

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF GAS RATES OF THE UNION	)	CASE NO.
LIGHT, HEAT AND POWER COMPANY	)	2001-00092

O R D E R

On January 31, 2002, the Commission granted The Union Light, Heat and Power Company ( ULH&P ) additional gas revenues of \$2,721,336 and authorized several tariff changes including an Accelerated Main Replacement Program ( AMRP ) Rider. On February 21, 2002, the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ( AG ), filed an application for rehearing on two issues. On February 22, 2002, ULH&P filed a motion for rehearing on seven issues. The AG and ULH&P have filed responses to the requests for rehearing.<sup>1</sup> Based on the requests for rehearing and the responses thereto, the Commission makes the following findings:

Jurisdictional Rate Base Ratio

Accumulated Deferred Income Taxes. In its January 31, 2002 Order, the Commission included accumulated deferred income taxes ( ADIT ) associated with Statement of Financial Accounting Standards No. 109 ( FAS 109 ) in the determination of the rate bases used to calculate the jurisdictional rate base ratio. The FAS 109 ADIT balance was shown as a deduction to the rate bases. In its motion for rehearing,

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<sup>1</sup> The AG filed his response to ULH&P s motion for rehearing on February 27, 2002. ULH&P filed its response to the AG s application for rehearing on March 4, 2002.

ULH&P argues that in deducting the FAS 109 ADIT from the rate bases, the Commission was not consistent with the text in the Order stating the FAS 109 ADIT balances were included. ULH&P contends that for this reason, the Commission should revise the calculation of the rate bases shown on Appendix B of the January 31, 2002 Order to reflect the addition of these ADIT balances. ULH&P also contends that the Commission used the incorrect combined jurisdictional amount for the FAS 109 ADIT. ULH&P believes that the Commission failed to properly exclude the non-jurisdictional portion of the FAS 109 ADIT, which results in an overstatement of the combined jurisdictional amount by \$49,698. ULH&P prepared a revised Appendix B to show its proposed treatment of the FAS 109 ADIT with the correction to the combined jurisdictional amount. Based on ULH&P's calculations, the jurisdictional rate base ratio would be 43.454 percent, rather than the 43.113 percent originally determined by the Commission. ULH&P also provided the effect the revised 43.454 percent jurisdictional rate base ratio would have on the determination of its gas jurisdictional capitalization.<sup>2</sup>

The AG agrees with ULH&P that a mathematical error exists and that the FAS 109 ADIT balances should have been added, not deducted, from the rate bases shown on Appendix B of the January 31, 2002 Order. The AG also agrees that the combined jurisdictional amount is overstated by \$49,698. However, because the AG contends the cash working capital allowance shown on Appendix B is in error, he does not accept ULH&P's statement that the jurisdictional rate base ratio is 43.454 percent.<sup>3</sup>

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<sup>2</sup> ULH&P's Motion for Rehearing at 1-2.

<sup>3</sup> AG's Response to ULH&P's Application for Rehearing at 2.

The Commission has examined the FAS 109 ADIT balances and finds that the rate bases shown on Appendix B are incorrect. Based on our review of the FAS 109 ADIT, we find that the FAS 109 ADIT balances should have increased rather than decreased the rate bases shown. The ADIT balances included in rate base reflect the net balance of three separate accounts.<sup>4</sup> More often than not, the net amount reflects a net credit balance. A review of ULH&P's trial balance shows that all three FAS 109 ADIT accounts had debit balances, so the net amount is a debit balance. Because the FAS 109 ADIT balances were debits, the rate bases should have been increased, not decreased.

The Commission also finds that ULH&P's claim concerning the combined jurisdictional amount for the FAS 109 ADIT is not supported by the evidence of record and should be rejected. ULH&P's rehearing proposal would have the Commission deduct the non-jurisdictional portion of the FAS 109 ADIT from the jurisdictional amounts a second time. The combined jurisdictional amount used by the Commission for the FAS 109 ADIT reflects the jurisdictional amounts for gas and electric operations, as supplied by ULH&P.<sup>5</sup> As the jurisdictional balances were utilized in the calculation, it is unnecessary to make any further adjustment for the non-jurisdictional portion of the FAS 109 ADIT.

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<sup>4</sup> The ADIT accounts are Account No. 190 (an asset account) and Account Nos. 282 and 283 (liability accounts).

<sup>5</sup> ULH&P's Response to Commission Staff's Hearing Requests, Item 3. The gas jurisdictional amount is shown as \$6,086,793 and the electric jurisdictional amount is shown as \$7,032,943. The combined total is \$13,119,736, which is the balance the Commission used in the calculations shown on Appendix B of the January 31, 2002 Order.

Therefore, based on its findings, the Commission grants rehearing on this issue to the extent we have revised our calculation of the jurisdictional rate base ratio in this Order. The Commission notes that ULH&P did not reflect the full impact of this revision in its motion for rehearing. The determination of the non-jurisdictional adjustment to ULH&P's total capitalization treated the non-jurisdictional portion of the FAS 109 ADIT as debits; however, our review of these balances shows them to be credits. Thus, the determination of ULH&P's jurisdictional gas capitalization must reflect two revisions, one associated with the non-jurisdictional adjustment to total capitalization and one associated with the revised jurisdictional rate base ratio. The change in the jurisdictional rate base ratio also impacts the interest synchronization adjustment and the adjustment to state income taxes. Finally, the jurisdictional gas rate base for rate-making purposes must be revised.

The Commission has recalculated the jurisdictional rate base ratio, the jurisdictional gas capitalization, the interest synchronization adjustment, and the adjustment to state income taxes. These revised calculations are shown on Appendices B through E of this Order. The Commission has also revised the jurisdictional gas rate base for rate-making purposes, which is shown after the discussion on the cash working capital allowance. The Commission finds that the revised jurisdictional rate base ratio is 43.438 percent. Further, as a result of these revisions and recalculations, the Commission finds that ULH&P's revenues should be increased an additional \$108,615.

