

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)
KENTUCKY, INC. FOR APPROVAL OF)
A PETITION FOR CONFIDENTIAL TREAT-) CASE NO. 89-234
MENT OF CERTAIN DATA)

O R D E R

On December 5, 1989, the Commission issued an Order denying the request of Columbia Gas of Kentucky, Inc. ("Columbia") for confidential treatment of the monthly reports it files with the Commission regarding its Flex Transportation Rates, Special Agency Service Program, and Alternative Fuel Displacement Service Program. On December 22, 1989, Columbia filed a petition for rehearing or reconsideration of the Commission's decision. Therein, Columbia reiterates its position that public disclosure of the information contained in the monthly reports could cause competitive harm to its flex rate customers. Columbia claims for the first time in this proceeding, that its competitive position could be harmed by public disclosure of the data contained in the monthly reports by making flex customers aware of the rates being charged other flex rate customers. Columbia contends that its customers could use this information in negotiating with alternative fuel suppliers and in negotiating transportation rates.

On January 2, 1990, the Attorney General of the Commonwealth of Kentucky ("AG"), through his Utility and Rate Intervention Division, filed a response requesting that Columbia's petition be denied. The AG argues that a Columbia customer's competitor cannot determine that customer's product cost from the data contained in Columbia's monthly flex rate report. In addition, the AG maintains that, as a regulated utility, Columbia's decisions and management of its flex, agency, and alternative rate programs should be in the public record.

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

1. The Commission's regulation regarding confidential information¹ and the Kentucky Open Records Act² require that the likelihood of competitive injury from the disclosure of information must be demonstrated before the information can be afforded confidential treatment.

2. Columbia, despite the claims in its application, addendum, and petition, has failed to demonstrate how such competitive injury will result at present or has resulted during the past 4 years in which the information in question has been filed with the Commission without confidential protection.

¹ 807 KAR 5:001, Section 7.

² KRS 61.870 - 61.884.

3. Absent a demonstration of competitive injury from the public disclosure of the information contained in Columbia's monthly reports, the Commission's decision to deny Columbia's request for confidential treatment should be affirmed and Columbia's petition for rehearing or reconsideration should be denied.

IT IS THEREFORE ORDERED that Columbia's petition for rehearing or reconsideration be and it hereby is denied.

Done at Frankfort, Kentucky, this 11th day of January, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director