COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF THE UNION LIGHT, HEAT AND POWER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE TO ACQUIRE CERTAIN GENERATION RESOURCES AND RELATED PROPERTY; FOR APPROVAL OF CERTAIN PURCHASE POWER AGREEMENTS; FOR APPROVAL OF CERTAIN ACCOUNTING TREATMENT; AND FOR APPROVAL OF DEVIATION FROM REQUIREMENTS OF KRS 278.2207 AND 278.2213(6)	)	CASE NO. 2003-00252

SUPPLEMENTAL DATA REQUEST OF COMMISSION STAFF
TO THE UNION LIGHT, HEAT AND POWER COMPANY

The Union Light, Heat and Power Company (ULH&P), pursuant to 807 KAR 5:001, is requested to file with the Commission the original and 7 copies of the following information, with a copy to all parties of record. The information requested herein is due September 17, 2003. Each copy of the data requested should be placed in a bound volume with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Include with each response the name of the person who will be responsible for responding to questions relating to the information provided. Careful attention should be given to copied material to ensure that it is legible. Where information herein has been previously provided, in the format requested herein, reference may be made to the specific location of said information in responding to this information request.

1. Refer to Item 4(b) of ULH&P s response to the Commission Staff s Initial Data Request (Staff s Initial Request).

a. Will ULH&P be acquiring the rights to use the second landfill as part of the proposed transaction or will this acquisition be a subsequent transaction between ULH&P and CG&E? Explain the response.

b. What is the net book value of the second landfill as of December 31, 2002, and what is the expected cost to acquire the rights to this landfill?

2. Refer to Item 5 of ULH&P s response to the Staff s Initial Request. Explain whether Cinergy is willing to make a formal commitment that East Bend will continue to be part of the NOx system-wide averaging plan after the transfer to ULH&P.

3. Refer to Items 6 and 7 of ULH&P s response to the Staff s Initial Request. Explain whether the landfill currently in use, with 7 to 11 years of remaining capacity, combined with the second landfill, as yet not used, are expected to be sufficient to accommodate an additional 38 years of operation of the East Bend Unit.

4. Refer to Items 9 and 10 of ULH&P s response to the Staff s Initial Request. Identify the point in time, based on the timeline for the proposed transaction, that ULH&P expects to enter into the proposed agreements with The Cincinnati Gas and Electric Company (CG&E) regarding shared facilities at the Miami Fort station.

5. Refer to Items 11 and 44 of ULH&P s response to the Staff s Initial Request. It appears from the response to Item 44 that acquiring a percentage interest in CG&E s Zimmer Station (Zimmer) was the only alternative considered other than the combination proposed in ULH&P s application. The response indicates that an interest in Zimmer was rejected due to the rate impact on ULH&P s customers. Miami Fort 7 and Miami Fort 8 are large base load units in which CG&E owns a 64 percent interest and are only a few years older than East Bend. Explain why acquiring some

portion of these units was not considered and describe the potential rate impact of such an acquisition compared to the rate impact of the proposed transaction.

6. Refer to Item 14 of ULH&P s response to the Staff s Initial Request, which identifies potential changes in the ability to discharge water from Miami Fort 6 into the Ohio River as the performance and maintenance issues referred to on page 5 of the Direct Testimony of H. Davis Ege.

a. Explain whether this is an issue that pertains only to Miami Fort 6 and only to the Ohio River.

b. Is the Ohio River used for the water discharged from East Bend? If yes, explain why this was not identified as an issue of concern for East Bend.

7. Refer to Items 4 and 18(b) of ULH&P s response to the Staff s Initial Request. The East Bend transfer envisions ULH&P acquiring only the land on which the existing generating unit is located while the Woodsdale transfer envisions ULH&P acquiring all the land even though the site, with 6 units installed and space available to install 6 additional units, is only 50 percent developed. Explain why the proposed transaction is structured to treat the land transfers of the two sites in different manners.

8. Refer to Item 19 of ULH&P s response to the Staff s Initial Request.

a. Describe in detail Cinergy s current Acid Rain NOx averaging plan. Include a discussion of how the current plan impacts the facilities CG&E proposes to transfer to ULH&P.

b. Describe in detail the new NOx budget program mentioned in this response. Specifically discuss any changes from the current averaging plan.

c. Explain why the Woodsdale units are affected by the new NOx budget program, but apparently were not impacted by the current averaging plan.