Cash Working Capital Allowance. In the January 31, 2002 Order, the Commission determined that the total company jurisdictional cash working capital

allowance as of test-year end was \$4,876,349. The AG contends that this amount does not match or approximate the evidence of record that ULH&P provided for the cash working capital allowance. The AG argues that the correct amount, as provided by ULH&P, is \$9,310,942. The AG seeks rehearing to determine the correct amount for the total company jurisdictional cash working capital allowance.<sup>6</sup>

In its response, ULH&P argues that rehearing is not necessary. ULH&P states that the cash working capital allowance amounts referenced by the AG were not calculated in a manner consistent with previous Commission decisions. ULH&P notes that its calculations were based on a level of operation and maintenance expense reflecting rate-making adjustments, rather than test-year-end amounts before adjustments. In addition, ULH&P's calculations for its electric operations included 10 days of purchased power expense in the operation and maintenance expense. ULH&P acknowledges that in its last electric rate case, the Commission rejected the inclusion of purchased power expense in the calculation of the cash working capital allowance.<sup>7</sup>

The Commission finds that rehearing on this issue is unnecessary. The Commission determined the total company jurisdictional cash working capital allowance by using the 45 day or 1/8<sup>th</sup> methodology and the operation and maintenance expenses for ULH&P's gas and electric operations as of test-year end before any rate-making

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<sup>6</sup> AG's Application for Rehearing at 9.

<sup>7</sup> ULH&P's Response to the AG's Application for Rehearing at 6-7.

adjustments.<sup>8</sup> The Commission removed gas supply and purchased power expenses consistent with previous Commission decisions. The Commission also notes that while ULH&P had submitted an amount for the electric cash working capital allowance, it did not provide any supporting calculations or details of how that amount was calculated. ULH&P first provided the explanation of that calculation in its response to the AG's application for rehearing. Therefore, rehearing on this issue is denied.

As noted earlier in this Order, one effect of the correction of the treatment of the FAS 109 ADIT is the revision of the jurisdictional gas rate base for rate-making purposes. Based upon the FAS 109 ADIT decision, ULH&P's revised jurisdictional gas rate base for rate-making purposes as of September 30, 2000 is as follows:

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<sup>8</sup> The operation and maintenance expenses were taken from ULH&P's trial balance. See ULH&P's Response to the Commission Staff's First Data Request dated April 25, 2001, Item 9(a) and 9(b). The gas operation and maintenance expenses are from Item 9(a), pages 2 and 3 of 16, beginning with Account No. 711.000 and ending with Account No. 935.090. The gas supply expenses deducted from the cash working capital allowance calculation are Account Nos. 728.000, 728.001, 801.000, 801.010, 801.050, 805.000, 805.200, and 806.000. The electric operation and maintenance expenses are from Item 9(b), pages 1 through 3 of 6, beginning with Account No. 506.000 and ending with Account No. 935.000. The purchased power expenses deducted from the cash working capital allowance calculation are Account Nos. 555.010 and 555.050.

Total Plant in Service	\$182,860,221
Add:	
Gas Stored Underground	3,849,839
Materials and Supplies	790,615
Prepayments	16,349
Cash Working Capital Allowance	<u>2,025,358</u>
Subtotal	\$ 6,682,161
Deduct:	
Accumulated Depreciation	61,614,951
Customer Advances	3,891,599
Accumulated Deferred Income Taxes	15,113,734
Accumulated Deferred Income Taxes FAS 109 <sup>9</sup>	(6,086,793)
Investment Tax Credits (3 percent)	<u>73,859</u>
Subtotal	\$ 74,607,350
 NET ORIGINAL COST RATE BASE GAS	 <u>\$114,935,032</u>

#### Post-Test Period Adjustment to Capitalization

In the January 31, 2002 Order, the Commission rejected ULH&P's proposal to use an updated capital structure and capitalization as of September 30, 2001. ULH&P states its disagreement with the Commission's analysis of the issue and seeks a modification of the January 31, 2002 Order permitting the use of the updated capital structure and capitalization. ULH&P argues that the Commission's decision placed too much emphasis on the matching principle and did not give proper recognition to the rate-making principle that rates should be based upon the conditions that will exist when the rates will be in effect. ULH&P further argues that the Commission violated the

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<sup>9</sup> In order to minimize confusion, all ADIT amounts are shown in the Deduct portion of the rate base calculation. The non-FAS 109 ADIT amount reflects a net credit balance and is shown as a positive amount. The negative amount for the FAS 109 ADIT recognizes that the net balance is a debit, rather than a credit. This approach will also be utilized in the calculation of the jurisdictional rate base ratio shown in Appendix A.

matching principle when it applied updated costs rates for debt to the test-year-end capital structure.<sup>10</sup>

ULH&P contends that the major change to its capitalization between 2000 and 2001 was the restatement of its equity component to replace an \$8,000,000 reserve for refunds associated with its electric operations created in 2000. ULH&P states that there is no evidence in the record to contradict its evidence that the capitalization was understated due to this reserve. ULH&P claims that the Commission and AG were aware of the underlying facts relating to the reversal of the accounting entry creating the refund reserve due to the settlement agreement proposed and approved in Case No. 2001-00058.<sup>11</sup> ULH&P notes that while the settlement agreement in Case No. 2001-00058 was approved on May 11, 2001, it filed this rate case on May 4, 2001. Consistent with the procedural schedule in this case, ULH&P further notes that it could not disclose in this record the reversal of the accounting entry until the filing of its rebuttal testimony on November 13, 2001.<sup>12</sup>

ULH&P takes issue with the Commission's conclusion that there had been no opportunity for discovery on the updated capital structure and capitalization. ULH&P argues that if additional evidence or discovery on the updated capitalization and the reversal of the accounting entry are necessary, the Commission should grant rehearing to permit the filing of required evidence or allow discovery. Lastly, ULH&P contends

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<sup>10</sup> ULH&P's Motion for Rehearing at 3-5.

<sup>11</sup> Case No. 2001-00058, The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C. § 79Z.

<sup>12</sup> ULH&P's Motion for Rehearing at 5-7.



that if the Commission will not permit the use of the updated capital structure and capitalization, the debt and equity cost rates as of September 30, 2000 should be used to determine its revenue requirements.<sup>13</sup>

The AG contends that ULH&P has failed to offer any grounds for rehearing. The AG argues that ULH&P's proposal to update its capital structure and capitalization violates the matching principle by destroying the comparability of ULH&P's revenues, expenses, rate base, and capitalization. The AG notes that the Commission has made it clear it will not accept post-test period adjustments for one component of a utility's operations without an update of all four components. Concerning the update of debt cost rates, the AG contends that the distinction between an update of a cost rate and the update of the capital structure is readily apparent. The AG views the issue of the \$8,000,000 electric refund to be of no valid assistance to ULH&P's argument.<sup>14</sup>

The Commission is not persuaded by ULH&P's arguments on this subject. ULH&P improperly argues that the rate-making concept that rates should be based upon the conditions that will exist when the rates will be in effect should be given more consideration than the matching principle. ULH&P fails to appreciate that these two concepts have equal value in rate-making and one cannot take precedence over the other. In applying the matching principle, we have also recognized the effects of known and measurable adjustments to capitalization, rate base, revenues, and expenses.

