

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TIME OF DAY TARIFF FILING BY UNION            )  
LIGHT, HEAT AND POWER COMPANY                )        CASE NO. 8870

O R D E R

In a July 29, 1985, interim Order in this case, the Commission decided that Union Light, Heat and Power Company ("ULH&P") should keep its time-of-day ("TOD") tariffs, Distribution Services-TOD ("DS-TOD") and Transmission Services-TOD ("TS-TOD"), in effect for all those customers presently served under those tariffs and stated that this decision would become final unless comments filed in response to the Order persuaded the Commission to change its decision.

The Commission provided three reasons for its decision to continue with the TOD rate structure on a permanent basis. These were: (1) a TOD rate structure better reflects to the customer the cost it is imposing on the utility; (2) the TOD tariffs were reasonably well accepted by customers; and (3) TOD rates provide customers additional options to control their costs in the event the economy or the market for the products or services they provide should require such cost controls. All of the participants and other parties were given until August 16, 1985, to file comments in response to the July 29, 1985, Order.

Comments were filed by the following: Square D Company; Mazak Corporation; FasTemp; Kentucky Industrial Utility Customers; Kentucky Jockey Club Incorporated; Rotek Incorporated; Newport Water Works; Plymouth Steel Corporation; Gates Rubber Company; Shillito Rikes; and ULH&P. Some of the companies' comments indicated that the TOD rates had presented no problem and that some action had been taken or was planned which would lead to savings under the TOD rate structure. Most of the comments, however, expressed concern with the continuation of the TOD rate structure. The primary concern was that because of the nature of a company's business operation it could not shift any of its operation to the off-peak period. Some concern was also expressed about the effect a TOD rate structure might have on economic development in Kentucky. ULH&P expressed its concern that the TOD rate structure was unfair to those companies that could not shift some of their demand for electric power to the off-peak period. ULH&P also stated that the TOD rates had resulted in a significant revenue shortfall and requested that the company be allowed to modify its TOD rates if the TOD rates were to be continued. Further, ULH&P stated that it believed the TOD rates should be discontinued or made optional.

The Commission appreciates the interest of all of those who filed comments. The concerns expressed therein have been carefully weighed by the Commission in reaching its final decision concerning TOD rates in Kentucky. The Commission understands the concern of those customers who cannot shift their electrical usage to the off-peak period. In response, the

Commission reaffirms its previous statements that a customer's inability to shift usage to the off-peak period is not a sufficient argument against the continuation of TOD rates. As the Commission has stated in previous Orders, the primary virtue of a TOD rate structure is that it better reflects to the customer the cost it is imposing on the utility. The matching of rates with costs is an important principle in the Commission's ratemaking process.

The Commission has carefully considered the effect TOD rates will have on the business climate in Kentucky. Traditionally, Kentucky ratepayers have received reliable power at reasonable rates. Electricity rates in Kentucky are among the lowest in the nation.<sup>1</sup> The Commission intends to see that these rates remain competitive in the future. The Commission disagrees with those who argue that TOD rates will adversely affect economic development. In fact, TOD rates may well be a boon to economic development. Companies that are able to shift their usage to less expensive, off-peak periods may find these rates to be an incentive to either locate in Kentucky or expand their current operations here. For companies that cannot shift their usage, TOD rates will more accurately reflect the costs they are imposing on the utility. The overall result will be better use of

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<sup>1</sup> Based on surveys by the National Association of Regulatory Utility Commissioners, the average cost of electricity in Kentucky has historically been among the lowest of those reported.

existing generating capacity, as well as a moderation of the need for expensive new generation facilities. In the long run, this moderation will tend to keep down electric rates and maintain Kentucky's highly competitive ability to provide electric power at reasonable cost.

