equivalent Availability 	<p>Although historical in nature, Competitors can use this plant information to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.</p>
31	Woodsdale turbine overhaul	<p>Although historical in nature, Competitors can use this information to determine the condition of and the manner in which CG&E manages its plants, and can further use it to determine potential vulnerabilities at the plant. This information can be used by competitors to predict CG&E's needs for power purchases and CG&E's ability to serve the wholesale marketplace, thus allowing competitors to set market prices in a manner in which they otherwise would not in order to gain a competitive advantage.</p>

CERTIFICATE OF SERVICE

I hereby give notice that on this 19th day of December, 2003, I have filed an original and ten true copies of the foregoing Acceptance of Conditions and Application for Rehearing 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 at the addresses listed.


Michael J. Panutski

Elizabeth E. Blackford
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Frankfort, Kentucky 40601
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