In its motion for rehearing, ULH&P notes that the Ohio Public Utilities Commission ( Ohio PUC ) permits the updating of the capital structure during a rate

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<sup>13</sup> Id. at 7-8.

<sup>14</sup> AG's Response to ULH&P's Application for Rehearing at 3-4.

proceeding, and cites a portion of a 1982 Ohio PUC decision. This Commission may take notice of decisions by other state regulatory commissions, but we are not bound by their decisions. The 1982 citation does not describe the circumstances existing in that case which led the Ohio PUC to permit the use of an updated capital structure. However, the 1982 citation notes that the Ohio PUC action was consistent with other decisions of that body. Likewise, this Commission's rejection of ULH&P's proposal to update its capitalization and capital structure is consistent with our decisions in previous cases.

The use of the updated debt cost rates is not a violation of the matching principle, as ULH&P has tried to argue. The Commission's use of updated cost rates for ULH&P's debt is not only the recognition of a known and measurable adjustment, but reflects the Commission's application of the concept that rates should be based upon the conditions that will exist when the rates will be in effect. The Commission also notes that while ULH&P has raised concerns about the use of updated debt cost rates, it has not objected to the use of the most current PSC Assessment rate or effective Kentucky income tax rate when determining its revenue requirements in this case.

ULH&P's contention that rehearing should be granted if the Commission desires additional evidence about the updated capitalization and reversal of the \$8,000,000 electric refund accounting entry is not appropriate given the requirements for rehearing. The standard contained in KRS 278.400 for additional evidence is that the evidence could not with reasonable diligence have been offered during the initial hearing. ULH&P argues in its motion for rehearing that the facts concerning this electric refund were known and the information available prior to the November 28 and 29, 2001 public

hearing. ULH&P had the burden of proof to fully support the update to its capitalization and capital structure when it filed that proposal as part of its rebuttal testimony. ULH&P cannot argue now that it should have an opportunity through rehearing to meet that burden of proof.

Concerning the \$8,000,000 electric refund and its impact on ULH&P's capitalization, the Commission finds that the only evidence of this refund reserve are statements from ULH&P's witnesses. ULH&P has not filed any documentation showing that the refund reserve was deducted from common equity or that it was later restored to common equity. In the first Commission Staff data request, ULH&P was requested to provide any information, when known, which would have a material effect on net operating income, rate base, or cost of capital which have occurred after the test year but were not incorporated in the filed testimony and exhibits. ULH&P's response, which was filed on May 23, 2001, did not disclose that the Commission's decision in Case No. 2001-00058 would result in the reversal of the refund entry or the adjustment of its common equity.<sup>15</sup> Contrary to its claim in its motion for rehearing, ULH&P did not disclose the reversal of the accounting entry in its rebuttal testimony that was filed on November 13, 2001. ULH&P's rebuttal testimony only proposes that the updated capital structure and capitalization be utilized in determining revenue requirements. Of the items identified in the summary of the updates to capitalization, no mention was

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<sup>15</sup> ULH&P's Response to the Commission Staff's First Data Request dated April 25, 2001, Item 37. As correctly noted by ULH&P, the Commission approved the settlement agreement in Case No. 2001-00058 on May 11, 2001, 12 days before ULH&P filed its response to Item 37.

made of the reversal of the accounting entry.<sup>16</sup> Finally, ULH&P admitted at the public hearing that during this proceeding it had not disclosed that the refund reserve was impacting its capitalization.<sup>17</sup>

For these reasons, the Commission denies rehearing on the issue of updating capitalization and capital structure.

### Weather Normalization

In the January 31, 2002 Order, ULH&P's sales volumes were normalized using a normal, or average, level of heating degree days based on the average for the 30-year period 1970 through 1999.<sup>18</sup> ULH&P claims that the use of 30-year normals using the 1970-1999 period is not adequately supported by the evidence of record. ULH&P argues that the 10-year period 1990-1999, which it originally proposed, should be used for purposes of determining an appropriate weather normalization adjustment.

ULH&P argues that using a shorter period to calculate its weather normalization adjustment is supported by a weather normalization study prepared in 1981 for the Illinois Commerce Commission ( 1981 Illinois Study ). ULH&P states that 30-year weather normals result in average heating degree days of 5,248, and that the 10-year weather normals it proposes result in average heating degree days of 4,950. ULH&P points to the fact that heating degree days for calendar year 2001 were 4,686, arguing

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<sup>16</sup> Smith Rebuttal Testimony, Rebuttal PGS-1, page 2 of 8.

<sup>17</sup> Transcript of Evidence, Volume I, November 28, 2001, at 140. The response shown on line 21 states No. Other than the results in the rebuttal testimony.

<sup>18</sup> Official 30-year normals are developed and published by the National Oceanic and Atmospheric Administration ( NOAA ) once every 10 years. The most recent 30-year official NOAA normals available during the processing of this case were for the period 1961-1990.

that this supports its claim that recent years, as reflected in the 1990-1999 10-year period, are a better indicator of weather in the future, when the new rates will be in effect.

In response to ULH&P's request the AG states that the request is flawed for two reasons. First, the AG states that ULH&P had the burden of proof to support using a 10-year period and not only failed to do so, but has attempted to correct this problem by submitting the 1981 Illinois Study with its motion for rehearing. The AG has moved to strike the study on the grounds that submitting it at this time equates to the untimely introduction of evidence that could have been offered earlier through the exercise of reasonable diligence by ULH&P. The AG also argues that ULH&P offers no compelling reasons to deviate from the Commission's historical practice of using 30-year periods in the determination of an appropriate weather normalization adjustment.

ULH&P filed a response to the AG's motion to strike. While acknowledging that the 1981 Illinois Study was available at the time of the hearing, ULH&P states that its personnel were not aware of this evidence nor the need to present this evidence until it was considering rehearing issues. ULH&P contends that it presented the 1981 Illinois Study as soon as its materiality became apparent to ULH&P personnel responsible for this rate case. ULH&P argues that because the 1981 Illinois Study contains relevant information that is material to its motion for rehearing and that it did not delay in submitting the information for the purpose of gaining an undue advantage, the Commission should deny the AG's motion to strike.<sup>19</sup>

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<sup>19</sup> ULH&P's Response to the AG's Motion to Strike at 1-2.