9. Refer to Item 20 of ULH&P s response to the Staff s Initial Request.

a. Provide the typical timeline of ULH&P s annual planning cycle.

b. In the past, there were times when ULH&P had need to coordinate the filing of its Intergrated Resource Plan (IRP) with the filing of IRPs by affiliates in other jurisdictions. To what extent will ULH&P continue to need to coordinate its future IRP filings with those of any affiliates?

10. Refer to Item 21(b) of ULH&P s response to the Staff s Initial Request. Clarify whether the pricing of inter-company transfers described in the Purchase, Sale and Operations Agreement means that such transfers will never be priced in excess of the receiving company s incremental cost of available generation.

11. Refer to Item 23 of ULH&P s response to the Staff s Initial Request.

a. Explain in detail why Cinergy requires certainty in the amount of future recovery before it will commit to the proposed transaction.

b. Specifically identify the portions of KRS 278.290 that cause Cinergy to believe it needs the additional certainty for future rate-making treatment of the proposed transaction.

12. Refer to Item 23(c) of ULH&P s response to the Staff s Initial Request.

a. In the response it is stated that Cinergy requires a high level of certainty regarding the cost recovery associated with the proposed transaction. Would Cinergy agree that, as a regulated utility, ULH&P s ownership of generating assets provides a measure of certainty and stability to both ULH&P and Cinergy? Explain the response.

b. Included in the response is the statement, Cinergy s proposal is to have the Commission provide a means for Cinergy to unwind this transaction if Cinergy does not receive the cost recovery treatment it seeks in this proceeding. Explain in detail how the provision of a means for Cinergy to unwind the proposed transaction is consistent with the Commission s concerns and requirements expressed in Case No. 2001-00058[1] and Administrative Case No. 387.[2]

c. Is Cinergy aware of any other regulated energy utility that has, during the past 10 years, been granted the ability to unwind a transaction simply because it did not agree with the cost recovery authorized by the appropriate regulatory agency?

(1) If yes, provide citations to the proceedings and excerpts from the published decisions.

(2) If no, explain in detail why Cinergy believes it is entitled to unwind the proposed transaction if it does not agree with the cost recovery authorized by the Commission in a future rate case proceeding.

13. In 2002, Public Service Indiana (PSI), a regulated Cinergy affiliate operating in Indiana, sought and was granted authority by the Indiana Utility Regulatory

[1] Case No. 2001-00058, The Application of The Union Light, Heat and Power Company for Certain Findings Under 15 U.S.C. § 79Z, final Order dated May 11, 2001.

[2] Administrative Case No. 387, A Review of the Adequacy of Kentucky s Generation Capacity and Transmission System, final Order dated December 20, 2001.

Commission (Indiana Commission) to purchase 11 combustion turbines owned by an unregulated Cinergy affiliate.

a. Did PSI s application before the Indiana Commission contain the same unwinding provision as ULH&P and Cinergy have included in the proposed transaction before this Commission?

b. If yes to part (a), indicate whether the settlement approved in the PSI combustion turbine case included the unwinding provision. Include a copy of the settlement agreement and Indiana Commission decision discussing the unwinding provision.

c. If no to part (a), explain in detail why Cinergy did not need the high level of certainty from the Indiana Commission that it apparently believes it needs from this Commission.

14. Refer to Item 26(b) of ULH&P s response to the Staff s Initial Request. Explain in detail how ULH&P plans to identify and track all expenses associated with off-system sales.

15. Refer to Item 27(b) of ULH&P s response to the Staff s Initial Request. Explain why ULH&P believes that it is reasonable to request Commission approval of the proposed transaction without affording the Commission the opportunity to review the exact documents that will be used to consummate the transaction.

16. Refer to Item 28 of ULH&P s response to the Staff s Initial Request. Indicate when the East Bend Asset Transfer Agreement Schedules will be prepared and finalized.

