

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF COLUMBIA GAS OF	)	
KENTUCKY, INC. FOR AUTHORITY TO ACQUIRE	)	
CERTAIN FACILITIES OF THE INLAND GAS	)	CASE NO. 92-274
COMPANY, INC. AND FOR A CERTIFICATE OF	)	
PUBLIC CONVENIENCE AND NECESSITY TO	)	
SERVE CUSTOMERS LOCATED IN CARTER AND	)	
BOYD COUNTIES KENTUCKY	)	

O R D E R

This matter arises upon motion of Kentucky Ohio Gas Company, Inc. ("KOG") requesting the Commission hold this proceeding in abeyance pending all required federal approvals. Columbia Gas of Kentucky, Inc. ("Columbia Gas"), the applicant in this proceeding, filed its Memoranda Contra Motion To Abate on August 25, 1992. For the reasons set forth below the Commission denies KOG's motion.

KOG argues the Commission cannot issue its approval for the subject facilities to be transferred from Inland Gas Company, Inc. ("Inland") to Columbia Gas since Inland is not a party to this case. However, the Commission notes that all Inland transmission facilities were subject to the exclusive jurisdiction of the Federal Energy Regulatory Commission ("FERC") and FERC issued its Order June 26, 1992 allowing abandonment of those facilities to occur. KOG further argues that the relief sought by Columbia Gas requires the Commission to defer its jurisdiction to certain federal agencies. Specifically, the Bankruptcy Court for the District of Delaware still has a petition pending which, in KOG's

opinion, may affect the outcome of the distribution of Inland's assets or the ability of Columbia Gas to acquire those facilities. KOG requests the Commission defer to the authority of the bankruptcy court and refuse to act while such action is pending. KOG believes the bankruptcy court may revalue the assets so the purchase price proposed by Columbia Gas is significantly changed or that the bankruptcy court could conclude that Inland's customer base may be considered a separate asset that has a value independent of the facilities themselves. Columbia Gas responds that the only issue before the bankruptcy court is a request for the court to authorize the Columbia Gas System as the sole shareholder of both Inland and Columbia Gas of Kentucky, to approve the sale of substantially all of the assets of Inland. Since the transfer is at net book value and between two wholly owned subsidiaries there will be no loss or gain to Columbia Gas System, merely a redistribution of the assets.

The only issue before this Commission is whether Columbia Gas has the financial, managerial, and technical expertise. Although other agencies may have exclusive subject matter jurisdiction over other aspects of the proposed transaction, each agency must approve the transaction based upon the authority granted to it by law. Inland has applied to FERC and received approval to abandon FERC jurisdictional utilities and the Columbia Gas System has applied to the federal bankruptcy court for authority to authorize reassignment of the assets. This Commission must evaluate the proposed transfer considering the public convenience and necessity.

It is within this Commission's discretion, if the statutory standard is met, to make the effectiveness of its order contingent upon other agencies concluding that the transaction is satisfactory. Since the parties have agreed contractually that the transfer, if approved, will occur at net book value, the Commission would retain jurisdiction to disallow any excessive value ultimately to be paid by Columbia Gas if the bankruptcy court determines that net book value is inappropriate.

KOG claims that it cannot effectively question the matters contained in Columbia Gas's application and that it has a fundamental right to notice of the issues and to present its case fully and completely before the Commission. KOG argues that it cannot know the issues because they are not yet determined by the federal authorities and that any hearing on this application cannot be completed until all contingencies are resolved. However, KOG was an intervenor in Inland's proceeding at FERC to abandon the subject facilities. By virtue of that intervention KOG is aware of the facts underlying the abandonment. KOG apparently did not offer any evidence or contest the proposal made by Inland at FERC. KOG had an opportunity to raise the same due process arguments at FERC and apparently did not contest the proposal and, in fact, did not offer any evidence contrary to Inland's application to abandon these facilities. KRS 278.020 provides the Commission shall grant its approval if the acquirer demonstrates financial, managerial, and technical expertise to provide reasonable service. Thus, if Columbia Gas meets the statutory standard, the Commission has no

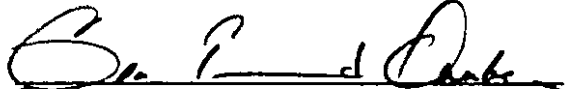
authority under KRS 278.020 to determine that the transfer is not in the public interest just because KOG wants to acquire those Inland customers. KOG will be given an opportunity in this proceeding to demonstrate why Columbia Gas does not have the financial, managerial, or technical expertise to continue to provide reasonable service to those customers served by Inland. Thus, no due process violations have occurred and none will occur.

After consideration of the motion to abate, the memorandum contra to the motion to abate, the record in this proceeding and being otherwise sufficiently advised, the Commission finds that sufficient cause does not exist to hold this proceeding in abeyance.

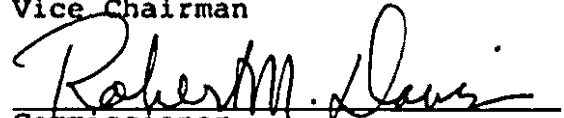
IT IS THEREFORE ORDERED that KOG's motion to abate be and it hereby is denied.

Done at Frankfort, Kentucky, this 1st day of September, 1992.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director