

PUBLIC SERVICE COMMISSION  
OF WEST VIRGINIA  
CHARLESTON

Entered: October 10, 2001

CASE NO. 01-0639-G-42T

UNION OIL & GAS, INC.  
Rule 42T tariff filing to  
increase gas rates and charges.

CASE NO. 01-1007-G-30C

UNION OIL & GAS, INC.  
Rule 30C application to adjust  
purchased gas costs.

RECOMMENDED DECISION

PROCEDURE

Case No. 01-0639-G-42T

On May 11, 2001, Union Oil & Gas, Inc. (Union or Respondent), tendered for filing revised tariff sheets reflecting increased gas rates and charges of approximately \$482,087, or 12.5% annually, for furnishing gas service to its approximately 4,890 customers in Cabell and Putnam Counties, to become effective June 10, 2001, pursuant to Rule 42 of the Commission's Rules and Regulations for the Government of the Construction and Filing of Tariffs of Public Utilities and Common Carriers by Motor Vehicle (Tariff Rules). Along with the revised tariff sheets, Union filed a public notice of change in rates (Tariff Form 8), a certificate of notice to the public of change in tariff (Tariff Form 6), responses in compliance with General Order No. 243-G and a Rule 42 Exhibit.

On May 21, 2001, the Consumer Advocate Division of the Public Service Commission (CAD) filed a petition to intervene in this matter, stating that Union's filing constituted a proceeding with the potential to adversely impact Union's residential rate payers.

By Order entered on May 29, 2001, the Public Service Commission made Union a respondent to this proceeding and, pending investigation and decision thereon, suspended the revised tariff sheets and deferred the use of the proposed rates and charges until 12:01 a.m., November 7, 2001, unless otherwise ordered by the Commission, to enable the Commission to examine and investigate the supporting data filed with the revised tariff sheets and to provide time for Commission Staff to make reports concerning the matters involved herein. The CAD's petition to intervene was granted. Persons or corporations interested in participating in this

proceeding as parties were given leave to file petitions to intervene with the Commission no later than July 10, 2001. Objections to petitions to intervene were ordered to be filed no later than seven days after the filing of the petition to intervene. Union was ordered to file affidavits of publication and posting verifying appropriate public notice of the proposed rate increase. Union was also ordered to give notice of the suspension of the revised tariff sheets and of the deadline for filing petitions to intervene by posting and by publication. Finally, this matter was referred to the Division of Administrative Law Judges for a decision to be rendered on or before September 10, 2001, with Commission Staff to submit its report no later than 4:00 p.m., July 10, 2001.

On May 31, 2001, Union filed affidavits of publication, verifying publication of Tariff Form No. 8, the public

notice of change in rates, in Cabell, Putnam and Kanawha Counties, with the last date of publication being May 24, 2001.

By Procedural Order issued on June 12, 2001, a procedural schedule was established for the processing of this case which included two days of hearing to commence on July 19, 2001, in Winfield, Putnam County, and to continue, if necessary, on July 20, 2001, at the Public Service Commission Building, Charleston, West Virginia. Additionally, Union was ordered to provide notice of the scheduled hearing by publishing an attached notice.

On June 18, 2001, counsel for Union filed a Joint Motion for Continuance and Modification of Procedural Schedule, executed by Union, Commission Staff and the CAD. Due to a prior commitment of Union's counsel, the parties had agreed to a revised procedural schedule.

By Procedural Order issued on June 21, 2001, a procedural schedule was established for the processing of this case, which included two days of hearing to be held on July 30, 2001, in Winfield, Putnam County, and to continue, if necessary, on July 31, 2001, at the Public Service Commission Building, Charleston, West Virginia. Additionally, Union was ordered to provide notice of the scheduled hearing by publishing a specified notice.

On June 26, 2001, as corrected by letter filed on June 28, 2001, Staff served its first set of interrogatories, data requests and requests for information upon Union. Commission Staff requested responses to that first set of interrogatories by noon, July 9, 2001.