17. Refer to Item 32(b) of ULH&P s response to the Staff s Initial Request.

a. When examining the available alternatives concerning resource needs, do CG&E and Cinergy normally issue a request for proposals (RFP) seeking responses on the availability of unit sales, asset sales, or co-ownership of generating facilities? Explain the response.

b. If the RFP process is part of CG&E s and Cinergy s normal resource assessment process, explain in detail why ULH&P did not follow that process in this instance.

18. Refer to Item 34 of ULH&P s response to the Staff s Initial Request, which indicates that, of the projected major capital projects for the East Bend plant, $12.02 million represents the total cost, while $8.3 million represents the East Bend Station cost. Provide clarification of whether the $8.3 million represents the proposed ULH&P share of the $12.02 million total cost.

19. Refer to Item 35 of ULH&P s response to the Staff s Initial Request. The first part of the response identifies the relative costs of installing low NOx burners at Miami Fort 6 versus the cost of purchasing allowance. However, the last sentence of the response appears somewhat inconsistent with the results of that comparison. Provide clarification and/or a restatement of the last part of the response.

20. Refer to Item 36(a) of ULH&P s response to the Staff s Initial Request.

a. Identify the years in which Westinghouse manufactured the model of generator installed at East Bend.

b. Identify the ages of the 3 or 4 units referenced in the response at the times they experienced their winding failures.

c. East Bend has been in service 22 years. Explain why the rewinding work is being proposed now rather than at some time in the past.

21. Refer to Item 37 of ULH&P s response to the Staff s Initial Request.

a. Explain in detail why the historic Operation and Maintenance (O&M) cost detail was not readily available.

b. When will Item 37(a), to which the response was will supplement, be filed with the Commission?

c. Part (b) of the response indicates the 2.5 percent escalation factor was based on the 1985-2001 average implied inflation from the Bureau of Economic Analysis of the Department of Commerce. Explain why the Department of Commerce was selected as the source for this information and why 1985-2001 was chosen as the time period for purposes of deriving an escalation factor.

22. Refer to Item 38(b) of ULH&P s response to the Staff s Initial Request.

a. Prepare a schedule that reconciles the annual capital additions for 2003 through 2006 provided in this response with the annual capital additions shown in the Direct Testimony of John P. Steffen (Steffen Testimony), Attachment JPS-1. Include a narrative explaining the reason(s) for any differences between the amounts provided in this response by plant or year with the information shown in Attachment JPS-1.

b. The major overhaul for Woodsdale Units 1 and 2 is scheduled for 2003-2004 while the major overhaul for Woodsdale Units 3 and 4 is scheduled for 2004-2005. Explain in detail why the estimated cost of the major overhaul for Woodsdale

Units 3 and 4 is approximately 41 percent higher than the estimated cost for Woodsdale Units 1 and 2.

23. Refer to Item 39 of ULH&P s response to the Staff s Initial Request, which explains why the 2003 budget was used to estimate fixed O&M expenses for 2006. The response does not include actual expenses for 2000 through 2002 as was requested. Provide those actual expenses as requested.

24. Refer to Item 41 of ULH&P s response to the Staff s Initial Request. The Direct Testimony of J. Thomas Mason, which illicited that specific request, stated that Cinergy would work with its coal suppliers to amend its coal contracts and make ULH&P a party to those contracts. The response indicates there is no reason to believe that amending the contracts in this manner will present a problem. Describe the extent, if any, to which Cinergy has already discussed this issue with its coal suppliers.

25. Refer to Item 42(b) of ULH&P s response to the Staff s Initial Request, which was filed confidentially and which identifies the contracts under which coal is delivered to the East Bend and Miami Fort 6 units.

a. Identify which of the contracts supplies East Bend and which supplies Miami Fort 6.

b. Explain whether the Miami Fort 6 contract(s) serves other units at the Miami Fort generating station.

c. One contract contains a 1-year extension at buyers sole option. Describe the limits on that option including any limits on when it can be exercised.

26. Refer to Item 48(a) of ULH&P s response to the Staff s Initial Request.

a. Indicate when the last allocation study was performed by cost accounting.

b. Provide a copy of the allocation study.

c. Has there been a review of the last allocation study to determine if an allocation based on average peak load was still the most accurate way to split trading and dispatching costs between PSI and CG&E?

