

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ADJUSTMENT OF RATES OF COLUMBIA GAS  
OF KENTUCKY, INC.

) CASE NO.  
) 10498

O R D E R

On January 30, 1989, Columbia Gas of Kentucky, Inc. ("Columbia") filed an application for approval of an increase in rates. On the same day Columbia filed a motion requesting an on-site Staff audit, a settlement conference and requesting Staff testimony. On February 24, 1989, the Attorney General of Kentucky ("AG") and the Lexington-Fayette Urban County Government ("LFUCG"), intervenors in this case, filed a joint Motion to Dismiss. Columbia's response to that motion was filed March 6, 1989.

The Commission having considered the two above-mentioned motions and the response and being otherwise sufficiently advised, finds that Columbia's motion and the joint motion of the AG and LFUCG should be denied for the reasons set forth below.

MOTION OF COLUMBIA GAS OF KENTUCKY, INC. FOR  
AN ORDER SCHEDULING A SETTLEMENT CONFERENCE,  
REQUIRING AN ON-SITE STAFF AUDIT, AND  
REQUIRING STAFF TESTIMONY

On-Site Audit

Columbia requests an on-site Staff Audit "to make the discovery procedure more efficient" and states that an audit would

allow Staff to obtain the information necessary to process a rate case while eliminating the need for numerous data requests.

Although on-site audits may provide some benefit to Columbia within a rate case proceeding, the use of the audit procedure would be unworkable within the framework of the 5 month suspension period. It is the Commission's opinion that several Staff members could spend days at Columbia's offices gathering data, but unless explanations and clarifications are obtained from Columbia witnesses, the data could not stand alone. An on-site audit could not, under existing procedures, replace data requests and would potentially make the discovery procedure more time-consuming even if an audit were used to supplement information requests. The Commission, therefore, cannot see any benefit to be realized by having its Staff do an on-site audit.

#### Settlement Conference and Staff Testimony

The Commission agrees with Columbia that settlement conferences are beneficial and expedite proceedings by allowing the parties to identify issues which are not contested and focus their full attention on areas of disagreement. In this case, however, Columbia has premised its request for a settlement conference on full Staff participation as a party. As the Commission has stated in the past, Staff is not and cannot be under the present organizational structure be a party to any proceeding before the Commission. Staff's role in this proceeding is to advise and assist the Commission in its quasi-judicial functions and not to act as an adversary or advocate with party status. Further, to grant this portion of Columbia's motion,

would be a significant departure from past Commission practice. However, the Commission strongly encourages the parties to this proceeding to negotiate settlement and submit any proposal to this Commission for consideration.

Columbia also urges the Commission to require Staff to prefile testimony in this proceeding. Again, granting this portion of the motion would be a significant departure from the Commission's practice in the past. Under the present organizational structure and constraints on Staff resources, it is impossible for Staff to act as a party. Clearly, Staff could not be required to act as an advisor to the Commission while at the same time maintaining an adversarial position in a quasi-judicial proceeding. Therefore, the Commission finds that Columbia's requests for Staff testimony and a settlement conference must be denied.

#### Motion to Dismiss

The AG and LFUCG moved to dismiss this case due to Columbia's use of overlapping test years and the fact that Columbia's last rate case is still on rehearing before the Commission. Columbia responded that the regulatory rate-making scheme in Kentucky in no way prohibits this filing.

The Commission is well aware that there is no statutory prohibition nor any case law or other authority which prevents the filing of a new rate case while a company has a prior case pending before the Commission. The Commission is concerned, however, that Columbia finds it necessary to seek rate adjustments prior to a rehearing decision in Case No. 10201. While no prohibition

against this action has been shown to exist, and while no legal argument has been advanced to support dismissal, the Commission is concerned that this filing by Columbia strains the already overburdened resources of the parties, intervenors and the Commission and Staff.

After consideration of the motion and Columbia's response, the Commission is of the opinion and finds that there is no legal basis to support dismissal of this case and, therefore, the motion must be denied.

IT IS THEREFORE ORDERED that:

1. The motion of Columbia for an Order scheduling a settlement conference, requiring an on-site Staff audit, and requiring Staff testimony is hereby denied in its entirety.

2. The motion to dismiss filed by the AG and LFUCG is denied.

Done at Frankfort, Kentucky, this 17th day of March, 1989.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

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Executive Director