On June 29, 2001, Gritt's Midway Greenhouse, LLC (Gritt's), filed a petition to intervene, by counsel. Gritt's is a commercial greenhouse business operating in Putnam County, which employs 38 people year round, with a seasonal increase to 48 people. Gritt's is a commercial customer of Union. As a result of escalating natural gas costs, Gritt's has suffered cutbacks in personnel, loss of production and a loss of sales. Gritt's was billed over \$70,000 for natural gas purchased during the year 2000 and it complained that Union had refused to negotiate a commercial rate with Gritt's. Gritt's requested that it be granted intervenor status in this matter.

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By Procedural Order entered on July 5, 2001, the petition to intervene filed by Gritt's was granted.

On July 6, 2001, the Putnam County Board of Education filed a petition to intervene in this matter, stating that this was a proceeding with the potential to adversely affect the Putnam County school system in that the cost of gas that it purchases from Union is almost twice as much as the cost of the gas that it purchases from Allegheny. The Board of Education stated that it is one of the largest Union customers in Putnam County and has tried unsuccessfully to negotiate a commercial rate with Union.

On July 10, 2001, Union filed responses to all but three of the Staff interrogatories.

On July 11, 2001, Union filed a proprietary version, under seal, of its responses to questions 30, 43 and 46 of the first Staff data requests and interrogatories, along with a motion for a protective order with regard to the three responses which involved an affiliate and a customer of that affiliate. Union pointed out that, as a non-regulated entity, the affiliate engaged in a highly competitive business of producing, purchasing and selling natural gas to end users other than residential customers. The customer also operates in a non-regulated highly competitive business.

On July 17, 2001, Union filed its prepared direct testimony for V. Courtlandt Smith, II; Christian D. Smith and Karen M. Macon. Commission Staff submitted prepared direct testimony on that same date for Eric F. deGruyter and Thurmond M. Ellis, Jr.

By Procedural Order issued on July 19, 2001, the motion for a protective order filed by Union with respect to certain of its responses to the Staff's first set of interrogatories was granted. Additionally, the petition to intervene filed by the Putnam County Board of Education was granted.

On July 23, 2001, Commission Staff filed amended statements and pages for some of its testimony and exhibits.

On July 24, 2001, a joint motion for an extension of time to file rebuttal testimony was filed in this proceeding, executed by all parties. According to the motion, the parties met to discuss settlement of all issues on July 23, 2001. At

that settlement conference, Union offered a settlement of all issues. After some discussion, Commission Staff advised Union and the other parties that it would respond to Union's proposed settlement by Wednesday, July 25, 2001. The parties have agreed that they would jointly request an extension of time to file rebuttal testimony from Tuesday, July 24, 2001, to Thursday, July 26, 2001. If a settlement is reached, the parties will not file rebuttal testimony.

On July 26, 2001, all of the parties to this proceeding jointly filed a motion with the Public Service Commission for a 30-day tolling of the statutory suspension period in this period, in order to accommodate additional settlement negotiations between the parties. Additionally, the parties filed a joint motion for a modification of the procedural schedule, which would turn the July 30<sup>th</sup> hearing in Winfield into a public

protest hearing only, and which would defer the substantive hearing on the evidence in this case until August 21, 2001. The parties also jointly requested that the Commission extend the decision due date in this proceeding from September 10, 2001, until October 10, 2001.

The hearing set for July 30, 2001, was held as scheduled, with Thomas N. Hanna, Esquire, appearing on behalf of Union; Billy Jack Gregg and David Sade, Esquires, appearing on behalf of the CAD; Robert Douglas, Esquire, appearing on behalf of Gritt's and the Putnam County Board of Education; and Staff Attorney C. Terry Owen, Legal Division, appearing on behalf of Commission Staff. As scheduled, public protests were called and taken.

By Order entered on July 30, 2001, the Commission granted the joint motion, tolled the statutory suspension period in this proceeding for 30 days, revised the suspension period so that the revised tariff sheets and proposed rates and charges filed by Union in this matter were suspended until 12:01 a.m., December 7, 2001, and extended the Administrative Law Judge's decision date until October 10, 2001.

By Procedural Order issued on July 30, 2001, by the undersigned, the second day of hearing, originally scheduled for July 31, 2001, was cancelled. Additionally, a revised procedural schedule, including a hearing date of August 20, 2001, was adopted for the processing and resolution of this case.

