

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| 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 |) | CASE NO. |
| AGREEMENTS; FOR APPROVAL OF CERTAIN |) | 2003-00252 |
| ACCOUNTING TREATMENT; AND FOR APPROVAL OF |) | |
| DEVIATION FROM REQUIREMENTS OF KRS 278.2207 |) | |
| AND 278.2213(6) |) | |

INITIAL DATA REQUEST OF COMMISSION STAFF TO
THE ATTORNEY GENERAL OF THE COMMONWEALTH OF KENTUCKY

The Attorney General of the Commonwealth of Kentucky (AG), 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 October 16, 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 page 7 of the Testimony of David H. Brown Kinloch, where he refers to a recent East Kentucky Power Cooperative, Inc. (East Kentucky) solicitation

for peaking power and the statement of an East Kentucky witness that the depressed capacity market made pricing for the proposed combustion turbines very competitive.

a. Identify and provide any evidence in Mr. Kinloch's possession other than this testimony that demonstrates that the capacity market is depressed.

b. Explain whether, by referring to the East Kentucky solicitation and the proposals offered in response thereto, Mr. Kinloch is recommending that The Union Light, Heat and Power Company (ULH&P) seek to acquire peaking capacity through a similar solicitation. Alternatively, is he merely citing East Kentucky's experience as an example of the process he believes ULH&P should undertake? Explain the response.

2. Refer to page 5 of the Direct Testimony of Charles W. King (King Testimony) where he discusses recommendations on the seven conditions required by ULH&P. Mr. King's recommendations concerning condition numbers 1a and 1b are not clear. Provide a clarification of Mr. King's recommendation on these conditions.

3. Refer to pages 7-8 of the King Testimony where he discusses possibly continuing the existing wholesale purchase power agreement (PPA).

a. Explain whether Mr. King is, in fact, advocating that the existing PPA be continued.

b. Explain whether Mr. King believes that continuing the existing PPA is consistent with the Commission's directive to ULH&P in Case No. 2001-00058.¹

c. The Commission's concern expressed in Case No. 2001-00058, in part, related to the need to have long-term certainty of generation (power) costs.

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

Identify any full requirements wholesale purchase power agreements executed since 2000 that provide power at a fixed price for a term of 20 years or longer.

4. Refer to pages 9 and 12 of the King Testimony. On page 12, Mr. King recognizes that the wholesale power agreements between ULH&P and The Cincinnati Gas and Electric Company (CG&E) are within the jurisdiction of the Federal Energy Regulatory Commission (FERC). However, on page 9, Mr. King states that, Whether and how the Commission can force CG&E to provide power to ULH&P at cost-based rates is a legal issue which I am not qualified to address. Explain how Mr. King is able to distinguish between the authority of this Commission and FERC as he does on page 12 if he is unable to make the same distinction regarding whether this Commission has authority over the price of wholesale power sold by CG&E to ULH&P.

5. Refer to pages 10-11 of the King Testimony where he discusses the treatment of the deferred transaction costs.

a. Was Mr. King aware that in its response to the Commission Staff's First Data Request, Item 55, ULH&P stated that it assumed it would be allowed to earn a return on the unamortized balance of the deferred transaction costs?

b. Was Mr. King aware that the Commission normally has not allowed a utility to earn a return on the unamortized balance of a deferred expense?

c. Does Mr. King believe that the circumstances in this proceeding warrant a different rate base treatment of the proposed deferred transaction costs than that normally followed by the Commission? Explain the response.

d. Was Mr. King aware that in its response to the Commission Staff's Second Data Request, Item 36(c), ULH&P indicated that in order to provide for a

quicker recovery of the deferred transaction costs, it was willing to put a tracker mechanism in place to recover the deferred costs on a more timely basis?

e. Does Mr. King believe a tracker mechanism needs to be established in this proceeding to provide for a more timely amortization of the deferred transaction costs? Explain the response.

f. Concerning Mr. King's proposal to offset the deferred transaction costs with excess profits from the generating plants, explain how the reasonable rate of return would be determined and indicate whether a separate rate of return would have to be considered for each year of the analysis.

g. Would Mr. King's proposal to offset the deferred transaction costs with excess profits from the generating plants discourage ULH&P from maximizing the generation from those plants? Explain the response.

6. Refer to pages 13-14 of the King Testimony where he discusses the retention of profits from off-system sales by ULH&P.

a. In order to maintain the proper matching of revenues and expenses, does Mr. King agree that if ULH&P were to retain all the off-system sale profits, ULH&P would have to bear all the expenses associated with generating the power that produced those profits? Explain the response.

b. Would Mr. King agree that the allocation of ULH&P's generating expenses between native load sales and off-system sales would be a complex and detailed undertaking? Explain the response.

c. Refer to page 14 of the King Testimony. Explain in detail why ULH&P should receive an incentive to maximize the utilization of the plants.

7. Refer to pages 15-16 of the King Testimony where he discusses the filing of ULH&P's next Integrated Resource Plan (IRP). Mr. King states that ULH&P's IRP will affect some elements in a possible future rate case, such as the recovery of demand-side management (DSM) and conservation costs.

a. Explain whether Mr. King is unaware that ULH&P recovers these costs through a DSM mechanism that is reviewed outside of a base rate proceeding.

b. With the knowledge that, contrary to his testimony, a future IRP will not affect the recovery of DSM costs in a future rate case, explain whether Mr. King still believes that ULH&P's next IRP should be filed by June 30, 2005.

8. Refer to page 18 of the King Testimony where he discusses the issue of the plants that are proposed to be transferred from CG&E to ULH&P being transferred at net book value. Mr. King recommends that the Commission accept this condition, but states that such acceptance should not be presumed to be a prejudgment of the issue of what constitutes net book value. Explain whether Mr. King's recommendation is subject to the Commission agreeing with the position on the net book value of the plants expressed in the Direct Testimony of Michael J. Majoros, Jr. (Majoros Testimony).

9. Refer to page 7 of the Majoros Testimony where he discusses the impact of the proposed transaction on the equity component of ULH&P. Explain in detail the basis for Mr. Majoros's conclusion that the deferrals reduce the equity component of the transfer. Include in this explanation how the impact on ULH&P's capitalization and capital structure can be determined absent any evidence of how the proposed transaction is going to be financed.

10. Several of the documents necessary to conclude the proposed transfer of generating plant from CG&E to ULH&P have not been provided in this proceeding. ULH&P has offered commitments to provide the final documents within a certain number of days after the completion of the transfer. In the case involving Big Rivers Electric Corporation's corporate reorganization plan,² the Commission faced a similar situation where the final versions of numerous transaction documents had not been finalized and not submitted for Commission review. In its April 30, 1998 Order, the Commission approved the proposed transaction in principle, based on the documents being available to the Commission as of a specified date. The Commission also required the applicants to file a new case, containing the final drafts of the transaction documents supported by a clear identification of each change and a detailed explanation of each change from the document version on file as of the specified date. Do Mr. King or Mr. Majoros believe a similar approach should be taken in this proceeding due to the absence of some transaction documents? Explain the response.



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DATED: October 6, 2003
cc: All Parties

² Case No. 1997-00204, The Application of Big Rivers Electric Corporation, Louisville Gas and Electric Company, Western Kentucky Energy Corp., Western Kentucky Leasing Corp., and LG&E Station Two Inc. for Approval of Wholesale Rate Adjustment for Big Rivers Electric Corporation and for Approval of Transaction, final Order dated April 30, 1998, at 42-44.