COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF COLUMBIA GAS OF KENTUCKY	)	
INC. FOR AUTHORITYTO ALLOCATE THE PROCEEDS	)	CASE NO.
OF ITS STRANDED COST/RECOVERY POOL	)	2005-00446

O R D E R

This matter comes before the Commission via the November 1, 2005 application of Columbia Gas of Kentucky, Inc. ("Columbia") which requests that the Commission reconsider the disposition of the stranded cost/recovery pool established in conjunction with Columbia's Customer Choice Program ("Choice Program").[1] The Choice Program allowed small volume customers (annual usage below 25,000 Mcf) to purchase gas from a certified marketer with Columbia continuing to perform the distribution function and remain the supplier of last resort.

As proposed by Columbia, the Choice Program pilot was to be revenue neutral but was structured to allow Columbia to recover its stranded costs related to the program. According to Columbia, its request for approval of the Choice Program resulted from a collaborative process that included the Lexington-Fayette Urban County

[1] The Choice Program pilot, as originally proposed by Columbia, was approved by the Commission, subject to certain changes, by Order dated January 27, 2000 in Case No. 1999-00165, The Tariff Filing of Columbia Gas of Kentucky, Inc. to Implement a Small Volume Gas Transportation Service, to Continue its Gas Cost Incentive Mechanisms, and to Continue its Customer Assistance Program. Further changes were approved in subsequent rehearing Orders dated March 6, 2000 and May 19, 2000. The Choice Program pilot operated through March 31, 2005.

Government, the Community Action Counsel of Fayette, Bourbon, Nicholas and Harrison Counties ("CAC"), and the Attorney General of the Commonwealth of Kentucky ("AG").

Both CAC and the AG intervened in this proceeding. The parties conducted discovery, participated in an informal conference and filed written comments. No briefs were filed and the case stands submitted for decision.[2]

BACKGROUND ON STRANDED COST/RECOVERY POOL

In its application in Case No. 1999-00165, Columbia (1) asked the Commission to establish a stranded cost/recovery pool, (2) identified certain costs as stranded costs eligible for recovery, (3) proposed that certain revenue opportunities be used to offset those costs, and (4) requested approval of a $3.0 million deadband for the stranded cost/recovery pool. In its January 27, 2000 Order, the Commission disallowed certain expenses Columbia considered stranded costs, modified Columbia's proposed revenue opportunities and rejected its deadband proposal. The Commission allocated 100 percent of off-system sales as revenue opportunities and rejected Columbia's proposal to allocate 65 percent as revenue opportunities and retain 35 percent, as it had been doing under a Commission-approved Gas Cost Incentive Mechanism.

In its May 19, 2000 Order on rehearing, the Commission modified its initial decision on off-system sales, allowing 75 percent to be allocated to the stranded cost/recovery pool as revenue opportunities and allowing Columbia to retain the other 25 percent. Based on its changes to the Choice Program, the Commission estimated that there would be no excess costs or revenues at the end of the pilot term (ultimately

[2] CAC initially requested a formal hearing, but later withdrew its request.

set at March 31, 2005).[3] However, in its May 19, 2000 Order, the Commission required Columbia to credit any excess revenues in the stranded cost/recovery pool to sales and Choice customers and to absorb any excess stranded costs. Columbia was directed to notify the Commission if it planned to implement the Choice Program with the Commission's modifications. Columbia did not appeal the decision and notified the Commission of its decision to implement the modified program.

Columbia's Present Proposal

Columbia states that, as of March 31, 2005, there were excess revenues of approximately $3.6 million in the stranded cost/recovery pool established for the Choice Program pilot. It requests authority to allocate one-half of this amount to its customers and retain the other half. Columbia states that it included a deadband when it originally proposed the Choice Program because it realized there would not be an exact match of stranded costs and revenue opportunities. It notes the Commission's rejection of the deadband proposal, but cites language in the May 19, 2000 Order as evidence the Commission did not envision such a sizeable amount in the stranded cost/recovery pool at the end of the pilot.