Also on July 30, 2001, Union submitted affidavits of publication verifying that the Notice of Hearing for the July 30, 2001 hearing had been published as required in The Charleston Gazette, a newspaper published and generally circulated in Kanawha County; The Hurricane Breeze, a newspaper published and generally circulated in Putnam County; and The Herald-Dispatch, a newspaper published and generally circulated in Cabell County. The last date of publication was July 12, 2001.

By Procedural Order issued on August 9, 2001, the undersigned directed the Commission's Executive Secretary to cause to be published an attached notice, at least once, in newspapers published and generally circulated in Cabell, Kanawha and Putnam Counties prior to August 20, 2001, providing notice to the public of the rescheduled date of hearing of August 20, 2001.

The transcript of the hearing held on July 30, 2001, was filed with the Public Service Commission on August 13, 2001, and consists of 30 pages of testimony and statements. At the hearing on July 30, 2001, eight members of the public made statements in opposition to any additional rate increase for Union and indicated their belief that the current rates were too high. The July 30, 2001 transcript will be designated as Vol. I.

On August 14, 2001, Commission Staff filed the rebuttal testimony of its witness Eric F. deGruyter.

The hearing set for August 20, 2001, was held as scheduled, with the same appearances being entered as were entered at the hearing on July 30, 2001. At the hearing on August 20, 2001, five customers of Union made statements or asked questions of the parties regarding this proceeding

and Union's practices. At the hearing, the parties announced that they had entered into a Joint Stipulation and Agreement for Settlement of all issues in this proceeding, and that Joint Stipulation and Agreement for Settlement was filed with the Administrative Law Judge and marked as Joint Exhibit No. 1, although it was not received in evidence. The Joint Stipulation and Agreement for Settlement also addressed Union's Rule 30C application filed with the Commission on August 13, 2001. The Joint Stipulation and Agreement for Settlement calls for a reduction in Union's

base rates and a reduction in Union's purchased gas increment and various tariff changes involving the delayed payment penalty, the reconnection charge and the establishment of a credit card surcharge for customers who choose to pay their bill by credit card. The base rate decrease is \$0.298 per Mcf, while the purchased gas rate decrease is \$1.10 per Mcf, for a total decrease of \$1.398 per Mcf, to be effective on Union's bills mailed to its customers in December 2001.

Also on August 20, 2001, the Commission received an affidavit of publication verifying that the Notice of Hearing was published in Kanawha County on August 15, 2001.

On August 27, 2001, the Commission received an affidavit of publication indicating that the Notice of Hearing was published in Putnam County on August 16, 2001.

The transcript of the August 20, 2001 hearing was filed with the Public Service Commission on September 4, 2001, and consists of 77 pages of statements and questions. The August 20, 2001 transcript will be designated as Vol. II.

On October 9, 2001, the Commission received an affidavit of publication indicating that the Notice of Hearing was published in Cabell County on August 15, 2001.

#### Case No. 01-1007-G-30C

On July 27, 2001, Union filed an extension of time in which to file its annual purchased gas application pursuant to Rule 30C of the Commission's Tariff Rules. Union requested an extension until September 4, 2001, because it had not yet received proposed rates for its next heating season from its major supplier.

On August 1, 2001, the CAD filed a petition to intervene, arguing that Union's request to adjust its purchased gas rates constituted a proceeding with a potential for adverse effects on the West Virginia ratepayers. The CAD also objected to Union's request for an extension of time, unless the decision due date and the effective date of the purchased gas adjustment were likewise delayed. The CAD pointed out that Union's customers had experienced four rate changes during the last year, due to Union's request for an emergency adjustment to its purchased gas cost rate. Further, Union has a base rate case pending, in which proposed increased rates had been suspended until December 7, 2001. Therefore, Union's customers could face two more rate changes in a relatively short time.

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On August 13, 2001, Union filed its 2001 Rule 30C application, proposing to reduce its purchased gas cost rate by \$1.10 per Mcf for the period November 1, 2001, through October 31, 2002.

By Commission Referral Order entered on August 20, 2001, Union's motion for an extension of time was granted; the CAD's petition to intervene was granted; and this matter was referred to the Division of Administrative Law Judges for an interim decision to be entered on or before October 11, 2001, with a final decision to be rendered on or before March 28, 2002.

