

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE PETITION OF KENTUCKY-OHIO GAS)
COMPANY FOR APPROVAL TO PROVIDE NATURAL)
GAS SERVICE TO ASHLAND OIL COMPANY, INC.)
AND FOR A CERTIFICATE OF CONVENIENCE) CASE NO. 92-018
AND NECESSITY AS REQUIRED BY)
ADMINISTRATIVE CASE NO. 297)

O R D E R

On January 6, 1992, Kentucky-Ohio Gas Company ("KOG") filed a petition with the Commission requesting a Certificate of Public Convenience and Necessity to serve Ashland Oil Company, Inc. ("Ashland Oil"), which has historically been the customer of Columbia Gas of Kentucky, Inc. ("Columbia"). The petition was filed pursuant to the Orders in Administrative Case No. 297,¹ which require certificate approval for physical bypass of the facilities of a local distribution company ("LDC").

In the Order in Case No. 91-138,² a complaint case brought by Columbia against KOG claiming illegal physical bypass of its system by KOG to serve Ashland Oil, the Commission ruled that KOG's original service to Ashland Oil had been grandfathered by

¹ Administrative Case No. 297, An Investigation of Kentucky Regulation in Light of FERC Rulemaking.

² Case No. 91-138, Columbia Gas of Kentucky vs. Kentucky-Ohio Gas Company, Order dated December 18, 1991.

Administrative Case No. 297, but its service should have received certificate approval before it recommenced in March of 1991. In its Order dated December 18, 1991, the Commission ordered KOG to immediately cease service to Ashland Oil. KOG's petition of January 6, 1992 was subsequently filed. Columbia requested intervention, which was granted by Order entered January 27, 1992. On January 28, 1992, the Commission issued requests for information to both parties and directed that prefiled testimony be filed. Prefiled testimony was received simultaneously from both parties on February 13, 1992. Prior to the hearing on February 12, 1992, KOG filed a motion requesting the Commission allow it to immediately reinstitute service to Ashland Oil. This matter was raised orally at the hearing and inasmuch as this motion requires the Commission to render a decision on the ultimate issue presented, it is rendered moot by this Order. A formal hearing was held February 18, 1992. Briefs were filed by both KOG and Columbia.

After consideration of the record in this case, the briefs filed by the parties and being otherwise sufficiently advised, the Commission finds that KOG's request for a Certificate of Public Convenience and Necessity to serve Ashland Oil should be approved. The Commission's decision is premised on the circumstances of this case, and is in no way intended to promote or encourage physical bypass of any LDC's facilities or provision of service in any other instance. The Commission's concern regarding physical bypass remains the same as that expressed in Administrative Case No. 297. Uneconomic duplication of facilities is not in the

public interest. In the instant case, the issue of facilities is central to the Commission's finding that KOG should be allowed to recommence service to Ashland Oil. Columbia, Ashland Oil's traditional LDC supplier, owns no facilities dedicated to serving the Ashland Oil refinery. Ashland Oil is served through a dual purpose meter owned by Columbia Gas Transmission Corporation ("Transmission"). This absence of investment in fixed costs on the part of Columbia alleviates the Commission's concern regarding costs related to unused facilities shifting to captive customers. The remaining concern about the shift in revenue responsibility from Ashland Oil to Columbia stockholders and potentially to other customers is mitigated by Ashland Oil's stated desire to retain Columbia as a supplier, at times at Columbia's full delivery capacity; by Ashland Oil's stated desire for increased delivery capacity; by KOG's very limited capacity to serve Ashland Oil's needs; and, by KOG's assertion that it would come back before the Commission for a certificate to supply more gas to Ashland Oil as a result of KOG tapping on to Tennessee Gas Pipeline.³

The Commission finds no unwillingness or inability on the part of Columbia to serve Ashland Oil at its present delivery capacity. There is, however, evidence from both Ashland Oil and Columbia that Ashland Oil had requested an increase in delivery capacity from Columbia in February of 1991. It is certainly appropriate and should be routine for an LDC to review the

³ Transcript of Evidence, p. 23.

capacity from Columbia in February of 1991. It is certainly appropriate and should be routine for an LDC to review the feasibility of such a request, both for physical practicality and cost. However, it is not routine for a customer who has requested an increase in delivery capacity from its serving LDC to be obliged to wait for a third party to review its request as well. The request for increased capacity was forwarded to Transmission in May 1991; a response was received in February 1992 by Columbia, and was possibly not the final response. This, again, is a circumstance arising from the ownership by Transmission of the Columbia facilities supplying Ashland Oil. The Commission finds Ashland Oil's continued pursuit of KOG supply understandable in light of Ashland Oil's representation of increased gas requirements, with the expectation of even greater requirements in the future. The Commission found in Administrative Case No. 297: "this provision (requiring the LDC to disclose distribution capacity information to avoid duplication of facilities) . . . allows competition to develop when surplus capacity on the LDC is not available."⁴ Due to the stated need for additional capacity on the part of Ashland Oil, service from KOG represents competition in the public interest.

Besides objecting to KOG's installation of the Transmission tap and related construction to serve Ashland Oil as duplication of facilities, Columbia has pointed out that KOG does not own, but

⁴ Order dated May 29, 1987, p. 49.

instead leases, the line through which Ashland Oil is served, and has suggested that it might not be possible for any other customers to be served through these facilities. KOG's evidence reflects its prospects for an agreement with Ashland Oil to provide some service to others through this line, and that the tap and other construction were not made with the intent to serve only Ashland Oil.

The Commission is concerned that, despite KOG evidence to the contrary, KOG may not be able to provide service to any other customer through this tap. Depending on the reliability of KOG's other sources of supply, this may not be a problem. The Commission will be monitoring the progress of KOG in securing the right to use the Ashland Oil line for other purposes in order to ensure there is no problem regarding supply reliability to other customers. KOG states in reference to industrial customers that "the presence of KOG in the market provides added reliability to customers whose need for uninterrupted supply is critical." The Commission reminds KOG that those to whom an uninterrupted supply is also critical are those with no alternative energy sources who have only firm demand for gas and must rely on only one LDC supplier. The Commission considers KOG's obligation to seek out and serve this class of customers currently without natural gas service and to provide reliable, uninterrupted service to current customers to be of the highest priority. The competitive service allowed in this Order must inure to the benefit of these "captive" customers as well as to Ashland Oil and KOG.

IT IS THEREFORE ORDERED that:

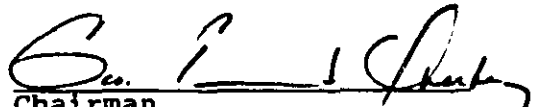
1. KOG's petition for a Certificate of Convenience and Necessity to serve through its existing facilities Ashland Oil as required by Administrative Case No. 297 is hereby approved effective on and after the date of this Order.

2. KOG shall continue to observe all certificate requirements related to construction of facilities and proposed provision of service to customers already receiving gas service from another utility supplier.

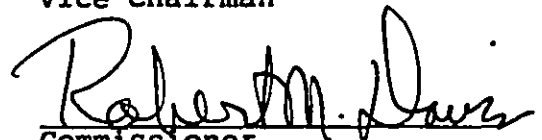
3. No later than September 1, 1992, KOG shall provide this Commission with a written report detailing its progress in obtaining the right to use the Ashland Oil line for residential service.

Done at Frankfort, Kentucky, this 28th day of February, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director