

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF THE CINCINNATI GAS &)
ELECTRIC COMPANY AND CENERGY CORP. FOR)
APPROVAL OF THE ACQUISITION OF CONTROL OF) CASE NO. 94-104
THE UNION LIGHT, HEAT & POWER COMPANY BY)
CENERGY CORP.)

O R D E R

On March 15, 1994, the Cincinnati Gas and Electric Company ("CG&E") and CENERGY Corp. ("CENERGY") (collectively "Applicants") filed an application, pursuant to KRS 278.020(5), requesting approval of the indirect acquisition of control of The Union Light, Heat and Power Company ("ULH&P") by CENERGY.

ULH&P, a utility under the jurisdiction of the Commission, owns and operates a natural gas distribution system providing service to 69,000 customers and an electric distribution system providing service to 109,000 customers in five northern Kentucky counties. ULH&P is a wholly-owned subsidiary of CG&E which provides similar utility service in Cincinnati, Ohio, and surrounding areas. In addition, CG&E generates and transmits electricity in Kentucky and Ohio. ULH&P owns no electric generating facilities and purchases its total requirements from CG&E pursuant to tariffs on file with, and subject to the jurisdiction of, the Federal Energy Regulatory Commission ("FERC").

CENERGY, a new corporation with offices to be in Cincinnati, Ohio, was created to become a holding company that will be

registered under the Public Utility Holding Company Act of 1935 ("PUHCA"). CINergy will hold the common stock of CG&E and PSI Energy, Inc. ("PSI Energy"), a regulated electric utility providing service in Indiana. Pursuant to an Agreement and Plan of Reorganization, CG&E and PSI Energy will become utility subsidiaries of CINergy. The shareholders of CG&E and PSI Resources, Inc., the parent of PSI Energy, will become the shareholders of CINergy, with CG&E continuing as the sole shareholder of ULH&P.

Upon completion of the reorganization, CINergy will have two direct operating subsidiaries, CG&E and PSI Energy, and a service corporation subsidiary, CINergy Services, Inc. ("CINergy Services"), which will provide goods and services to the operating companies pursuant to a Service Agreement to be filed with the Securities and Exchange Commission ("SEC"). Planning for the CINergy system will be performed on a system-wide basis with an economic dispatch of the CG&E and PSI Energy generating units. The integration of utility operations and planning functions will be performed in accord with the provisions of the Operating Agreement among CG&E, PSI Energy, and CINergy Services. The Operating Agreement, establishing the interstate framework for the CINergy System, is subject to the jurisdiction of the FERC and is now pending review by that agency.

The public was given notice of the application by newspaper publication in conformity with the Commission's March 18, 1994 Order. Intervention was requested by and granted to the Attorney's

General office, Utility and Rate Intervention Division ("AG"), and Citizens Organized to End Poverty in the Commonwealth ("CO-EPIC"). A hearing was held on May 10, 1994 at the Commission's offices in Frankfort, Kentucky, for the purpose of cross-examining the Applicants' direct and supplemental testimony. None of the intervenors filed testimony. Due to the 60-day statutory limit for review of an application under KRS 278,020(5), the Commission established May 11, 1994 as the due date for briefs.

The application was supported by the direct testimony of Jackson H. Randolph, Chairman, President, and Chief Executive Officer of CG&E and ULH&P, and Chairman and Chief Executive Officer of CINergy; James E. Rogers, Jr., Chairman, President, and Chief Executive Officer of PSI Energy and Vice Chairman, President and Chief Operating Officer of CINergy; Terry E. Bruck, Vice President of Electric Operations of CG&E and ULH&P; and Donald I. Marshall, Vice President of Rates and Economic Research of CG&E and ULH&P. The testimony describes in detail the anticipated benefits of the reorganization including: more efficient utilization of generating and transmission facilities through economic dispatch to meet the needs of the combined system; coordinating purchases to achieve lower costs through economies of scale and increased bargaining position; coordinating system planning and scheduling of maintenance to reduce the risk associated with an outage and help maintain system reliability; the deferral of capital investment due to the deferral of planned peaking and base load capacity; creation of a broader and more diverse generating, transmission and customer

base with a corresponding increase in asset base providing improved access to capital markets and lower capital costs for future construction; and reducing operating costs through a workforce reduction of approximately 400 employees over the next few years. The total estimated savings to be produced by the merger over the next 10 years is \$1.5 billion system-wide, with approximately \$95 million allocated to ULH&P.