On September 10, 2001, Staff Attorney Owen filed the Initial and Final Legal Division Memorandum in this proceeding, noting that the Joint Stipulation and Agreement for Settlement filed in Case No. 01-0639-G-42T also would resolve the instant 30C proceeding, by approving the proposed reduction of \$1.10 per Mcf.

#### EVIDENCE

As set forth in Joint Exhibit No. 1, the Joint Stipulation and Agreement for Settlement resolves both the base rate case and the purchased gas case. With respect to the 42T filing, Union shall reduce its current base rates by \$0.298 per Mcf, a decrease of approximately \$147,510 annually. The resulting new base rate will be \$2.47 per Mcf. Union's requested changes in its delayed payment penalty and reconnection charge will be approved, along with the establishment of a credit card surcharge in the amount of 3%, but not to exceed the amount charged by the credit card company. The new reconnection charge of \$45.00 will only be applicable when disconnection has occurred at the request of the customer. For all other customers, the reconnection charge of \$15.00 will continue to apply. Also, within thirty days from the date of the filing of the Stipulation, Union is to file for approval of a transportation rate, calculated to be revenue neutral.

With respect to the 30C application, Union's proposed reduction of its purchased gas rate by \$1.10 per Mcf will be approved, representing a decrease of approximately \$544,500 annually. The resulting purchased gas increment will be \$6.58 per Mcf. The actual cost adjustment (ACA) period for July 1, 2000, through June 30, 2001, as set forth under Rule 30C, will be considered closed. The amount of any underrecovered purchased gas costs not recovered in the purchased gas rate approved herein will be recovered in the purchased gas case to be filed in August of 2002. Both the base rate and purchased gas rates approved in the Joint Stipulation are to become effective on Union's bills mailed to its customers in December 2001.

Further, Union agrees to cooperate, without a formal proceeding, with Commission Staff and the CAD in a review of the relationship between Union, Teavee Oil & Gas, Inc. (Teavee), and other affiliated entities. Union has agreed to undertake a study of the operations of Teavee and Union and will file for permission to reorganize the two corporations through merger or separation no later than August 1, 2002. Commission Staff, the CAD, Union and Teavee will make every reasonable effort to file a jointly proposed stipulation and settlement on this issue by that date. If no proposed settlement can be negotiated, the matter will

proceed to hearing. If a proposed settlement is not reached and if Union and Teavee fail to file the reorganization plan with the Public Service Commission by August 1, 2002, Commission Staff will petition the Commission to open a general investigation into this issue on August 2, 2002.

The total annual revenue reduction for Union as a result of both proceedings will be approximately \$692,010 annually. For a Union customer using approximately 13 Mcf per month who is currently paying \$145 per month, upon approval of the settlement and the effective date of the stipulated rates, that customer will pay \$127 per month, a reduction of approximately \$18 per month. (See, Tr. Vol. II, p. 7).

Consumer Advocate Gregg provided most of the discussion of the Joint Stipulation and Agreement for Settlement at the hearing on August 20, 2001. He indicated that, as part of the settlement, although not set forth in the written document, the parties had agreed to bracket the movement of the Teavee price charged to Union with a floor and a ceiling. For the next year, the floor is to be \$3.00 per Mcf, while the ceiling will be \$5.00 per Mcf. For the succeeding purchased gas year, the range will be \$3.00 - \$6.00. The parties believe that establishing this range is fair to both Union and its customers, by assuring adequate cash flow to Union on the one hand, while on the other hand protecting customers against unexpected price spikes as were experienced in the 2000 purchased gas season. While Union had underrecoveries for the ACA period ending June 30, 2001, of approximately \$900,000, only approximately \$600,000 of that underrecovery is being recovered in the instant proceeding. The remainder of the underrecovery, approximately \$300,000, will continue to be carried in the deferred account and will be recovered through the 2002 purchased gas adjustment proceeding. (Tr. Vol. II, pp. 8-9).

