

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NOTICE OF DUKE ENERGY KENTUCKY, INC.)	
OF FULFILLMENT OF ITS COMMITMENT TO)	CASE NO.
PROVIDE MERGER CREDITS TO CUSTOMERS)	2009-00479
AND APPLICATION TO DISCONTINUE THE)	
ELECTRIC MERGER SAVINGS RIDER)	

O R D E R

On December 7, 2009, Duke Energy Kentucky, Inc. ("Duke Kentucky"), formerly known as The Union Light, Heat and Power Company ("ULH&P"), initiated the instant proceeding by requesting authority to discontinue its electric merger savings credit rider. Duke Kentucky states that it has satisfied its commitment to credit its customers the agreed-upon amount of up-front merger savings resulting from the merger of its parent holding company, Cinergy Corp. ("Cinergy"), with Duke Energy Corporation ("Duke Energy"). Staff issued one data request to which Duke Kentucky responded on February 5, 2010. There are no intervenors in this proceeding.

BACKGROUND

In 2005, the Commission approved the merger of Duke Energy and Cinergy,¹ a public utility holding company that owned, among other entities, ULH&P, a regulated utility providing electric and gas service in northern Kentucky. In Case No. 2005-00228,

¹ Case No. 2005-00228, Joint Application of Duke Energy Corporation, Duke Energy Holding Corp., Deer Acquisition Corp., Cougar Acquisition Corp., Cinergy Corp., The Cincinnati Gas & Electric Company, and The Union Light, Heat and Power Company for Approval of a Transfer and Acquisition of Control (Ky. PSC Nov. 29, 2005).

the Commission approved a Stipulation and Recommendation (“Merger Stipulation”) that was signed by all parties. The Merger Stipulation established an agreed-upon level of up-front, merger-related savings to be provided by ULH&P, now Duke Kentucky, to its electric and gas customers.

DISCUSSION

The Merger Stipulation in Case No. 2005-00228 approved a merger savings credit of \$7,634,100 to be used as an offset to customer billings. Of the \$7,634,100 in overall savings to be credited to customers, \$6,721,000 was for savings attributable to electric service and \$913,100 was attributable to gas service. The credits were to be provided to customers over a five-year period under a discrete rate-rider mechanism.² The Merger Stipulation further provided that the riders would expire upon the effective date of new rates in Duke Kentucky’s next electric and gas base rate cases, provided the effective date was after January 1, 2008.

On July 1, 2009, Duke Kentucky filed an application proposing new gas rates.³ With the Commission’s final Order in that case, new gas base rates became effective on January 4, 2010 and Duke Kentucky’s gas merger savings credit was discontinued on that date, having provided credits of \$604,168 to its gas customers.⁴

² Duke Kentucky began crediting electric customers in April 2006 through Rider MSR-E and gas customers through Rider MSR-G.

³ Case No. 2009-00202, Application of Duke Energy Kentucky, Inc. for an Adjustment of Rates (Ky. PSC Dec. 29, 2009).

⁴ Per Application, Attachment 1. As of October 31, 2009, Duke Kentucky had actually credited gas customers \$563,447 and estimated that an additional \$40,721 would be credited to gas customers through December 2009.

Duke Kentucky states that it has satisfied its commitment to credit its electric customers the agreed-upon level of up-front merger-related savings and, on that basis, it requests authority to discontinue its electric merger savings credit rider effective the first billing cycle after approval by the Commission. As of December 31, 2009, Duke Kentucky has credited electric customers a total of \$7,254,202, or \$533,202 more than was required by the Merger Stipulation. Duke Kentucky argues that Rider MSR-E must be discontinued in order to prevent further over-crediting to customers.

Duke Kentucky has reached the merger agreement credit level sooner than the five-year period provided for in the Merger Stipulation. When determining the length of time it would take to reach the merger agreement credit level, Duke Kentucky used the most recent billing determinant data available at that time to allocate the electric merger credits. The most recent data that was available was from the company's 1991 electric rate case. Those billing determinants did not reflect any load growth adjustments from the then-14-year-old test year to the current actual sales data, resulting in the provision of the merger credits on an accelerated basis.

FINDINGS

Based on the evidence of record and being otherwise sufficiently advised, the Commission finds that:

1. Duke Kentucky has satisfied its commitment to provide an agreed-upon amount of merger savings credits to its electric customers as stipulated in the Merger Stipulation approved in Case No. 2005-00228.
2. As of December 31, 2009, Duke Kentucky has provided its electric customers \$533,202 more in merger savings credits than the \$6,721,000 that was

agreed to in the Merger Stipulation approved by the Commission in Case No. 2005-00228. The amount, \$7,254,202, of merger savings credits provided to electric customers, combined with the merger savings credits of \$604,168 provided to gas customers, results in total credits to customers of \$7,858,370, which exceeds the \$7,634,100 amount for which Duke Kentucky was obligated pursuant to the terms of the Merger Stipulation.⁵

3. Rider MSR-E is no longer fair, just, or reasonable because its continuation will result in ratepayers receiving credits in excess of the amount agreed upon by all parties to merger Case No. 2005-00228 and incorporated therein as a merger commitment by the Commission. Thus, the Commission finds it reasonable and necessary to terminate Rider MSR-E prior to the five-year expiration period referenced in that tariff.

4. Duke Kentucky's gas merger savings credit, Rider MSR-G, was discontinued on January 4, 2010 as a result of the Commission's final Order approving new gas base rates in Case No. 2009-00202.

IT IS THEREFORE ORDERED that:

1. Duke Kentucky's request to withdraw and cancel its electric merger savings credit rider MSR-E, effective with the first billing cycle after the date of this Order, is approved.

2. Within 20 days of the date of this Order, Duke Kentucky shall file with the Commission a revised electric tariff Sheet No. 81, which shall be designated as "This

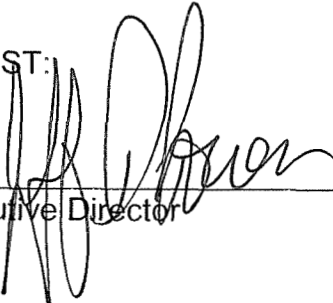
⁵ This amount does not reflect the additional merger savings credits that have been provided to electric customers since December 31, 2009.

tariff is hereby cancelled and withdrawn.” It shall indicate its effective date and that it was approved pursuant to this Order.

By the Commission

ENTERED *aw*
APR 28 2010
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Dianne Kuhnell
Duke Energy Kentucky, Inc.
139 East 4th Street, R. 25 At II
P. O. Box 960
Cincinnati, OH 45201