The Commission agrees with the AG's reasoning that ULH&P has offered no compelling reasons to deviate from our previous utilization of 30-year periods in determining an appropriate weather normalization adjustment. We are compelled, however, to expand on our January 31, 2002 Order in order to definitively respond to certain aspects of ULH&P's rehearing request.

The 30-year normal heating degree days of 5,248 cited by ULH&P was not the basis for the approved weather normalization adjustment reflected in the January 31, 2002 Order. The 5,248 heating degree days were the normal based on the 30 years 1961-1990, which was what the AG had proposed. The 30-year normals used in calculating the approved adjustment were based on the period 1970-1999 and were more than 100 heating degrees less than the 5,248 cited by ULH&P.

ULH&P argues that a shorter, more current historical period should be used to properly reflect a recent trend of warmer winters with fewer heating degree days. However, ULH&P apparently overlooks the volatility that can result from using such shorter periods. ULH&P proposed using average heating degree days of 4,950 based on the 10 years 1990-1999. ULH&P did not explain why it chose that particular 10-year period, but moving that period back one year, to include the years 1989-1998, results in average annual heating degree days slightly above 5,000. Moving it back an additional year, to 1988-1997, results in an average of more than 5,100 annual heating degree days.<sup>20</sup> Obviously, when a period as short as 10 years is used, dropping one year and

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<sup>20</sup> Calculations based on annual heating degree days as shown in the Direct Testimony of James A. Riddle, Attachment JAR-4.

replacing it with another year with a significantly smaller or larger number of heating degree days can produce significantly different results.

ULH&P's proposal to use a shorter historical period in calculating its adjustment demonstrates that such periods can result in greater volatility in determining an average number of heating degree days. The use of an updated 30-year period adequately reflects the trend of warmer winters with fewer heating degree days while effectively limiting the type of volatility that can occur when shorter periods are used. Rehearing on the issue of an appropriate weather normalization is denied.

Concerning the AG's motion to strike the 1981 Illinois Study, the Commission agrees with the AG and finds that the submission of the study is inappropriate. When submitting a proposal urging the Commission to adopt an approach that is not consistent with previous Commission decisions, the utility has the burden to exercise reasonable diligence to seek out and provide evidence in support of that proposal. Thus, ULH&P had the burden to seek out and present information such as is contained in the 1981 Illinois Study during the initial processing of this case. ULH&P cannot at rehearing provide the documentary support, which clearly existed, that it should have secured and provided as part of its application. Therefore, the Commission grants the AG's motion to strike.

#### Annual Incentive Plan

In the January 31, 2002 Order, the Commission excluded for rate-making purposes ULH&P's test-year expense for the Cinergy Corp.'s ( Cinergy ) Annual Incentive Plan ( AIP ). ULH&P argues that the evidence in this proceeding does not support the Commission's reasoning for excluding this expense. ULH&P notes that the

AIP is comprised of a corporate performance measure, business unit goals, and individual employee goals. The corporate performance measure makes up 50 percent of the total measuring goals for the AIP, with the business unit and individual employee goals comprising the remaining 50 percent. While acknowledging that the corporate performance measure focuses only on earnings per share, ULH&P argues that this focus benefits both customers as well as shareholders. ULH&P reasons that customers benefit when employees focus on increasing revenues and decreasing expenses, which reduces the need for it to seek rate increases. As for the remaining 50 percent of the AIP measuring goals, ULH&P states that the business unit and individual employee goals are driven by the Regulated Businesses 2001 Business Unit Key Performance Indicators ( Key Performance Indicators ). ULH&P notes that the Key Performance Indicators focus on reliability of service, safety, customer satisfaction, and controlling operation and maintenance expenses and capital expenditures. ULH&P contends that these measures tend to benefit customers, and thus concludes that the AIP meets the Commission s expressed concern that the interests of both shareholders and customers should be balanced and protected.<sup>21</sup>

ULH&P also takes issue with the Commission s conclusion that its employee benefits package, absent the AIP, is adequate for ULH&P to attract and retain talented employees. ULH&P argues that the inclusion of the AIP in its benefits package reflects the kind of compensation package that exists in the market for the employees it wishes to attract and retain.<sup>22</sup>

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<sup>21</sup> ULH&P s Motion for Rehearing at 11-12.

<sup>22</sup> Id. at 12.



The AG argues that ULH&P has not presented any grounds for rehearing. The AG contends that ULH&P has not demonstrated any error in the Commission's determination. The AG notes that the exclusion was reasoned, supported by the evidence, and consistent with previous Commission decisions.<sup>23</sup>

During the processing of this case, the Commission and the AG tried to establish whether the current AIP was the same program as the Key Employee Annual Incentive Plan ( KEAIP ). The Commission had excluded from rates the expenses associated with the KEAIP in 3 previous ULH&P rate cases. After establishing at the hearing that the AIP was a different program, ULH&P was requested to provide information about AIP. ULH&P provided a 4-page document that only discussed the corporate measurement goal. The AIP documentation notes the existence of business unit and individual employee goals and the percentage those goals represent in the overall AIP. However, the specifics of the business unit and individual employee goals were not provided. In its motion for rehearing, ULH&P now discloses for the first time the existence of Key Performance Indicators which influence and shape the business unit and individual employee goals. ULH&P has not claimed that the Key Performance Indicators were not available during the processing of this case. Given the questions raised concerning the AIP, ULH&P should have realized it needed to document and support the reasonableness of this program. ULH&P had the opportunity to provide all the information about the AIP, but apparently chose not to supply that information.

The Commission is not persuaded by ULH&P's arguments. Concerning the corporate performance measure, the focus on earnings per share still places the plan

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<sup>23</sup> AG's Response to ULH&P's Application for Rehearing at 6.

participant s emphasis on the interest of shareholders. The achievement of increasing earnings per share attracts investors and encourages their investment in the company. It is the achieved rate of return on common equity, not the achieved earnings per share, which a utility normally references as the reason that it seeks an increase in rates.

Concerning the business unit and individual employee goals component of the AIP, the Commission wishes to clarify that the failure to adequately document these goals was the reason for the exclusion of that portion of the AIP expense. In its motion for rehearing, ULH&P has now indicated that additional information relating to this portion of the AIP existed during the processing of this case, yet ULH&P saw no need to provide it. The lack of information concerning the business unit and individual employee goals results in the Commission being unable to evaluate the AIP in total. We are unable to determine whether there truly is a balance between shareholder interests and customer interests.

