

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE UNION LIGHT, HEAT AND	)	
POWER COMPANY'S APPLICATION	)	
FOR A CERTIFICATE OF PUBLIC	)	CASE NO. 2000-039
CONVENIENCE AND NECESSITY	)	

O R D E R

On January 24, 2000, The Union Light, Heat and Power Company ("ULH&P") filed an application requesting Commission approval of a proposal to undertake certain obligations incident to the operation of a natural gas system to serve customers along Route 8 in Campbell County and in the city of Silver Grove, Kentucky, including constructing and operating a natural gas distribution system in the city of Silver Grove.

ULH&P proposes to co-own a 2.46 mile, 12-inch steel pipeline from a tap into Kentucky Ohio Transmission Pipeline ("KO") to the city of Silver Grove along the right-of-way of State Route 8 (the "Lafarge pipeline"). ULH&P will own 50 percent of the pipeline and 50 percent will be owned by Lafarge Corporation ("Lafarge"). Lafarge is building a plant in Silver Grove and will transport natural gas into its plant through this pipeline according to its sharing agreement with ULH&P. Lafarge initially intended to by-pass ULH&P and construct an 8-inch pipeline from the KO tap to its gypsum wallboard plant. Lafarge's general contractor had signed a purchase order with Cinergy Business Solutions ("CBS"), an affiliate of ULH&P, for the construction of an 8-inch pipeline. However, after Lafarge was approached by residents of Silver Grove and Melbourne about the possibility of making natural gas available to them, Lafarge

entered into negotiations with ULH&P to enable the latter to serve these communities. It was agreed that the size of the line would be increased to 12 inches and that Lafarge and ULH&P would each own a one-half share in the line. This arrangement enables Lafarge to obtain and control its supply of natural gas and allows ULH&P to provide natural gas service to two communities not previously served.

In Case No. 99-339 the Commission granted ULH&P a certificate to bid upon the franchise for the cities of Silver Grove and Melbourne.<sup>1</sup> After ULH&P obtained the franchise, the Commission issued an Interim Order granting ULH&P a certificate to construct a natural gas distribution system in the city of Silver Grove.<sup>2</sup> That order deferred any approval of construction of the Lafarge pipeline until additional information could be obtained.

ULH&P initially estimated its share of the costs of the Lafarge pipeline to be \$175,000 and planned to pay these costs from current operating revenues. Subsequently, ULH&P indicated that its share of the costs would be \$476,882.75. ULH&P's responses to information requests contain conflicting information about the actual installed cost of the 12-inch pipeline. The responses also contained discrepancies concerning allocation of cost between ULH&P and Lafarge. When Lafarge's contractor signed the purchase order with CBS, CBS became responsible for Lafarge's portion of the line. The construction, therefore, involves an affiliate transaction between CBS and ULH&P. We are concerned that ULH&P may be bearing

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<sup>1</sup> Case No. 99-339, The Union Light, Heat And Power Company's Application For Certificate of Public Convenience and Necessity, Final Order dated 8-31-99.

<sup>2</sup> Case 20000-039, Interim Order dated May 1, 2000.

costs in excess of the incremental cost above the purchase order amount of \$635,000. In approving the establishment of a holding company for Cinergy, ULH&P's parent company, we established certain safeguards to prevent cross-subsidization between ULH&P and its non-regulated affiliates.<sup>3</sup>

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 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.<sup>4</sup>

The record in this case does not demonstrate ULH&P's compliance with these provisions of the Order. Therefore, we do not approve the amount proposed by ULH&P to be recorded on the books for the Lafarge line. It will be the responsibility of ULH&P to justify fully the amount to be recorded on its books for this line prior to inclusion of the cost for rate-making purposes in any future rate proceeding.

However, we find that ULH&P's participation in the construction of the 12-inch pipeline requires no additional certification, pursuant to 807 KAR 5:001, § 9(3). The construction neither creates wasteful duplication nor involves sufficient capital outlay to materially affect the existing financial condition of the utility.

We approve the Joint Ownership Pipeline Operating and Maintenance Agreement between ULH&P and Lafarge Corporation as filed by ULH&P on March 28,

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<sup>3</sup> Case No. 94-104, The Application of the Cincinnati Gas & Electric Company and Cinergy Corp. for Approval of the Acquisition of Control of the Union Light, Heat & Power Company by Cinergy Corp., Final Order dated 5-13-94.

<sup>4</sup> Id. at 13.

2000. However, as the agreement is not yet executed, ULH&P should file with the Commission the final agreement within ten days of its execution, together with a full explanation of each change from the terms of the proposed agreement approved herein. A material change in the terms of the agreement may require the reopening of this case to determine if the materially amended agreement complies with Commission statutes and regulations and is in the best interest of the public.

After reviewing the record and being advised, the Commission HEREBY ORDERS that:

1. The Joint Ownership Pipeline Operating and Maintenance Agreement between ULH&P and Lafarge Corporation is approved as filed.

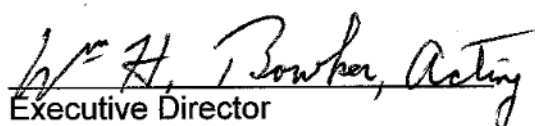
2. ULH&P shall file with the Commission within ten days of execution a complete copy of the final Joint Ownership Pipeline Operating and Maintenance Agreement, together with a full description of each difference between the executed agreement and the proposed agreement approved herein.

3. Nothing herein shall be deemed to constitute an approval of the amount proposed to be recorded on the books of ULH&P for construction of the Lafarge pipeline.

Done at Frankfort, Kentucky, this 1<sup>st</sup> day of August, 2000.

By the Commission

ATTEST:

  
Executive Director