The Applicants also filed supplemental testimony of witnesses Rogers and Marshall setting forth certain commitments on behalf of the Applicants to ensure that the creation of CINergy does not impair the Commission's regulatory authority over ULH&P and to keep retail rates lower than they would be absent a reorganization. A summary of the commitments offered to the Commission by the Applicants include:

1. Access to the accounts and records of CINergy, CINergy Services, and any affiliates and subsidiaries controlled by CINergy to verify transactions with ULH&P;
2. The ability to review and approve or reject any contract between ULH&P and an affiliate that must be filed with the FERC, except service agreements filed with the SEC pursuant to PUHCA, contracts between CG&E and any affiliated operating utility governing rates, charges or terms and conditions of service which are subject to FERC jurisdiction or the Operating Agreement or any amendment or replacement;
3. Service of a copy of any application, declaration or amendment filed pursuant to Sections 6, 7, 9(a), or 10 of PUHCA at the time the document is filed with the SEC;
4. No claim of SEC preemption will be raised before the Commission or in any action in any forum in the event that any affiliated costs, other than

those included in ULH&P's purchased power cost, are excluded for rate-making purposes;

5. Any service agreement or amendment thereto between CG&E and ULH&P will be filed with the Commission for review 60 days before filing with the SEC and if rejected by the Commission such service agreement or amendment will be not filed or will be withdrawn from the SEC or otherwise terminated or amended to satisfy the grounds for the Commission's rejection;

6. To "hold harmless" retail electric customers from the effects of the reorganization on retail electric base rates prior to January 1, 2003 and retail gas customers from the effects of the reorganization on retail gas base rates prior to January 1, 2003, except to any effects resulting from an SEC Order requiring divestiture of gas operations pursuant to Section 11(b)(1) of PUHCA;

7. To make an affirmative showing in any general retail electric, gas, or combined rate proceeding commenced pursuant to KRS 278.190 that the requested rate increase does not reflect merger related costs to the extent that such costs are not offset by merger related benefits;

8. In the CG&E rate application to be filed at the FERC within 60 days after the reorganization, the new electric rates for service to ULH&P will reflect the jurisdictional allocated share of investment in only the identical five combustion turbine units at Woodsdale which are reflected in the retail rates in Ohio;

9. Subsequent to the filing of one application pursuant to KRS 278.190 for a general adjustment in electric rates, ULH&P will make no filing requesting an increase in any retail electric base rate to be effective prior to January 1, 2000, except that a general increase in retail electric base rates may be filed in the event that ULH&P incurs higher taxes due to changes in federal or state tax laws, higher cost to meet environmental requirements, the Commission or the FERC take any action which generically impacts electric utilities or ULH&P's credit or operations will be materially impaired or damaged absent increased rates.

The Commission finds that these commitments by the Applicants and ULH&P, combined with those discussed below, provide significant ratepayer protections to ensure the continued effectiveness of regulation under KRS Chapter 278.

The AG timely filed a brief expressing opposition to the proposed reorganization. Characterizing CINergy as a large bureaucracy, the AG argues that CINergy will become blotted and less efficient. The AG further claims that large organizations produce very few innovations because they are consumed by their own political structure. These arguments, however, are unsupported by any record evidence. Rather, the record demonstrates that CINergy should be well positioned to be a low cost, efficient utility supplier capable of meeting the emerging needs of a competitive utility industry.

