

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN EXAMINATION BY THE PUBLIC SERVICE)	
COMMISSION OF THE APPLICATION OF THE)	
FUEL ADJUSTMENT CLAUSE OF THE UNION)	CASE NO. 2000-517-A
LIGHT, HEAT AND POWER COMPANY FROM)	
NOVEMBER 1, 2000 TO APRIL 30, 2001)	

ORDER

Pursuant to Commission Regulation 807 KAR 5:056, the Commission on June 11, 2001 established this case to review and evaluate the operation of the fuel adjustment clause ("FAC") of The Union Light, Heat and Power Company ("ULH&P") for the 6 months ended April 30, 2001.

As part of this review, the Commission ordered ULH&P to submit certain information concerning its compliance with Commission Regulation 807 KAR 5:056. ULH&P has complied with this Order. The Commission further ordered that a public hearing be held in this case but cancelled it when, after publication of notice, no interested party advised the Commission of its intention to attend.

During this proceeding, ULH&P moved to temporarily waive enforcement of Administrative Regulation 807 KAR 5:056 until December 31, 2003, or the effective date of its next general rate adjustment, whichever occurs later. It argues that such action is warranted because of our decision in 2001-058¹ in which we ordered that ULH&P's

¹ Case No. 2001-058, The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C § 79Z (Ky.PSC May 11, 2001).

retail FAC rate be frozen until December 31, 2003, or the effective date of its next general rate adjustment. Given that the FAC rate is fixed for this period, ULH&P argues, review proceedings are unnecessary and would “be an inefficient use of the Commission’s resources.” ULH&P Motion at 5.

In Case No. 2001-058, the Commission approved a settlement agreement that, inter alia, resolved all outstanding issues in our formal examination of the operation of ULH&P’s fuel adjustment clause for the 2-year period ending October 31, 2000.² This agreement provides that:

Retail base electric rates shall be frozen, through the later of December 31, 2003, or the effective date of ULH&P’s next general retail rate adjustment, at the level in effect on the filing date of the consolidated Application; the retail FAC rate shall be frozen, effective on the date of a Commission order adopting and approving Applicant’s Offer of Settlement, through the later of December 31, 2003 or the effective date of Applicant’s next general rate adjustment at negative \$0.002525 per kWh. . . . **[N]o party will seek and the Commission will not order an adjustment to ULH&P’s retail electric rates, including FAC, that would have the effect of increasing or decreasing such rates prior to December 31, 2003. . . .**

Amended Offer of Settlement at ¶ 8(b) (footnote omitted) (emphasis added). Our approval of the Agreement effectively suspended the operation of ULH&P’s FAC as of June 4, 2001.³ While ULH&P continues to assess an FAC rate, that rate is no longer governed by the procedures set forth in Administrative Regulation 807 KAR 5:056 and

² Case No. 2000-517, An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of The Union Light, Heat and Power Company from November 1, 1998 to October 31, 2000. Upon ULH&P’s Motion, we consolidated that proceeding with Case No. 2001-058.

³ On June 1, 2001, we amended the Order of May 11, 2001 to provide that the rate freeze became effective for bills rendered on and after June 4, 2001.

will not be governed by those procedures so long as the FAC rate freeze remains in effect. Semi-annual and biennial review proceedings for FAC charges billed from June 4, 2001 through December 31, 2003, therefore, are not required.

The Commission recognizes that our approval also affected FAC charges that ULH&P billed and collected prior to June 4, 2001. To the extent that our Order of May 11, 2001 froze the FAC rate and prohibited any modifications to that rate, we implicitly determined that all charges collected through ULH&P's FAC during the current review period were properly billed and collected. By our Order today, we expressly make such finding.

We find that FAC charges that ULH&P billed from May 1, 2001 through June 3, 2001 were collected under an FAC that Administrative Regulation 807 KAR 5:056 governs. Administrative Regulation 807 KAR 5:056, Section 11, requires that we review those charges at 6-month intervals. As the Commission has no authority to waive the requirements of that regulation,⁴ we must conduct a separate review proceeding of those charges.

IT IS THEREFORE ORDERED that:

1. ULH&P's Motion to Temporarily Waive Enforcement of Administrative Regulation 807 KAR 5:056 is denied.

2. The charges and credits applied by ULH&P through the FAC for the period November 1, 2000 through April 30, 2001 are approved.

⁴ See Case No. 92-493, An Examination by the Public Service Commission of the Application of the Fuel Adjustment Clause of Kentucky Utilities Company from November 1, 1990 to October 31, 1992 (Ky.PSC Jan. 2, 1997) at 6, fn. 12.

Done at Frankfort, Kentucky, this 17th day of December, 2001.

By the Commission

ATTEST:


Executive Director