The Commission recognizes, however, that there may be individual companies either now doing business in Kentucky or planning to locate here whose particular operations present unique circumstances that lie outside the scope of the concerns considered in this Order. If such a case should arise, the individual company may seek relief by filing a petition with the Commission pursuant to 807 KAR 5:001, Section 12. The Commission advises those who may choose this course of action that the granting of such a petition will be the exception, not the rule, and that the petitioner will have a heavy burden to provide compelling evidence demonstrating why it should not be subject to TOD rates.

The Commission is concerned by the magnitude of the revenue deficit reported by ULH&P during the TOD rate experiment. However, the recovery of this revenue deficit must be dealt with in accordance with the Commission's regulations for an adjustment in rates as outlined in 807 KAR 5:001, Section 10. Rates cannot be raised without adhering to the procedures detailed in the regulation. The Commission has previously expressed this view in a June 8, 1983, Order in Administrative Case No. 203, The Determinations With Respect To The Ratemaking Standards Identified In Section 111(d)(1)-(6) Of The Public Utility Regulatory Policies

Act Of 1978. Therefore, the Commission denies ULH&P's request to modify its TOD tariffs at this time so as to recover this revenue shortfall.

As to ULH&P's request that the TOD rates be continued on an optional basis at the discretion of the customer, the Commission disagrees and denies this request. The Commission believes that the likely revenue loss and the shifting of customers between tariffs makes the offering of TOD rates on an optional basis an unreasonable alternative.

The Commission believes that TOD rates are a reasonable rate structure and that the DS-TOD and TS-TOD tariffs should be continued and made mandatory for all customers with demands of 500 kilowatts or greater. Within 20 days of the date of this Order, ULH&P shall file its DS-TOD and TS-TOD tariffs after modifying the Applicability section of the tariffs to indicate that they are permanent and mandatory for all customers with demands of 500 kilowatts or greater. In its next rate case, ULH&P should identify other customers that have the metering capability for TOD rates and either explain why those customers should not be billed under a TOD rate structure or provide a TOD tariff that includes them.

The Commission, having considered the evidence of record and being advised, is of the opinion and finds that:

1. The DS-TOD and TS-TOD tariffs should be continued and made mandatory for all customers with demands of 500 kilowatts or greater; that ULH&P should modify the Applicability section of

the tariffs to so indicate; and that ULH&P should file its revised tariffs within 20 days of the date of this Order.

2. The recovery of the revenue deficit that occurred during the TOD experiment can only be considered upon an application by ULH&P in accordance with 807 KAR 5:001, Section 10.

3. In ULH&P's next general rate case, it should identify other customers that have the metering capability for TOD rates and either explain why those customers should not be billed under a TOD rate structure or provide a proposed TOD tariff that includes them.

4. ULH&P should distribute this Order to all of its customers that have participated in the TOD rate experiment.

IT IS THEREFORE ORDERED that:

1. The DS-TOD and TS-TOD tariffs shall be continued and mandatory for all customers with demands of 500 kilowatts or greater; that ULH&P shall modify the Applicability section of the tariffs to so indicate; and that ULH&P shall file its revised tariffs within 20 days of the date of this Order.

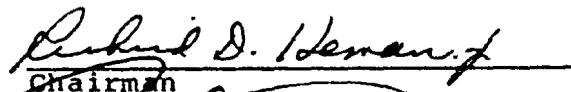
2. The recovery of the revenue deficit that occurred during the TOD experiment can only be considered upon an application by ULH&P in accordance with 807 KAR 5:001, Section 10.

3. In ULH&P's next general rate case, it shall identify other customers that have the metering capability for TOD rates and either explain why those customers should not be billed under a TOD rate structure or provide a proposed TOD tariff that includes them.

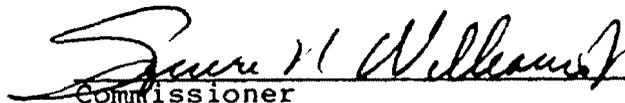
4. ULH&P shall distribute this Order to all of its customers that have participated in the TOD rate experiment.

Done at Frankfort, Kentucky, this 25th day of October, 1985.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Secretary