The AG discounts the Applicants' commitment to provide the AG and other intervenors access to relevant books and records, claiming that he and the Commission Staff are severally constrained by lack of staff, inadequate travel funds, and time constraints. The Commission finds that the record is devoid of any evidence on the AG's staffing level, travel budget or time table. The AG also states that the right to access books and records provides no practical value if the Applicants object on relevancy or other grounds. The AG cites no authority, and we are aware of none, that would authorize the Commission to prohibit the filing of such objections.

The AG also expresses concern with the Applicants' nonregulated business ventures due to their lack of expertise in these areas and the higher degree of business risk that they present. The Commission finds these concerns to be misplaced. The proposed reorganization as a registered holding company under PUHCA significantly restricts, rather than expands the present ability of CG&E and ULH&P to engage in unregulated business ventures. While CG&E and ULH&P can now engage in any business venture, after the reorganization they will be limited to those that are functionally related to their utility business. Although the AG is critical of CG&E's real estate subsidiary and its economic development activities, the proposed reorganization will also increase rather than diminish regulatory oversight. Through such regulatory oversight exercised by the SEC, FERC, and this Commission, coupled with the limitations under PUHCA on unregulated business activities, an investment in CINergy will be no less conservative than an investment in CG&E.

The Commission shares the concern expressed by the AG that the anticipated monetary savings from the reorganization will be more than offset by two rate increases to be filed soon after the reorganization. The first will be filed by CG&E to reflect merger savings in the cost of power purchased by ULH&P. The second will be filed by ULH&P to recover its cost to purchase power and to reflect merger savings in retail rates. ULH&P's rates will not increase solely as a result of the reorganization and they should be less than they would be absent the reorganization. However, the

Applicants' proposal for flowing through merger related savings to ULH&P customers is not equitable. As shown on Marshall Schedule DIM-1, the merger savings are minimal through 1995 but then increase substantially thereafter to a peak in 2000. At this time the merger savings are merely estimates. As the record reflects, many of the organizational changes are still in the planning stage and more definitive information on cost savings will not be available for some time.

The proposal by CG&E and ULH&P to adjust the rates for purchase power and retail electric service immediately after the reorganization, and then maintain those base rates through 1999 will fail to provide ratepayers an equitable share of future increases in ULH&P's estimate of allocated merger savings. Recognizing the need to strike a reasonable balance among the diverse interests, the Commission finds that the acquisition of control by CInergy of ULH&P as part of the reorganization will be in the public interest only if CG&E and ULH&P agree to delay for 12 months after consummation of the reorganization the filing of any application to adjust rates for power purchased by ULH&P or ULH&P's retail electric service. This will afford sufficient time for the merger savings to be estimated with greater accuracy and allow a more representative portion of such savings to be flowed through to ratepayers.

Despite the AG's claim that the proposed electric base rate moratorium is illusory because certain events are exempted from its scope, the fact remains that absent the specified events, which are

truly beyond ULH&P's control and not presently anticipated to occur, customers will benefit from the rate stability of a moratorium through 1999. While the AG may be able to see into the future and conclude that the proposed moratorium provides no ratepayer benefit, the evidence of record in this case does not support such a conclusion.

The final issue raised in the AG's brief is the potential spinoff of ULH&P's gas operations due to the integrated operating requirements of PUHCA. While the AG suggests that a small company should be able to take over and operate the gas properties with lower rates due to lower overhead, the claim is unsupported by any record evidence.

On May 13, 1994, the Applicants filed a reply brief accompanied by a motion requesting leave to do so. Recognizing the limited time allowed to adjudicate an application under KRS 278.020(5), and that a reply brief is not in conformity with the previously established briefing schedule, the Commission finds that good cause has not been shown to grant the motion and the reply brief will not be included in the record.