With respect to the issue regarding the relationship between Union and Teavee, Mr. Gregg emphasized that Union had agreed to cooperate with Commission Staff over the next year in this investigation and to file a plan of reorganization by August 1, 2002, contemporaneously with the 2002 Rule 30C filing. At that time, all parties will be free to take whatever position they choose on the issue. Mr. Gregg stated that it was the parties' hope that they would be able to come to an agreement on a stipulated reorganization plan. (Tr. Vol. II, pp. 9-10). Mr. Hanna, on behalf of Union, emphasized that Union had thus far provided all of the information requested by any party in this proceeding, although it had requested a protective order for some information, and it intended to fully cooperate with Commission Staff and the CAD in the informal investigation into the relationship between Union and Teavee. (Tr. Vol. II, pp. 11-13). Consumer Advocate Gregg indicated that, when the parties attempted to address the issue of the relationship between Union and Teavee in this proceeding, it turned out to be a more difficult task than any of the parties had realized, because of the development of the two systems over the decades. The parties all felt that they needed to take extra time to make sure that the issue was handled properly. (Tr. Vol. II, pp. 13-15).

Mr. Gregg also emphasized that, with the Joint Stipulation and Agreement for Settlement, the base rate and purchased gas rate changes will occur at one time with the December billings and will remain in

effect for the next purchased gas year, which should minimize any customer confusion and inconvenience. (Tr. Vol. II, pp. 15-16).

## DISCUSSION

Upon consideration of all of the above, in spite of some reservations, the Administrative Law Judge will approve and adopt the Joint Stipulation and Agreement for Settlement filed herein on August 20, 2001. Both the base rate reduction and the purchased gas increment reduction appear to be reasonable and will provide a modicum of relief to Union's customers, who were sorely taxed during the last winter heating season due to soaring gas prices, when the purchased gas increment for Union went as high as \$8.81 per Mcf. (See, Commission Order of January 22, 2001, in Case No. 00-1094-G-30C (Reopened)). Additionally, the various tariff revisions agreed to by the parties appear to be reasonable and will do no harm to Union's customers. It should also be noted that the modification to the contract between Union and Teavee, regarding the implementation of floor and ceiling prices under that contract for the period of July 1, 2001, through June 30, 2002, and for the period of July 1, 2002, through June 30, 2003, has been approved by Recommended Decision entered on October 2, 2001, in Case No. 98-0715-G-PC (Reopened), and which should become final, assuming no exceptions are filed in response thereto, on October 22, 2001.

However, the Administrative Law Judge has concerns on two points. First, pursuant to the terms of the Joint Stipulation and Agreement for Settlement, within thirty days from the date of the filing of the Stipulation, Union was to file for approval of a transportation rate, calculated to be revenue neutral. Since the stipulation was filed on August 20, 2001, Union's filing regarding the transportation rate should have been made no later than September 19, 2001. However, as of the date of this Order, Union has yet to file for approval of that transportation rate. This delay in filing for a tariff change which was part of a negotiated settlement of two proceedings adds to the concerns which the Administrative Law Judge already has with respect to the other issue which was not fully resolved in the Joint Stipulation and Agreement for Settlement, i.e., the relationship between Union and its affiliate, Teavee, found at paragraph 11(f) of Joint Exhibit No. 1.

In the Recommended Decision entered on March 16, 2001, and which became final on April 5, 2001, in Case No. 00-1094-G-30C (Reopened), the Administrative Law Judge expressed concern about the relationship between Union, Teavee and the Toyota Plant at Buffalo, in Putnam County, pointing out that Union's witness had testified that the line serving the Toyota Plant was a Union line, but the Toyota Plant itself was served as a Teavee customer. That Recommended Decision pointed out that, if the line serving the Toyota Plant is a Union line, but Toyota is a Teavee customer, Union is supposed to be receiving transportation revenues from Teavee for every Mcf of gas that passes through that line to the Toyota Plant. However, no such transportation revenues were reflected in either the original Rule 30C filing or the emergency petition, although it was possible that such revenues might not necessarily be reflected in a Rule 30C filing. The Recommended Decision also noted that it was possible that Teavee may have reimbursed Union for the cost of constructing that line. The undersigned noted that the pending Rule 42 filing would

provide the perfect vehicle to investigate the situation involving the Union line serving Teavee's Toyota customer.