Concerning the Commission s comments about ULH&P s overall employee benefits package absent the AIP, the Commission still believes the benefits identified by ULH&P are adequate to enable it to attract and retain talented employees.<sup>24</sup> ULH&P claims this conclusion is contradicted by its witness s testimony at the public hearing.

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<sup>24</sup> ULH&P Response to the Commission Staff s Hearing Requests, Item 9. The listing of employee benefits shown in this response indicates that all employees are provided medical and dental plans, life insurance, long-term and short-term disability plans, two pension plans, 401(k) savings plan, flexible spending accounts, relocation assistance, pre-paid legal plan, adoption assistance program, service and retirement awards, ShareSaver plan, education assistance program, vacation, paid holidays, and bereavement leave. General managers and above receive these benefits, as well as executive life insurance, financial planning, and a company car allowance. Top management executives receive all these benefits plus a supplemental executive retirement plan, 401(k) excess plan, and a non-qualified deferred compensation plan.

However, the testimony cited in the motion for rehearing dealt with a comparison of the KEAIP and the AIP. The cited testimony was not directed to the adequacy of ULH&P's overall employee benefits package absent the AIP.

Based on these reasons, the Commission denies rehearing on the AIP expense.

#### Amortization of Deferred Merger-Related Expenses

In the January 31, 2002 Order, the Commission denied ULH&P's request to amortize Cinergy merger-related expenses, which ULH&P had deferred in 1995 and 1996. ULH&P was also ordered to remove the deferred merger-related expenses from its books. ULH&P contends that the Commission's conclusion was based solely on the belief that merger-related savings were in excess of merger-related expenses. ULH&P argues that its failure to achieve its last authorized rate of return from 1995 through the test year demonstrates that the merger-related savings could not have exceeded the corresponding expenses. ULH&P further argues that since it never met its authorized return, the merger-related savings could not have offset merger-related expenses, and thus ULH&P was in compliance with the merger commitment the Commission referenced in the January 31, 2002 Order.<sup>25</sup>

The AG argues that ULH&P is wrong in asserting that the merger-related savings could not have offset merger-related expenses, for ULH&P's own evidence shows that the savings more than offset the expenses. The AG recommends that rehearing be denied.<sup>26</sup>

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<sup>25</sup> ULH&P's Motion for Rehearing at 12-13.

<sup>26</sup> AG's Response to ULH&P's Application for Rehearing at 7.

The Commission is not persuaded by ULH&P's arguments. In previous Commission decisions that considered the reasonableness of amortizing merger-related expenses, the Commission has always considered and matched the potential savings with the expense. This was the approach applied to the downsizing costs in ULH&P's last general gas rate case. The matching of savings and benefits was also applied in this proceeding. Based on ULH&P's own information, the cumulative savings retained by ULH&P more than offset the total merger-related expenses it had deferred. The matching of the savings and expenses is consistent with the Commission's decisions in previous cases, as well as consistent with the merger commitments ULH&P made in 1994.

ULH&P fails to acknowledge that since the Cinergy merger in 1994, it has received the full benefit of the merger-related savings. ULH&P's gas rates have not reflected any of the savings achieved, thus customers have not received any of the savings. ULH&P has received the full benefit of the merger-related savings, and now would have the Commission require ratepayers to repay ULH&P for the expenses incurred to achieve those savings. Such a proposal is unreasonable and contradicts the merger commitments ULH&P made to this Commission in 1994.

The Commission views the fact that ULH&P did not earn its authorized rate of return since 1995 as having no bearing on whether the merger-related savings offset the merger-related expenses. ULH&P has submitted no analysis that demonstrates a relationship between the rate of return achieved and the merger-related savings achieved in any year since 1995. During this proceeding, ULH&P has contended the existence of merger-related savings had allowed it to delay filing a rate case. Now

ULH&P argues that the merger-related savings could not have covered the deferred merger-related expenses because the authorized rate of return was not achieved. Both situations cannot be true.

Based on these reasons, the Commission finds there is no justification to rehear this issue, and rehearing is denied. In addition, the requirement that ULH&P remove the deferred merger-related expenses from its books and, within 30 days, provide the Commission with the accounting entries accomplishing this adjustment should remain in force.

### Revenue Requirements

After considering the findings discussed herein, the Commission has determined, based upon a jurisdictional gas capitalization of \$106,677,160 and an overall cost of capital of 8.483 percent, that the net operating income found reasonable for ULH&P's gas operations is \$9,049,423. The revised jurisdictional revenue deficiency for ULH&P's gas operations has been recomputed to reflect the Commission's findings herein. The revised jurisdictional revenue deficiency, with a comparison to the calculations contained in the January 31, 2002 Order, is as follows:

The calculation of the overall revenue deficiency is as follows:

	<u>Determined in 01/31/02 Order</u>	<u>Rehearing Decision</u>
Net Operating Income Found Reasonable	\$ 8,979,200	\$ 9,049,423
Pro Forma Net Operating Income	<u>7,285,388</u>	<u>7,288,007</u>
Net Operating Income Deficiency	1,693,812	1,761,416
Gross Up Revenue Factor	<u>1.6066340</u>	<u>1.6066340</u>
Overall Revenue Deficiency	<u>\$ 2,721,336</u>	<u>\$ 2,829,951</u>

The revised additional revenue granted will provide a rate of return on the jurisdictional gas rate base of 7.874 percent and an overall return on jurisdictional gas capitalization of 8.483 percent. The rate of return on the jurisdictional gas rate base decreases because of the correction to the FAS 109 ADIT included in the determination of jurisdictional rate base used for rate-making purposes.

#### AMRP Rider

AMRP Mechanism. The AG argues in his application for rehearing that the Commission should reconsider its approval of the AMRP Rider<sup>27</sup> and reverse its previous decision. He states that there are both legal and policy reasons to justify reversal. ULH&P filed comments to the AG's application and argued that the Commission should deny the AG's motion for rehearing. It supported the Commission's decision on the AMRP Rider and asserted that the AG's failure to provide anything new prevents rehearing under KRS 278.400.

The Commission held in Kentucky-American Water Co., Case No. 2000-120 (Ky. PSC Feb. 26, 2001) that KRS 278.400 expressly authorizes the Commission to rehear any of the matters determined in any hearing and that the statute contains no express limitation upon the introduction at rehearing of the evidence introduced at the initial hearing. However, the Commission has reviewed the AG's motion and finds that the arguments put forth were carefully considered, fully addressed and rejected by the Commission with the exception of the AG's new claim of a due process concern. Therefore, the Commission finds that only this argument needs to be addressed.