ADDITIONAL REGULATORY CONCERNS

The competitive environment is changing in the electric and gas industries. ULH&P should be allowed to position itself to meet the changes and have the ability to meet increased competition for investor funds and investment opportunities. Unlike the holding companies created by the Louisville Gas and Electric Company and the Kentucky Utilities Company, the proposed reorganization of CG&E

into CINergy involves the creation of a registered holding company. While there will be additional oversight by the SEC because CINergy will be a registered holding company, this Commission has certain concerns and objectives with regard to protecting the interests of ULH&P's ratepayers. The concerns relate to three areas. First, utility resources should be protected. Second, the Commission should be able to monitor adequately the corporate activities of ULH&P, CG&E, CINergy, and CINergy's affiliates. Third, certain reporting requirements should be established to assist in the monitoring activities. The following conditions and requirements are necessary to ensure that the interests of the ratepayers are protected. Because many aspects of CINergy's and ULH&P's business activities under reorganization are unknown, and cannot be anticipated, flexibility should be maintained in the plans and procedures for monitoring CINergy's and ULH&P's activities.

PROTECTION OF UTILITY RESOURCES

Accounting Procedures and Controls

One of the Commission's primary concerns is the potential for cross-subsidization of non-jurisdictional activities by the jurisdictional company. Cross-subsidization can occur through misallocation of common or joint costs, or through improper pricing of intercompany transactions. Ensuring that cross-subsidization does not occur requires added regulatory oversight and increased focus on cost identification by CINergy, CG&E, and ULH&P. The potential cross-subsidization is most apparent in the areas of accounting, cost allocation methodologies, and pricing of

intercompany transactions. If diversified activities increase, proper accounting and cost allocation methodologies will become even more important.

The accounting procedures are important in separating utility and non-utility costs. The original entries for expenditures are the most elementary aspect as most costs are direct charges and assignment to utility and non-utility operations can be accomplished through accounting controls and procedures which specify the treatment of certain elements of cost. The accounting and reporting system used by ULH&P should be adequate to assure that directly assignable costs are accounted for properly and that reports on the utility and non-utility operations are accurately presented.

Adequate supporting documentation of costs for Commission review should be maintained whether those costs are generated at the ULH&P level or CINErgy level. An in-depth review of the accounting systems has not been performed. Therefore, the approval of this application should not be construed as approval of the cost assignment procedures or of the methods of separation of charges into utility and non-utility operations to be employed by ULH&P and CINErgy.

The separation of costs through allocation methodologies is more subjective and requires greater scrutiny to ensure that cross-subsidization does not occur. CG&E and ULH&P have entered into a service agreement with CINErgy Services, Inc. ("CINErgy Services") which includes cost allocation approaches for transactions between

them. While there currently is no separate service agreement between CG&E and ULH&P, such an agreement may be developed in the future. However, a detailed review of the allocation methodologies and procedures to be used by CINergy, CG&E, or ULH&P to separate utility and non-utility activities has not been performed during this proceeding. Consequently, no findings are made as to the adequacy of these procedures.

Application of cost allocation procedures present the greatest threat of misclassification of utility and non-utility costs. As ULH&P's operations are monopolistic and its costs and earnings are regulated, it may be beneficial to CINergy to shift costs to the regulated operations allowing it to price its market-oriented services more competitively and provide greater returns to stockholders. Diversification is in the public interest only to the extent that utility operations are not adversely affected.

CINergy and CG&E have stated that because CINergy will be a registered holding company under PUHCA, these concerns are addressed by a number of provisions of PUHCA. Under PUHCA, the SEC limits the circumstances and terms under which companies in a registered holding company system may perform services or construction for, or sell goods to, affiliated companies. These provisions contain a number of protections against cross-subsidization. CINergy and CG&E note that the service agreement with CINergy Services must be approved by the SEC. They have further committed that if a service agreement between CG&E and ULH&P is filed with the SEC, the Commission will have the same

rights to accept or reject it as were extended to the Public Utilities Commission of Ohio.

The Commission accepts the assurances of CINergy and CG&E that its concerns in this area are addressed by PUHCA and the SEC. In future proceedings, it will be the responsibility of ULH&P to show that the allocation methodologies have not resulted in any cross-subsidization. As a part of that showing, ULH&P should be prepared to disclose fully all allocated costs, the portion allocated to each subsidiary of CINergy, complete details of the methods of allocation, and justification for the amount and the method.