Columbia states that the balance in the stranded cost/recovery pool, when added to the savings customers realized during the pilot by purchasing from marketers, yields total benefits under the Choice Program pilot of $19.2 million. Columbia states that it is requesting to retain less than 10 percent, $1.8 million, of this amount and credit more

[3] A revised Choice Program, to run from April 1, 2005 through March 2009, was approved on March 29, 2005, in Case No. 2004-00462, The Application of Columbia Gas of Kentucky, Inc. to Implement a New Small Volume Gas Transportation Service, a Gas Price Hedging Plan, an Off-System Sales and Capacity Release Revenue Sharing Mechanism, and a Gas Cost Incentive Mechanism.

than 90 percent, $17.4 million, to customers, who will benefit from the excess revenues whether or not they participated in the Choice Program.

Columbia states that it should be permitted to retain one-half of the balance because of its successful management of the Choice Program and because its retention would more closely match the expectations of the collaborative parties inherent in the filing of its application for approval of the Choice Program in Case No. 1999-00165. Columbia argues that, since the balance of the stranded cost/recovery pool is comprised largely of revenues generated from off-system sales and capacity release activities, it is appropriate for the disposition of the pool balance to match the treatment of off-system sales and capacity release approved in Case No. 2004-00462, wherein the Commission authorized a continuation of the Choice Program, with some further modification, through March 31, 2009.[4] As an alternative to this equal sharing of the pool balance, Columbia proposes to allocate 10 percent of the balance, $360,000, to CAC for use in a new weatherization program and share the remaining 90 percent equally with its customers. Columbia states that this alternative recognizes that, due to increases in natural gas prices, there may be additional customers having difficulty paying their utility bills and that the Commission may wish to address this issue by allocating a portion of the excess revenues to CAC's weatherization program. The customer share under this alternative would result in a credit of $0.1013 per Mcf for 12 months.[5]

[4] The rate impact to customers under this sharing proposal would result in a credit of $0.1126 per Mcf for 12 months.

[5] If 100% of the excess is credited to customers, the per Mcf credit is $0.2252.

CAC's Position

CAC supports Columbia's alternative proposal under which it would be allocated 10 percent of the stranded cost/recovery pool balance to fund a new weatherization program. CAC states that a 50 percent allocation of the pool balance would have a greater impact on Columbia's low-income customers by allowing CAC to increase the size of the new weatherization program. Even though CAC recommends that the Commission adopt Columbia's alternative proposal, it suggests that the Commission increase Columbia's funding to the new weatherization program to $2.5 million in order to serve 850 households throughout the company's service territory.

CAC provided statistics on poverty levels in 33 counties in central and eastern Kentucky and described weatherization and other assistance programs it administers for utilities in this area. It described the model it is reviewing regarding the impact that high efficiency furnaces might have on household energy costs. It is this model upon which a new weatherization program would be based. This new program would include a combination of weatherization measures and installation of high efficiency furnaces.

The AG's Position

The AG offers two somewhat opposing positions. First, he states that he believes that the best proposal for distribution of the stranded cost/recovery pool is to allocate 10 percent to CAC for its weatherization program and credit 90 percent to customers. To support this position, he cites the recent high energy prices and their disproportionate impact on low-income customers. He states that Columbia has already benefited from the Choice Program because it was able to recover its stranded costs while, at the same time, it was able to retain 25 percent of the revenues generated from off-system sales.[6] Second, he states that the Commission is prohibited by KRS 278.270 from modifying the terms of its prior Order as such action would constitute retroactive rate-making. The AG states that acceptance of Columbia's proposal to retain a portion of the excess revenues would not only affect its overall rate structure in a retrospective fashion, but would inappropriately change a fair, just and reasonable rate based on quality of service. To support this argument, the AG cites South Cent. Bell Tel. Co. v. Utility Regulatory Comm'n, 637 S.W. 2d 649 (Ky. 1982).[7]

ANALYSIS OF ISSUES

In support of the alternative under which it is allocated a portion of the excess revenues, Columbia cites its successful management of the Choice Program pilot, the expectations of the collaborative group that was involved in the development of that pilot proposal, and the treatment of off-system sales and capacity release under the revised Choice Program approved in Case No. 2004-00462.

While the Commission commends Columbia for its management of the Choice Program pilot, such management is what the Commission expected of Columbia in the normal course of business. There was no reward or incentive intended as part of the Choice Program pilot, as is evident by the Commission's decision to eliminate the deadband proposed by Columbia in Case No. 1999-00165.

[6] Total off-system sales revenues during the Customer Choice Program pilot were $11,833,988. The amount retained by Columbia was $2,958,427, which is apart from the 75% that was assigned to the stranded cost/recovery pool.