In Conclusion of Law No. 4 of that Recommended Decision, the undersigned stated that, in either Union's 2001 Rule 30C filing, the anticipated 2001 Rule 42 filing planned by Union or both proceedings, it would be reasonable and necessary for Commission Staff and the CAD to investigate the circumstances surrounding the Union line in Midway and Buffalo used to serve the Toyota Plant; whether or not Teavee was appropriately paying transportation revenues to Union for every Mcf of gas which passed through that line to the Toyota Plant; and whether Teavee in any way had reimbursed Union for the cost of that line. Ordering Paragraph No. 3 of that Recommended Decision ordered that the issues of Union's December 2000 Teavee purchases, Teavee's gas supply mix and the circumstances surrounding the Union line serving the Toyota Plant in Buffalo be addressed in Union's 2001 Rule 30C application.

Accordingly, while the parties' decision to defer that issue until August of 2002 does not please the Administrative Law Judge, she recognizes that, as expressed by Mr. Gregg, the issues may have been too complex to resolve within the time frame permitted by this proceeding. Understandably, however, given Union's failure to comply with one part of the Joint Stipulation and Agreement for Settlement already, the idea that Union will cooperate, without a formal proceeding, with the Staff and the CAD in their review of the relationship between Union, Teavee and other affiliates gives the Administrative Law Judge some pause. Accordingly, the parties will be required to file monthly status reports regarding the activities taken with respect to Paragraph 11(f) of the Joint Stipulation and Agreement for Settlement. The Administrative Law Judge recognizes that all of the parties to this proceeding have other activities and cases in which they have duties. She does not anticipate that the parties necessarily would meet on a monthly basis. However, she believes that the requirement to file monthly status reports will serve as an incentive to the parties to insure that the commitments set forth in Paragraph 11(f) of the Joint Stipulation and Agreement for Settlement are fulfilled as

intended. Further, the Administrative Law Judge will also have the option of requiring the parties to litigate this issue in the 2002 Rule 30C filing.

As noted above, in spite of these reservations, the Administrative Law Judge will approve the Joint Stipulation and Agreement for Settlement, in order to not delay the implementation of the agreed-upon rate reductions for Union's long-suffering customers. The rates will be approved to become effective with Union's December 2001 billings. Finally, Joint Exhibit No. 1 will be formally received in evidence, since it was not actually received in evidence at the August 20, 2001 hearing. Since the parties have reached a formal Joint Stipulation and Agreement for Settlement, the prefiled direct and rebuttal testimony filed by Union and Commission Staff will not be formally marked or received in evidence, although it was reviewed by the Administrative Law Judge to test the appropriateness of the agreed-upon base rate.

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### FINDINGS OF FACT

1. On May 11, 2001, Union Oil & Gas, Inc., tendered for filing revised tariff sheets reflecting increased gas rates and charges of approximately \$482,087, or 12.5% annually, for furnishing gas service to its approximately 4,890 customers in Cabell and Putnam Counties, to become effective June 10, 2001, pursuant to Rule 42 of the Commission's Tariff Rules. (See application revised tariff sheets filed May 11, 2001).

2. By Commission Order entered on May 29, 2001, and as amended by Commission Order entered on July 30, 2001, the revised tariff sheets and proposed rates and charges contained therein were suspended until 12:01 a.m., December 7, 2001.

3. On August 13, 2001, Union filed its application pursuant to Tariff Rule 30C, requesting a decrease in its current purchased gas adjustment in the amount of \$1.10 per Mcf, for the period November 1, 2001, through October 31, 2002. (See, Rule 30C application filed August 13, 2001).

4. All of the parties to this proceeding, i.e., Union, Commission Staff, the Consumer Advocate Division, Gritt's Midway Greenhouse and the Putnam County Board of Education, have reached a Joint Stipulation and Agreement for Settlement of the issues in these two proceedings, calling for a reduction in Union's current base rate of \$0.298 per Mcf, approximately \$147,510 annually, and approval of the proposed reduction of \$1.10 per Mcf in Union's purchased gas increment, representing a decrease of approximately \$544,500 annually. The stipulated base rate and purchased gas increment are to become effective on Union's bills mailed to its customers in December 2001. (See, Joint Exhibit No. 1, page 4).