(1) If yes, when was this review performed and what were the results of the review?

(2) If no, explain why a review has not been undertaken.

27. Refer to Item 51 of ULH&P s response to the Staff s Initial Request.

a. Attachment KyPSC-01-051a was not provided with the responses. Provide the originally requested information.

b. Concerning the response to part (a)(6), indicate the portion of the Federal Energy Regulatory Commission s (FERC) jurisdictional accumulated deferred investment tax credits (ADITC) that reflects sales from CG&E to ULH&P. Include all supporting calculations, assumptions, and workpapers.

d. Explain why the portion of FERC jurisdictional ADITC attributable to ULH&P under CG&E s wholesale sales to ULH&P should not be transferred to ULH&P as it acquires the generating assets that gave rise to the ADITC.

e. Concerning the response to part (a)(6), explain why Zimmer was excluded from the calculations.

f. Refer to part (d).

(1) Explain what is meant by the phrase during the relevant period.

(2) Explain in detail why the fact the plants were not subject to retail rate-making in Kentucky during the relevant period makes the proposal to continue amortizing the ADITC below the line reasonable.

(3) Would ULH&P agree that, by continuing to record the ADITC amortization below the line, ULH&P and its shareholder CG&E will receive all the benefits of the ADITC amortization? Explain the response.

(4) If the Tax Reform Act of 1986 provides rules determining how ADITC is passed through to ratepayers, explain how ULH&P s proposal to record the amortization below the line is consistent with normalization.

28. Refer to Item 52 of ULH&P s response to the Staff s Initial Request.

a. Explain whether, prior to Ohio s deregulation, CG&E accounted for accumulated deferred income taxes associated with the plants above or below the line.

b. Refer to part (c). If the accumulated deferred income taxes are considered part of the proposed transfer, explain in detail why Kentucky ratepayers should not receive the benefit of all the accumulated deferred income taxes generated by the plants.

c. Would ULH&P agree that, by recording a portion of the accumulated deferred income tax amortization below the line, ULH&P and its shareholder, CG&E, will receive all the benefits of that portion of the amortization? Explain the response.

d. If the Tax Reform Act of 1986 provides rules determining how accumulated deferred income taxes are passed through to ratepayers, explain how ULH&P s proposal to record a portion of the amortization below the line is consistent with normalization.

29. Refer to Items 53(a) and 53(b) of ULH&P s response to the Staff s Initial Request.

a. Prepare a reconciliation of the capital additions for calendar years 2003 through 2006 provided in this response with the amounts shown in Attachment JPS-1 to the Steffen Testimony. Include an explanation of the reason(s) why the amounts on the two documents are different.

b. Provide all workpapers, calculations, and assumptions used to develop the capital additions shown in Attachment JPS-1.

30. Refer to Items 53(c) and 53(d) of ULH&P s response to the Staff s Initial Request. In the response to part (c), ULH&P has indicated that retirements and replacements are included in the capital expenditures listed in the response to part (a). However, in the response to part (d), ULH&P states there are no retirements or replacements.

a. Are there or are there not any retirements and replacements included in the response to part (a)? If yes, provide a listing of each capital expenditure related to a retirement or replacement.

b. Explain the apparent contradiction in the responses to parts (c) and (d).

c. Given the nature of the capital expenditures provided in the response to part (a), explain in detail why those expenditures would not result in some level of retirement or replacement of existing facilities at the three plants.

31. Refer to Item 53(e) of ULH&P s response to the Staff s Initial Request. Provide the status of the depreciation study on CG&E s production facilities and indicate when the study will be completed and issued.

32. Refer to Item 54(a) of ULH&P s response to the Staff s the Initial Request.

a. Describe in detail CG&E s and Cinergy s approach to managing its SO_2 allowance inventory. Include in the description a discussion of how decisions on the purchase or sale of allowances are made.

b. In the response to part (a), ULH&P states that in the revenue requirement the credits for SO_2 and NOx allowances was based on market prices. Explain in detail why the market price was utilized instead of the actual inventory cost of the allowances.