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<sup>27</sup> In his application for rehearing, the AG refers to the AMRP Rider as the AMRP surcharge.

The AG asserts that the AMRP Rider proposed by ULH&P is void of specifics and that, to the extent the Commission granted approval of a program without adequate opportunity for examination, there is a due process concern.<sup>28</sup> The Commission believes that the details of the AMRP Rider were completely fleshed out in the proceeding and that the AG had adequate opportunity for examination.

In any due process claim, the threshold showing that must be made is the existence of a vested property interest. Board of Regents v. Roth, 408 U.S. 564, 577, 92 S.Ct. 2701, 2709, 33 L.Ed. 548, 561 (1972). Absent such a showing, there is no violation of due process. The AG has not made such a showing and the Kentucky Supreme Court has held that utility customers have no vested property interest in the rates they pay for utility service. Kentucky Industrial Utility Customers, Inc. v. Kentucky Utilities Company, Ky., 983 S.W.2d 493 (1998). Therefore, there has been no violation of substantive due process. Moreover, even if the AG could establish a property interest, he cannot establish a procedural due process violation. The record reflects that notice was properly given and that he was permitted to conduct discovery, participate in the hearing, call witnesses, cross-examine ULH&P's witnesses, and file a post-hearing brief. This is all that procedural due process requires.

The Commission believes that the AMRP Rider it approved in this case is in the public interest and that it has the requisite authority to approve such a mechanism. Since the AG presented no argument that persuades us to disturb our original decision on the AMRP Rider, we find no basis upon which to grant the AG's application.

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<sup>28</sup> AG's Application for Rehearing at 1-3.

Duration of AMRP Rider. ULH&P notes that the AMRP Rider was approved for a 3-year period effective as of January 31, 2002. Since the first AMRP Rider will not take effect until June 1, 2002, ULH&P contends that it will have the opportunity to recover the AMRP Rider costs for a period of less than 3 years. ULH&P also notes that if it wishes to continue the AMRP Rider, at the end of the 3-year period it will need to file a general rate application to roll-in the AMRP Rider and justify its continuation. ULH&P requests that the January 31, 2002 Order be clarified to provide for it to collect the full three annual AMRP Rider filings before being required to file a general rate application to roll-in the AMRP Rider and justify its continuation. ULH&P further requests that the Commission clarify that the AMRP Rider would remain in effect until the Commission's final Order in the next gas rate case. Lastly, ULH&P asks the Commission to specify the date by which it should be required to file its gas rate application.<sup>29</sup>

The AG notes his objection to the AMRP Rider and, without waiving any of his other objections or claims on rehearing, declines to provide further comment on ULH&P's request for rehearing.<sup>30</sup>

The Commission agrees with ULH&P and finds that clarification on this issue is necessary and grants rehearing to the extent the January 31, 2002 Order is modified herein. The following modifications to the January 31, 2002 Order are reasonable and address the issues raised by ULH&P.

First, ULH&P should time the filing of its next gas rate case so that the new rates proposed in that case will become effective on and after June 1, 2005. This will allow

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<sup>29</sup> ULH&P's Motion for Rehearing at 13-14.

<sup>30</sup> AG's Response to ULH&P's Application for Rehearing at 8.



ULH&P the opportunity to submit three AMRP Rider filings and allow the mechanism to operate for 3 years.

Second, in the event that ULH&P seeks and the Commission approves the continuation of the AMRP Rider in the next gas rate case, the AMRP Rider level established by the third filing effective on June 1, 2004 will remain in effect until the timetable for continued AMRP Rider filings established in the next rate case can be placed into operation. If the AMRP Rider is continued, this should avoid any interruption in the operation of the AMRP Rider.

Finally, due to the timing of the next gas rate case, ULH&P should not make an AMRP Rider filing on March 31, 2005. If ULH&P seeks and the Commission authorizes a continuation of the AMRP Rider, the timing and how to determine the Rider amount for 2005 can be addressed in that Order. The Commission believes these modifications adequately address the concerns raised by ULH&P.

Filing Requirements. ULH&P asks for several specific clarifications to the filing requirements contained in Appendix G of the January 31, 2002 Order. These clarifications deal with reporting on accumulated depreciation, adjustments for retirements and replacements, and how to present certain cumulative AMRP information.<sup>31</sup>

As with the duration issue, the AG notes his objection to the AMRP Rider, and without waiving any of his other objections or claims on rehearing, declines to provide further comment on ULH&P's request for rehearing.<sup>32</sup>

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<sup>31</sup> ULH&P's Motion for Rehearing at 14-15.

<sup>32</sup> AG's Response to ULH&P's Application for Rehearing at 9.

The Commission has reviewed the filing requirements in Appendix G of the January 31, 2002 Order and the clarification issues raised by ULH&P, and agrees that clarification is necessary. Therefore, the Commission finds that rehearing should be granted to the extent the January 31, 2002 Order is modified herein. The following modifications to the January 31, 2002 Order are reasonable and address the issues raised by ULH&P.

The Commission has determined that a gap exists between the investment reflected in base rates and the beginning of the first year of the AMRP. The AMRP Rider filings are to cover 12-month periods that correspond to calendar years. The first AMRP Rider filing will cover calendar year 2001. However, the investment reflected in base rates is as of September 30, 2000. In order to avoid including in the AMRP Rider the effects of any retirements or replacements of bare steel and cast iron mains and services not a part of the AMRP, the Commission finds that supplemental information will be needed. ULH&P should supplement the first AMRP Rider filing with information concerning plant, accumulated depreciation, and deferred income taxes relating to the retirements and replacements occurring between September 30, 2000 and the beginning of the AMRP.

The Commission further finds that the following clarifications are reasonable:

- Page 5 Calculation of Depreciation Expense and Accumulated Depreciation. This form is designed to reflect the changes in the accumulated depreciation accounts for a 12-month period. The beginning accumulated depreciation balance shown in the third column of this form should reflect the balance as of January 1 of the appropriate year.
- Page 5 Calculation of Depreciation Expense and Accumulated Depreciation. Adjustments Due to Retirement or Replacement should reflect the original cost retired plus net cost of removal and salvage,

consistent with the Uniform System of Accounts treatment of retirements or replacements.

- Page 1 Cumulative AMRP to Date. The purpose of this column is to capture the total revenue requirement associated with the AMRP Rider over the time the Rider is in effect. To this end, the Commission agrees with the clarifications suggested by ULH&P in its motion for rehearing.