5. The parties to these proceedings have also agreed that Union's proposed change in its delayed payment penalty, the establishment of a credit card surcharge and a revised reconnection charge should be approved. (See, Joint Exhibit No. 1, page 4).

6. As part of the Joint Stipulation and Agreement for Settlement, Union agreed to file for approval of a transportation rate, calculated to be revenue neutral, within thirty (30) days from the date of the filing of the stipulation, which was filed with the Commission on August 20, 2001. (See, Joint Exhibit No. 1, page 4).

7. As of the date of this Recommended Decision, Union has yet to file for approval of the transportation rate called for in the Stipulation, although it should have been filed no later than September 19, 2001. (See, Commission's docket generally).

8. As part of the Joint Stipulation and Agreement for Settlement, Union agreed to cooperate, without a formal proceeding, with Commission Staff and the CAD in a review of the relationship between Union, Teavee Oil & Gas, Inc., and other affiliated entities. Union agreed to undertake a study of the operations of Union and Teavee and file for permission to reorganize the two corporations through merger or separation no later than August 1, 2002. Commission Staff, the CAD,

Union and Teavee are to make every reasonable effort to file a jointly proposed stipulation and settlement on that issue on that date. If no proposed settlement can be negotiated, then the matter would proceed to hearing. If a proposed

settlement is not reached and if Union and Teavee fail to file a reorganization plan with the Public Service Commission by August 1, 2002, then Commission Staff is to petition the Commission to open a general investigation into this issue on August 2, 2002. (See, Joint Exhibit No. 1, pages 4-5).

### CONCLUSIONS OF LAW

1. While the Administrative Law Judge will not disapprove the Joint Stipulation and Agreement for Settlement on the basis of Union's failure to comply with its terms already, with respect to the transportation rate filing which was due on or before September 19, 2001, Union's violation of that stipulation, so close in time to its execution, raises concerns with respect to Paragraph 11(f), regarding the informal review of the relationship between Union and its affiliates. Therefore, it is reasonable to require the parties to these proceedings to file monthly status reports regarding the actions which have occurred with respect to fulfilling the commitments set forth in Paragraph 11(f) of the Joint Stipulation and Agreement for Settlement.

2. Since the result of the Joint Stipulation and Agreement for Settlement is a decrease in both Union's base rate and purchased gas increment, in spite of her reservations, the Administrative Law Judge concludes that it is reasonable to approve and adopt the Joint Stipulation and Agreement for Settlement filed on August 20, 2001, as the resolution of these proceedings.

### ORDER

IT IS, THEREFORE, ORDERED that the revised tariff sheets filed by Union Oil & Gas, Inc., on May 11, 2001, setting forth increased rates and charges for providing gas service to its customers in Cabell and Putnam Counties be, and they hereby are, disapproved and stricken from Union's tariff on file with the Public Service Commission.

IT IS FURTHER ORDERED that the Joint Stipulation and Agreement for Settlement, designed as Joint Exhibit No. 1, filed herein on August 20, 2001, be, and it hereby is, approved and adopted as the resolution of the issues in these two proceedings. That exhibit is also hereby received in evidence.

IT IS FURTHER ORDERED that the rates and charges set forth in Appendix A, attached hereto, be, and they hereby are, approved to become effective on Union's bills mailed to its customers in December 2001. The base rate approved herein is \$2.47 per Mcf and the purchased gas increment approved herein is \$6.58 per Mcf.

IT IS FURTHER ORDERED that Union Oil & Gas, Inc., file the transportation rate filing, which should have been filed no later than September 19, 2001, no later than the day after the date that this Recommended Decision becomes final.

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IT IS FURTHER ORDERED that the parties to these proceedings shall file, on a monthly basis, status reports regarding the activities that have occurred with respect to fulfilling the commitments set forth in Paragraph 11(f) of the Joint Stipulation and Agreement for Settlement. The first such status report shall be due on or before November 1, 2001, and status reports shall be filed on the first business day of each succeeding month through and including August 1, 2002.