The issue of cross-subsidization through pricing of inter-company transactions relates to the pricing of goods and services and establishment of prices for transfers of assets of the utility's assets. While CINergy and CG&E have stated that there are no definite plans for non-utility CINergy subsidiaries to transact business with ULH&P, the possibility does exist. Regarding the sale or transfer of assets, they note that affiliate transactions are subject to prior approval of the SEC and that transfer pricing is required to be "at cost" under provisions of PUHCA and the SEC.

The Commission accepts the assurances and commitments of CINergy and CG&E that the oversight by the SEC under PUHCA will protect ULH&P's customers against cross-subsidization of non-utility activities. However, the accounting and other procedures and controls established by CINergy, CG&E, and ULH&P will be reviewed periodically, and in ULH&P proceedings as appropriate.

When the policies and guidelines are modified or amended, ULH&P shall promptly file copies with the Commission.

Diversion of Management Talent

It is in the best interest of CINergy and its shareholders to secure the most skilled management available. While ULH&P will certainly share in the benefits of a well-managed corporate structure, diversion of management talent away from ULH&P to CINergy and its affiliates could threaten the continued efficient operation of ULH&P. This would not be in the best interests of the ULH&P ratepayers to whom continuity of management is important. CINergy and CG&E have stated that the operating management team for ULH&P will be the same as CG&E's, as is current practice, and may additionally draw upon the management talent pool existing at CG&E and CINergy. The Commission will monitor the composition of ULH&P's management team on an on-going basis.

Financial Resources

In the future, CINergy may be tempted to divert ULH&P's financial resources to support the activities of non-regulated affiliates at the expense of utility ratepayers. The Commission's objective is to minimize this risk which arises from CINergy's control of ULH&P's financial resources.

There are four main concerns regarding the insulation of ULH&P's financial resources from increased risks and the exposure of ULH&P to increased costs of capital stemming from those risks.

First, attempts by CINergy to adjust ULH&P's capital structure could adversely affect ULH&P's cost of capital and financial

integrity. CINergy should assist ULH&P in maintaining a balanced capital structure.

Second, the dividend policy of ULH&P could adversely affect its financing requirements and capabilities to the detriment of its ratepayers. The larger the cash dividend ULH&P pays to CINergy, the greater the need for capital that must be raised externally. External financing could adversely affect ULH&P's cost of capital. Therefore, ULH&P, through its board of directors, has the responsibility to use its dividend policy consistent with preserving the financial strength of the utility.

Third, an unwillingness on the part of CINergy to provide necessary capital to ULH&P could severely impair ULH&P's ability to provide utility services, consistent with its statutory obligation. Any action or decision by the board of directors of CINergy, including the unwillingness to provide adequate capital to ULH&P, that in any way impairs ULH&P's ability to provide adequate, efficient, and reasonable utility service will be in direct violation of KRS 278.030(2).

Finally, guaranteeing debt of non-utility affiliates or CINergy by ULH&P could unnecessarily jeopardize the financial position and resources of ULH&P. ULH&P, pursuant to KRS 278.300, is prohibited from guaranteeing debt without prior Commission approval.

CINergy and CG&E have stated that the SEC under PUHCA protects the financial integrity of subsidiary companies in a registered holding company system. They note that many of the concerns

expressed by the Commission relate to transactions where prior authorization from the SEC is required. While the SEC's regulatory oversight certainly provides some degree of protection to ratepayers, the SEC was created to protect investors, not ratepayers.

For rate-making purposes, the Commission has jurisdiction over ULH&P's capital structure, financing, and cost of capital. Through this authority, the Commission can protect ratepayers from the financial effect of non-utility activities. No new debt, preferred stock, or common equity can be issued without its prior approval. This prevents significant deviations from the approved capital structure, which is the key to ensuring that ULH&P maintains its financial integrity. Supplementing this financial control, the Commission must approve any guarantee of debt obligations by ULH&P for CInergy and its affiliates.