IT IS THEREFORE ORDERED that:

1. Rehearing on the issues of the treatment of FAS 109 ADIT and the corresponding impact on the jurisdictional rate base ratio; the clarification of the duration of the AMRP Rider and the timing of ULH&P's next gas rate case; and the clarification of the AMRP Rider filing requirements are granted to the extent that the January 31, 2002 Order is modified to include the findings and decisions herein.
2. Based on our finding that ULH&P's annual gas revenue deficiency is \$2,829,951, an increase in its annual gas revenues of \$108,615 over the amount authorized in the January 31, 2002 Order is hereby approved.
3. The rates in Appendix A are approved for service rendered on and after the date of this Order.
4. The rates set forth in Appendix A shall be applied on a prospective basis only. All other rates set forth in the January 31, 2002 Order that are not shown in Appendix A shall remain in full force.
5. Rehearing on all other issues is denied.
6. The AG's motion to strike the 1981 Illinois Study is granted.
7. All provisions of the Commission's Order of January 31, 2002 that do not conflict with this Order shall remain in full force and effect.

8. Within 15 days of the date of this Order, ULH&P shall file its revised tariff sheets reflecting the rates set forth in Appendix A.

Done at Frankfort, Kentucky, this 13<sup>th</sup> day of March, 2002.

By the Commission

ATTEST:

Deputy W. H. Fowler  
Executive Director

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2001-092 DATED March 13, 2002

The following rates and charges are prescribed for the customers in the area served by The Union Light, Heat and Power Company. All other rates and charges not specifically mentioned herein shall remain the same as those in effect under authority of this Commission prior to the effective date of this Order. The rates included herein reflect all gas cost adjustments through Case No. 2002-00032.<sup>1</sup>

Rate RS  
RESIDENTIAL SERVICE

Customer Charge per Month: \$8.30

	<u>Base Rate</u>	<u>Gas Cost Adjustment</u>	<u>Total Rate</u>
Commodity Charge for All CCF Consumed	23.34¢ plus	36.64¢	equals 59.98¢ per CCF

RATE GS  
GENERAL SERVICE

Customer Charge per Month: \$15.35

	<u>Base Rate</u>	<u>Gas Cost Adjustment</u>	<u>Total Rate</u>
Commodity Charge for All CCF Consumed	20.49¢ plus	36.64¢	equals 57.13¢ per CCF

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<sup>1</sup> Case No. 2002-00032, Notice of Purchased Gas Adjustment Filing of The Union Light, Heat and Power Company, final Order dated February 19, 2002.

## APPENDIX B

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-00092 DATED March 13, 2002

The jurisdictional net original cost rate base of ULH&P's combined and gas operations at September 30, 2000 is as follows:

	Combined	Gas
Total Utility Plant in Service	\$439,762,221	\$182,860,221
Add:		
Materials & Supplies		
Gas Enricher Liquids	655,260	655,260
Other Materials & Supplies	327,439	135,355
Stores Expense Undistributed	365,086	0
Total Materials & Supplies	1,347,785	790,615
Prepayments	16,349	16,349
Gas Stored Underground	3,849,839	3,849,839
Cash Working Capital Allowance	4,876,349	2,123,324
Subtotal	10,090,322	6,780,127
Deduct:		
Reserve for Accum. Depreciation	158,499,678	62,080,678
Accum. Deferred Income Taxes	35,559,888	14,592,939
Accum. Deferred Income Taxes FAS 109	(13,119,736)	(6,086,793)
Investment Tax Credits (3 percent)	73,859	73,859
Customer Advances for Construction	3,891,599	3,891,599
Subtotal	184,905,288	74,552,282
Jurisdictional Net Original Cost Rate Base	<u>\$264,947,255</u>	<u>\$115,088,066</u>

Ratio of Kentucky jurisdictional gas operations to jurisdictional Total Company operations is 43.438 percent.

#### NOTES:

1. Combined amounts are on a Kentucky jurisdictional basis.
2. Balances for Materials & Supplies, Prepayments, and Gas Stored Underground were determined using 13-month average balances. Prepayments do not include amounts for the PSC Assessment.
3. Cash working capital allowance was determined by taking 1/8<sup>th</sup> of test-year-end actual operations and maintenance expenses less purchased power and purchased gas costs.
4. Deferred Cinergy merger-related expenses and the unamortized balance of ULH&P's 1992 downsizing expenses have been excluded from the calculation of these rate bases.

## APPENDIX C

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-00092 DATED March 13, 2002

#### DETERMINATION OF JURISDICTIONAL GAS CAPITALIZATION AND GAS CAPITAL STRUCTURE

Determination of Total Company Jurisdictional Capitalization:

	<u>Total Company Balances 09/30/2000</u>	<u>Capital Structure Percentage</u>	<u>Non- Jurisdictional Adjustment</u>	<u>Total Company Jurisdictional Balances</u>
Long-Term Debt	\$ 71,402,645	26.857%	(\$ 6,535,558)	\$ 64,867,087
Short-Term Debt	54,276,650	20.415%	( 4,967,919)	49,308,731
Common Equity	<u>140,182,297</u>	<u>52.728%</u>	<u>( 12,831,176)</u>	<u>127,351,121</u>
Total Long-Term Debt, Short-Term Debt, and Common Equity	<u>\$265,861,592</u>	<u>100.000%</u>	<u>(\$24,334,653)</u>	<u>\$241,526,939</u>

To arrive at the jurisdictional gas capitalization, the jurisdictional rate base ratio of 43.438 percent is applied to each component of the total company jurisdictional balances.

Determination of Jurisdictional Gas Capitalization:

	<u>Jurisdictional Gas Balances 09/30/2000</u>	<u>Allocation Of Gas JDIC</u>	<u>Adjusted Gas Balance</u>	<u>Adjusted Gas Capital Structure</u>
Long-Term Debt	\$ 28,176,965	\$ 473,405	\$ 28,650,370	26.857%
Short-Term Debt	21,418,727	359,853	21,778,580	20.415%
Common Equity	<u>55,318,780</u>	<u>929,430</u>	<u>56,248,210</u>	<u>52.728%</u>
Total Long-Term Debt, Short-Term Debt, and Common Equity	\$104,914,472	\$ 1,762,688	\$106,677,160	<u>100.000%</u>
Gas JDIC	<u>1,762,688</u>	<u>(1,762,688)</u>	<u>0</u>	
Total Capitalization	<u>\$106,677,160</u>	<u>\$ 0</u>	<u>\$106,677,160</u>	

APPENDIX C (continued)

Determination of Non-Jurisdictional Adjustment:

	Non- Jurisdictional Electric	Non- Jurisdictional Gas	Total Non- Jurisdictional
Non-Jurisdictional Rate Base Items -			
Utility Plant in Service	\$13,947,000	\$16,364,065	\$30,311,065
CWIP	0	122,000	122,000
Gas Enricher Liquids (Propane)	0	1,216,910	1,216,910
Reserve for Accumulated Depreciation	(970,000)	(6,687,523)	(7,657,523)
Accumulated Deferred Income Taxes	0	393,530	393,530
Accum. Deferred Income Taxes FAS 109	(46,126)	(3,572)	(49,698)
Investment Tax Credits (3%)	<u>0</u>	<u>(1,631)</u>	<u>(1,631)</u>
Total Net Non-Jurisdictional Adjustment	<u>\$12,930,874</u>	<u>\$11,403,779</u>	<u>\$24,334,653</u>

NOTES:

1. The Total Non-Jurisdictional Adjustment has been allocated to the components of capitalization utilizing the capital structure percentages.
2. The balance for the Gas JDIC was taken from Application Schedule B-6, lines 6 and 7. The JDIC treatment is consistent with previous Commission decisions.



## APPENDIX D

### APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2001-00092 DATED March 13, 2002

#### INTEREST SYNCHRONIZATION CALCULATION

	<u>Long-Term Debt</u>	<u>Short-Term Debt</u>
Capital Structure Percentages	26.857%	20.415%
Debt Portion of Jurisdictional Gas Capitalization	\$28,650,370	\$21,778,580
Less: Jurisdictional Gas CWIP Subject to AFUDC		
\$1,804,000 times 26.857%	484,500	0
\$1,804,000 times 20.415%	0	368,287
Debt Component less Applicable Portion of Gas CWIP Subject to AFUDC	28,165,870	21,410,293
Debt Component multiplied by appropriate Annual Cost Rate	7.296%	3.545%
Annualized Gas Interest Expense for each Debt Component	<u>\$ 2,054,982</u>	<u>\$ 758,995</u>
Total Annualized Gas Interest Expense		\$ 2,813,977
Test Year Actual Gas Interest Expense (calculated)		2,135,537
Increase in Gas Interest Expense		<u>\$ 678,440</u>
<u>Determination of Income Tax Effect:</u>		
Increase in Gas Interest Expense		\$ 678,440
Kentucky Income Tax Rate (stated)		8.25%
Kentucky Income Tax Effect of Increased Gas Interest Expense		<u>\$ (55,971)</u>
Increase in Gas Interest Expense	\$ 678,440	
Less: Kentucky Income Tax Effect	(55,971)	
Increase in Gas Interest Expense Federal Federal Income Tax Rate		\$ 622,469 35.00%
Federal Income Tax Effect of Increased Gas Interest Expense		<u>\$ (217,864)</u>
Total Income Tax Effect of Increased Gas Interest Expense		<u>\$ (273,835)</u>

NOTES:

1. The CWIP Subject to AFUDC is from Application Schedule B-4.
2. The calculation of the Test Year Actual Gas Interest Expense is shown on the second page of this Appendix.

## APPENDIX D (continued)

### Calculation of Test Year Actual Gas Interest Expense:

ULH&P reported its book interest expense for the test year on a total company basis. In order to calculate the Interest Synchronization adjustment, it has been necessary to allocate the test-year expense between electric and gas operations, as shown below.

### Test-Year Actual Interest on Long-Term Debt:

Total Company Interest on Long-Term Debt (Commission Staff First, Item 6)	\$4,068,000
Jurisdictional Rate Base Ratio	<u>43.438%</u>
Interest on Long-Term Debt Gas	<u>\$1,767,058</u>

### Test-Year Actual Interest on Short-Term Debt:

Test-Year Other Interest Expense was taken from Commission Staff First, Item 6. Total test-year Other Interest Expense includes items not included in the determination of short-term interest expense. To remove these items, the Commission has allocated the test-year Other Interest Expense to reflect the mix of items reported in ULH&P's FERC Form 2 for 2000.

	<u>FR #6-m FERC Form 2 Page 340</u>	<u>Percentage of Total from FERC Form 2</u>	<u>Test Year Other Interest Expense</u>
Account No. 430 Interest on Debt to Assoc. Cos.			
Money pool ULH&P to PSI	\$ 719,655	55.872%	\$ 522,403
Money pool ULH&P to CG&E	427,169	33.164%	310,083
Account No. 431 Other Interest Expense			
Commercial Paper	1,144	0.089%	832
Capital Lease	54,360	4.220%	39,457
Interest Assigned from Service Company	(53,557)	-4.158%	(38,877)
Interest Other	19,819	1.539%	14,390
Customer Service Deposits	113,000	8.773%	82,028
Gas Refund PUCO Rule 28	<u>6,450</u>	<u>0.501%</u>	<u>4,684</u>
Total Account Nos. 430 & 431	<u>\$1,288,040</u>	<u>100.000%</u>	\$ 935,000
Remove Interest Expense not included for Short-Term Debt			
Customer Service Deposits			(82,028)
Gas Refund PUCO Rule 28			<u>(4,684)</u>
Allocated Interest Expense on Short-Term Debt Total Company			\$ 848,288
Jurisdictional Rate Base Ratio			<u>43.438%</u>
Interest on Short-Term Debt Gas			<u>\$ 368,479</u>
Total Test Year Gas Interest Expense			<u>\$2,135,537</u>

APPENDIX E

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE  
COMMISSION IN CASE NO. 2001-00092 DATED March 13, 2002

INCOME TAX EXPENSES REFLECTING  
USE OF EFFECTIVE KENTUCKY INCOME TAX RATE

This calculation is modeled on approach used by ULH&P, as shown in Application  
Workpapers WPD-2.25a and WPD-2.25b.

Adjusted Operating Income before Federal and Kentucky Income Taxes	\$10,703,918
Less: Annualized Interest Expense	<u>2,813,977</u>
Unadjusted Operating Income before Taxes	7,889,941
Effective Kentucky Income Tax Rate 2000	<u>3.03%</u>
Adjusted Kentucky Income Tax Expense	\$ 239,065
Adjusted Kentucky Income Tax Expense before Adjustment to Effective Rate	<u>833,599</u>
Kentucky Income Tax Adjustment	<u>\$ (594,534)</u>
Kentucky Income Tax Adjustment	\$ (594,534)
Effective Federal Income Tax Rate	<u>35.00%</u>
Adjustment to Federal Income Tax Expense	<u>\$ 208,087</u>