33. Refer to Item 54(c) of ULH&P s response to the Staff s Initial Request.

a. Explain the phrase average inventory cost as used in the response and indicate whether this average cost is for a particular vintage year or for all years.

b. Does CG&E plan to transfer the SO_2 and NOx emission allowance inventory for the three plants at actual historic cost or at market prices? Explain the response.

34. Refer to Item 2 of ULH&P s response to the Attorney General s Initial Data Request, specifically CG&E s FERC Form 1 for 2002, pages 228 and 229.

a. Provide the number of SO_2 emission allowances used by CG&E by year for calendar years 1998 through 2002. For each calendar year, show the number of allowances used at each generating unit.

b. Explain why CG&E purchased 183,751 SO_2 emission allowances in 2002 for use in 2002.

c. CG&E s purchase of SO_2 emission allowances in 2002 was at a cost of $32,037,866, or an average price per allowance of approximately $174 per allowance. The purchases were made from six vendors. Explain how the purchase price from each vendor was determined. Also explain why the cost per allowance from Arizona Public Service appears to be significantly higher than the other purchases.

d. Does ULH&P anticipate that it will need to purchase SO_2 emission allowances for the plants included in the proposed transaction? Explain the response.

35. Refer to Item 54(e) of ULH&P s response to the Staff s Initial Request.

a. Based on the response, is it correct that the number of SO_2 allowances listed for each generating facility in 2003-2009 reflects the allowances for each year of that period?

b. Based on the response, is it correct that the number of NOx allowances listed for each generating facility in 2004-2005 reflects the allowances for each year of that period?

c. Explain in detail why ULH&P used a market price to determine the dollar value of the SO_2 and NOx allowances rather than the historic actual costs of the allowances as recorded by CG&E.

d. Resubmit the responses to part (e)(2) and (e)(4) using the historic actual costs of the allowance inventories.

e. Indicate how the SO_2 and NOx allowances at East Bend are allocated between CG&E and Dayton Power & Light.

36. Refer to Item 55 of ULH&P s response to the Staff s Initial Request.

a. Was ULH&P aware that the Commission normally has not allowed a utility to earn a return on the unamortized balance of a deferred expense?

b. Explain in detail why ULH&P should be allowed in this instance to not only recover the deferred cost through amortization but also earn a return on the unamortized balance of the deferred transaction expense.

c. If part of ULH&P s reasoning in support of earning a return on the unamortized balance of the deferred expense is that the amortization of the deferred expense is being delayed until the next rate case, explain why that reason is relevant given that ULH&P is requesting that the amortization be delayed.

37. Refer to Items 56(c) and 56(d) of ULH&P s response to the Staff s Initial Request.

a. Explain why the 13-month averages used to determine the rate base were as of March 31, 2003 instead of December 31, 2002.

b. Based on the response to part (c), is it correct that only selected components from the rate base have been projected to 2006? If yes, explain why this is a reasonable approach to use to estimate future revenue requirements for the proposed transaction.

c. Refer to Attachment KyPSC-DR-01-056d.

(1) On page 1 of 2, explain why amounts for accumulated depreciation and accumulated deferred income taxes were not included to correspond with the 2003-2006 Changes to ULH&P Plant.

(2) On page 2 of 2, explain how ULH&P determined the Cash Working Capital Allowance shown for the 12/31/06 Plants.

(3) On page 2 of 2, explain why an amount for accumulated depreciation was not included to correspond with the 2003-2006 Changes to ULH&P Plant.

38. Refer to Item 58 of ULH&P s response to the Staff s Initial Request.

a. Given the significance of the proposed transaction, explain in detail why ULH&P and CG&E have not had any contact with, or made inquiries to the Kentucky Revenue Cabinet and Ohio Department of Taxation, concerning the potential tax implications from the proposed transaction.

b. Indicate when ULH&P and CG&E plan to contact the two agencies to determine the potential tax implications, if any, resulting from the proposed transaction.

39. Several of ULH&P s responses to the Staff s Initial Request list the responsible witness as either NA or TBD. Such references do not conform to the data request instructions to identify all witnesses. Provide the names of the appropriate witnesses who are responsible for the responses listed as NA or TBD.

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Executive Director
Public Service Commission
P. O. Box 615
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DATED: __September 10, 2003____

cc: All Parties