Employer or Purchaser of Last Resort

There is a risk that ULH&P could be used as the "dumping ground" for employees, assets, and products associated with failed or troubled affiliate ventures. ULH&P's strength and stability could tempt CInergy or its affiliates to use ULH&P as the employer or purchaser of last resort. ULH&P has assured the Commission that its management is committed to maintaining the highest caliber of managerial, technical, and other capabilities and to ensuring that materials, supplies, and services are acquired in the most cost-effective manner. ULH&P has acknowledged that the Commission will maintain complete oversight of utility operations and will be able

to ensure that inappropriate transfers or purchases from an affiliate are not made. The Commission will monitor ULH&P's activities to assure the ratepayers that "dumping" has not occurred.

Divestiture

The Commission must also consider the potential of a failed or failing unregulated affiliate and its affect on the operations of ULH&P. If future circumstances dictate that the only reasonable course of action is divestiture, including that of the utility, it will be the responsibility of ULH&P's management, as those charged with the well-being of the dominant subsidiary, to ensure that divestiture takes place.

MONITORING CINERGY AND THE SUBSIDIARIES

In consideration of the regulatory safeguards necessary in cases of utility reorganization, the most indispensable requirement is open access to all books, records, and personnel of CINergy and each subsidiary. It is imperative that the Commission have the ability to pursue any problems perceived in the operations of the utility through access to the books and records to CINergy and affiliates. During formal proceedings, the Commission may also choose to cross-examine personnel of the unregulated entities if necessary to monitor effectively the relationship between ULH&P and its parent and affiliates.

CINergy and CG&E have noted that the Commission will have access to the accounts and records of CINergy Services under the terms of the service agreement. They have stated that they will

provide the Commission access to the books and records of CINergy and its affiliates and subsidiaries. However, where CINergy does not own a controlling interest in an affiliate or subsidiary, it may be difficult if not impossible to provide access. CINergy and CG&E proposed to define an affiliate or subsidiary of CINergy or CG&E as a corporation in which CINergy or CG&E owns directly or indirectly or in combination with its other affiliates or subsidiaries 50 percent or more of the corporation's voting capital stock.

This definition is acceptable, with one modification. If less than 50 percent of the corporation's voting capital stock is owned by CINergy or CG&E, but they possess, directly or indirectly, the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction or pursuant to an agreement, then CINergy or CG&E will be deemed to have control. This is the definition of control contained in the Federal Energy Regulatory Commission's Uniform System of Accounts (18 CFR Ch. 1, Subchapter C, Part 101).

Therefore, the Commission will have access, as necessary in the exercise of its statutory duties, to the books and records of CINergy and its other affiliates and subsidiaries as the books and records may be related to transactions with ULH&P. If the subsidiaries or affiliates of CINergy do not transact business with ULH&P, ULH&P will verify, if necessary, the absence of such transactions through independent sources.

CINergy and CG&E have indicated that they have no present plans to transfer any assets nor have they identified non-utility activities in which CINergy will participate. To ensure the full protection of ratepayer interests, it will be necessary to monitor significant transfers of utility assets, business ventures of CINergy, and other major transactions. As there is the potential these and future actions may have a significant impact on the ratepayers, they should be reviewed by the Commission at the time they are completed.

REPORTING REQUIREMENTS

In order for the Commission to monitor effectively the activities of ULH&P, CINergy and its related subsidiaries, and protect ratepayers, certain additional reports shall be furnished by ULH&P to the Commission on an annual, periodic, or other basis as appropriate.

Periodic Reports

ULH&P should furnish the annual financial statements of CINergy including consolidating adjustments of CINergy and its subsidiaries with a brief explanation of each adjustment and all periodic reports filed with the SEC. All subsidiaries should prepare and have available monthly and annual financial information required to compile financial statements and to comply with other reporting requirements. The financial statements for the non-consolidated subsidiaries of CINergy should be furnished to the Commission.

CINergy and CG&E have agreed to and should file on a quarterly basis a report detailing ULH&P's proportionate share of CINergy's and CG&E's total operating revenues, operating and maintenance expenses, and number of employees.