IT IS FURTHER ORDERED that Union Oil & Gas, Inc., file an original and at least five (5) copies of revised tariff sheets reflecting the rates and charges approved herein within thirty (30) days of the date that this Recommended Decision becomes final.

The Executive Secretary is hereby ordered to serve a copy of this order upon the Commission by hand delivery, and upon all parties of record by United States Certified Mail, return receipt requested.

Leave is hereby granted to the parties to file written exceptions supported by a brief with the Executive Secretary of the Commission within fifteen (15) days of the date this order is mailed. If exceptions are filed, the parties filing exceptions shall certify to the Executive Secretary that all parties of record have been served said exceptions.

If no exceptions are so filed this order shall become the order of the Commission, without further action or order,

five (5) days following the expiration of the aforesaid fifteen (15) day time period, unless it is ordered stayed or postponed by the Commission.

Any party may request waiver of the right to file exceptions to an Administrative Law Judge's Order by filing an appropriate petition in writing with the Secretary. No such waiver will be effective until approved by order of the Commission, nor shall any such waiver operate to make any Administrative Law Judge's Order or Decision the order of the Commission sooner than five (5) days after approval of such waiver by the Commission.

Melissa K. Marland  
Chief Administrative Law Judge

MKM:mal  
010639ag.wpd

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APPENDIX A  
Sheet 1 of 2

UNION OIL & GAS, INC.

APPROVED RATES

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY

Available for domestic and commercial service.

RATES

Customer Charge (No consumption included) per month \$ 9.500

Consumption Charge per month \$ 9.05

The above rates include a purchased gas rate of \$6.58 per Mcf

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, ten cents (\$0.10) per thousand cubic feet will be added to the net amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

RECONNECTION CHARGE

Whenever the supply of gas is turned off for violation of rules or regulations, non-payment of bills, or fraudulent use of gas, the utility may make a charge of fifteen dollars (\$15.00) for reestablished service. If service is discontinued at the request of the customer, the utility may refuse service to such customer at the same premises within eight (8) months unless it shall first receive payment of forty-five dollars (\$45.00).

RETURNED CHECK CHARGE

A service charge equal to the amount charged by the utility's banking institution, not to exceed \$15.00, will be imposed upon any customer whose check for payment of charges is returned by said customer's bank due to insufficient funds.

CREDIT CARD SURCHARGE

Whenever the customer elects to pay their gas bill by charge to the customer's credit card, there shall be a surcharge added to the charges otherwise authorized herein of 3% of the total amount charged to said credit card. In no event shall the surcharge exceed the amount charged by the credit card company to the utility for processing said charge.

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UNION OIL & GAS, INC.

SPECIAL REDUCED RATE RESIDENTIAL SERVICE RATE SCHEDULE

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY

Available during the months of December, January, February, March and April for residential customers who qualify for special reduced rates under the provisions of West Virginia Code §24-2A-1.

RATES

Customer Charge (No consumption included) per month \$ 7.600

Consumption Charge per month \$ 7.24

The above rates include a purchased gas rate of \$6.58 per Mcf

DELAYED PAYMENT PENALTY

The above tariff is net. On all accounts not paid in full within twenty (20) days of date of bill, eight cents (\$0.08) per thousand cubic feet will be added to the net amount due. This delayed payment penalty is not interest and is only to be collected once for each bill where it is appropriate.

RECONNECTION CHARGE

Whenever the supply of gas is turned off for violation of rules or regulations, non-payment of bills, or fraudulent use of gas, the utility may make a charge of fifteen dollars (\$15.00) for reestablished service. If service is discontinued at the request of the customer, the utility may refuse service to such customer at the same premises within eight (8) months unless it shall first receive payment of forty-five dollars (\$45.00).

RETURNED CHECK CHARGE

A service charge equal to the amount charged by the utility's banking institution, not to exceed \$15.00, will be imposed upon any customer whose check for payment of charges is returned by said customer's bank due to insufficient funds.

CREDIT CARD SURCHARGE

Whenever the customer elects to pay their gas bill by charge to the customer's credit card, there shall be a surcharge added to the charges otherwise authorized herein of 3% of the total amount charged to said credit card. In no event shall the surcharge exceed the amount charged by the credit card company to the utility for processing said charge.