

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CONSTRUCTION OF A GAS DISTRIBUTION)
SYSTEM AND ASSESSMENT OF CERTAIN)
CHARGES BY THE UNION LIGHT, HEAT AND)
POWER COMPANY)
_____) CASE NO. 90-207
ALLEGED VIOLATION OF KRS 278.020(1),)
KRS 278.160(1) AND 807 KAR 5:001,)
SECTION 9(3))

ORDER TO SHOW CAUSE

The Union Light, Heat and Power Company ("ULH&P") is engaged in the business of furnishing electricity and natural gas to the public and is a utility subject to the jurisdiction of the Commission pursuant to KRS 278.040.

In April 1990 Commission Staff received a copy of a brochure distributed by ULH&P to a prospective gas customer in Williams-town, Grant County, Kentucky. The brochure provides general information on how to become a ULH&P gas customer and describes certain responsibilities of the customer and ULH&P regarding gas service. Included in the brochure is a reference to two inspections that involve charges to a prospective gas customer which are performed by ULH&P prior to initiating gas service. Neither of these charges appears in ULH&P's existing tariff on file with the Commission.

In Case No. 89-066,¹ ULH&P received a Certificate of Convenience and Necessity to bid on a gas franchise in Williamstown. ULH&P has not submitted to the Commission any application requesting a Certificate of Convenience and Necessity to begin construction of a gas system to serve Williamstown.

Since it appeared that ULH&P had begun construction of the Williamstown gas system without a Certificate of Convenience and Necessity and was collecting charges not in its existing tariff from Kentucky customers, Staff requested additional information from ULH&P regarding the Williamstown project and charges for certain inspections. Information was requested and received during the period April 17, 1990 to June 15, 1990.

Based upon information in its response, ULH&P is currently constructing a gas distribution system in Williamstown consisting of 110,460 feet of pipe at an estimated total cost of \$4.1 million. In its May 1, 1990 response, ULH&P initially estimated that 786 customers would be provided service by December 31, 1992. However, ULH&P revised the number of prospective customers in its May 29, 1990 response, stating that 1,789 potential customers may be receiving gas service within the next 5 years. No explanation was given regarding the revised estimate other than the original estimate was in error.

¹ Case No. 89-066, Application of The Union Light, Heat and Power Company for a Certificate of Convenience and Necessity to Bid on a Franchise in the City of Williamstown, Commonwealth of Kentucky, Order entered March 29, 1989.

The Williamstown project's first phase began in 1989 and was completed in April 1990. This phase brought ULH&P's facilities approximately 5.5 miles south to Williamstown's town border. The second phase began in April 1990 and will provide an estimated 13.6 miles of distribution main generally within Williamstown's city limits.

According to ULH&P's brochure referenced herein, there is a \$50 charge for the pressure test and restoration when the gas service line is connected to the gas main. If ULH&P installs the service line, the \$50 charge for the service line pressure test is included in ULH&P's \$300 charge for installation of the service line. ULH&P also assesses a \$35 charge for the house piping pressure test prior to installing the gas meter. Both of these tests are required by Commission regulations, 807 KAR 5:022, Sections 11(7) and 9(17)(a)3, respectively, to be performed and completed by ULH&P prior to initiating gas service to a customer. Each test is a condition of service.

In Case No. 90-041² currently pending before the Commission, ULH&P has proposed increases to its customer charge for residential service to gas customers and the rate per Mcf for gas service to residential customers. ULH&P has requested approximately \$4.5 million in additional gas revenues. In its June 15, 1990 response, ULH&P acknowledged that the costs incurred for the Williamstown project are in part responsible for ULH&P's proposed

² Case No. 90-041, An Adjustment of Gas and Electric Rates of The Union Light, Heat and Power.

increases and need for additional gas revenues in Case No. 90-041. ULH&P stated that \$692,725 of the project's cost are included in Case No. 90-041. The Commission notes that ULH&P has also requested in Case No. 90-041 to be allowed to submit additional construction costs through June 1990.

KRS 278.020(1) requires a utility to obtain from the Commission a Certificate of Convenience and Necessity prior to the construction of any plant, equipment, property, or facility, with certain exceptions, including ordinary extensions of existing systems in the usual course of business. 807 KAR 5:001, Section 9(3), provides that extensions in the ordinary course do not require a Certificate of Convenience and Necessity that do not create wasteful duplication of plant, or conflict with the existing certificate of another utility operating in the same area and jurisdictional to the Commission, and that the capital outlay required does not materially affect the existing financial condition of the utility or will not result in increased charges to its customers. KRS 278.160(1) requires a utility to file with the Commission and adhere to a schedule showing all rates and conditions for service established by it and collected or enforced.

After review of the available information, pertinent statutes and regulations, and being otherwise sufficiently advised, the Commission hereby finds that a prima facie case has been established that ULH&P is in violation of KRS 278.020(1), KRS 278.160(1), and 807 KAR 5:001, Section 9(3).

IT IS THEREFORE ORDERED THAT:

1. ULH&P shall submit to the Commission no later than August 16, 1990 information showing the period of time during which it has assessed Kentucky customers charges for tests required by 807 KAR 5:022, Sections 11(7) and 9(17)(a)3; the number of Kentucky customers assessed; and the total amount collected.


2. All correspondence between Staff and ULH&P during the period April 17, 1990 and June 15, 1990 regarding the Williamstown project shall be and hereby is incorporated into the record.


3. ULH&P shall appear on August 23, 1990 at 10 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at Frankfort, Kentucky, for the purpose of showing cause, if any it can, why ULH&P should not be subject to the penalties of KRS 278.990 for its alleged violations of KRS 278.020(1), KRS 278.160(1), and 807 KAR 5:001, Section 9(3), and why ULH&P should not be required to refund all revenues collected from Kentucky customers for tests conducted in compliance with 807 KAR 5:022, Sections 11(7) and 9(17)(a)3.

Done at Frankfort, Kentucky, this 1st day of August, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director