CINergy and CG&E have agreed to and should furnish the following reports on an annual basis:

a. A general description of the nature of intercompany transactions with specific identification of major transactions, and a description of the basis upon which cost allocations and transfer pricing have been established. This report should discuss the use of the cost or market standard for the sale or transfer of assets, the allocation factors used and the procedures used to determine these factors if they are different from the procedures used in prior years.

b. A report which identifies professional personnel transferred from ULH&P to CINergy or any of the non-utility subsidiaries and describe the duties performed by each employee while employed by ULH&P and to be performed subsequent to transfer.

Special Reports

Other special reports should be furnished to the Commission as necessary. It is realistic to anticipate that transfers of utility assets and investments by CINergy will occur in the future. CINergy and CG&E have agreed to file any contracts or other agreements concerning the transfer of such assets or the pricing of intercompany transactions with the Commission at the time the transfer occurs.

CINergy and CG&E should file the following information:

1. A quarterly report of the number of employees of CINergy and each subsidiary on the basis of payroll assignment.

2. An annual report containing the years of service at ULH&P and the salaries of professional employees transferred from ULH&P to CINergy or its subsidiaries filed in conjunction with the annual transfer of employees report.

3. An annual report of cost allocation factors in use, supplemented upon significant change.

4. Summaries of any cost allocation studies when conducted and the basis for the methods used to determine the cost allocation in effect.

5. An annual report of the methods used to update or revise the cost allocation factors in use, supplemented upon significant change.

6. Current Articles of Incorporation and bylaws of affiliated companies in businesses related to the electric or gas industry or that would be doing business with ULH&P.

7. Current Articles of Incorporation of affiliated companies involved in non-related business.

Concerning the first item, CINergy and CG&E requested the Commission to limit this information to the number of employees of CINergy, CG&E, CINergy Services, ULH&P, and non-utility affiliate companies. They stated that this information and the report of transferred professional personnel should satisfy the Commission that ULH&P was not used as a "dumping ground." However, only by

viewing the total CINergy employment picture will the Commission be able to satisfy its concerns that ULH&P has not become an employer of last resort.

Where the same information sought in these reports has been filed with the SEC, CINergy, CG&E, or ULH&P may provide copies of the SEC filings rather than prepare separate reports. Further, CINergy, CG&E, or ULH&P may request the Commission to review these reporting requirements after the merger is completed to determine if the documentation being provided is either excessive or redundant.

SUMMARY OF FINDINGS

1. The acquisition of control by CINergy of ULH&P is in accord with law, for a proper purpose, but will be in the public interest only if CG&E and ULH&P agree that for 12 months from consummation of the reorganization no filings will be made to adjust CG&E's base purchase power rates and ULH&P's base electric rates.

2. Due to the lengthy and complex nature of the regulatory and rate commitments offered by the Applicants in the supplemental testimony of Rogers and Marshall and as restated in the findings herein, and the need for CG&E and ULH&P to agree to the condition in finding No. 1 above, the Applicants and ULH&P should individually file within 7 days of the date of this Order a written acknowledgement accepting the obligation to be bound by the aforementioned commitments and condition.

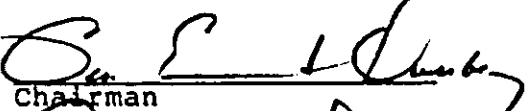
IT IS THEREFORE ORDERED that:

1. The acquisition of indirect control by CINergy of ULH&P be and it hereby is approved subject to the receipt within 7 days of the date of this Order of the acknowledgements described in Finding No. 2 above.

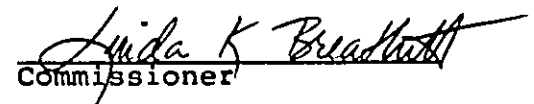
2. The Applicants' motion to file a reply brief be and it hereby is denied and the reply shall not be included in the record.

Done at Frankfort, Kentucky, this 13th day of May, 1994.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director