[7] In its reply comments, Columbia states that the case cited by the AG does not support the AG's retroactive rate-making argument. Columbia notes that the decision in that case held that the Commission may not adjust a utility's rate of return based on concerns about the utility's level of customer service.

As for the Case No. 1999-00165 collaborative parties' expectations regarding the stranded cost/recovery pool, Columbia was required to notify the Commission if it accepted the Commission's changes and if it intended to implement the Choice Program as approved. Columbia so notified the Commission and implemented the program with the changes, including those the Commission directed to the stranded cost/recovery pool and the disposition thereof. Given Columbia's acceptance of the Commission's modifications, there should have been no expectations as to the disposition of the stranded cost/recovery pool other than what was set forth in the Commission's May 19, 2000 Order.

Columbia states that the Commission should consider the proposed sharing of excess revenues equally with its customers in light of the decision in Case No. 2004-00462 in which an off-system sales and capacity release revenue sharing mechanism with a 50 – 50 sharing ratio was approved. While that case also involved approval of a revised Choice Program, there was no link between the Choice Program and the revenue sharing mechanism. As stated by Columbia, there are no stranded costs under the revised Choice Program and off-system sales and capacity release activities are not considered revenue opportunities thereunder. There is no compelling basis for linking the prospective treatment of off-system sales and capacity release revenues, which is separate from the new Choice Program, to a belated attempt to change the disposition of the stranded/cost recovery pool for the Customer Choice pilot.

Columbia supports its alternative proposal to allocate 10 percent of the balance to CAC and share the remainder with its customers by citing increases in wholesale natural gas prices since approval of the Choice Program pilot as possibly contributing to more customers having difficulty paying their utility bills. We are sensitive to the difficulties that the CAC clients face in paying their utility bills; however, the Commission is also mindful of the impact higher natural gas prices have had on all consumers in recent months and years. We are also aware that, during the time since the Choice Program pilot was approved, Columbia received Commission approval to increase its customers' share of the funding for its Energy Assistance Program from $175,000 to $500,000 annually.[8] Columbia's customers have had to bear this additional funding as well as higher natural gas prices in recent years. We conclude that reaching a decision in this proceeding that would impose a greater rate burden on them is not reasonable.

As Columbia stated when it first requested approval of the Choice Program, one of its goals was maintaining revenue neutrality while recovering its stranded costs. The Commission endorsed the goal of revenue neutrality in its January 27, 2000 Order in Case No. 1999-00165 as attractive in theory, but found that it would be impractical for sales customers not to incur additional costs. While it approved a stranded cost recovery mechanism, the Commission rejected Columbia's deadband proposal, finding it to be counter-intuitive to the goal of revenue neutrality. Revenue neutrality, for both Columbia and its customers, was carefully considered by the Commission when addressing the issue of revenue opportunities and stranded costs.

In the rehearing phase of Case No. 1999-00165, the Commission approved a stranded cost recovery mechanism that it believed would result in virtually no excess cost, or excess revenue, at the end of the pilot. Recognizing, however, that there might

[8] This was part of the settlement in Columbia's most recent rate case, Case No. 2002-00145, The Adjustment of Rates of Columbia Gas of Kentucky, Inc. Order, dated December 13, 2002.

be excess revenues or excess costs, the Commission stated the manner in which each would be resolved. Excess revenues were to be credited to both sales customers and Choice customers while Columbia would be at risk if there were excess costs.

Columbia did not appeal the Commission's decision, it notified the Commission that it planned to implement the program as approved with the Commission's changes and did implement and operate the Choice Program, as approved.

In this proceeding, Columbia has argued for modifying the decision in Case No. 1999-00165 concerning the disposition of the stranded cost/recovery pool. However, neither Columbia nor any other party has produced evidence to persuade the Commission that its previous decision should be amended. Accordingly, we conclude that Columbia's motion for a deviation from the decision in Case No. 1999-00165 should be denied.

IT IS THEREFORE ORDERED that:

1. Columbia's request for a deviation from the decision in Case No. 1999-00165 concerning the disposition of the stranded cost/recovery pool for the Customer Choice pilot is denied.

2. The excess revenues in the stranded cost/recovery pool, as of March 31, 2005, of approximately $3.6 million shall be allocated to sales and Choice customers, as previously established in Case No. 1999-00165.

3. Columbia shall reflect the credit to distribute the excess revenues in its Gas Cost Adjustment filing for the September – November 2006 quarter, which is due to be filed with the Commission by approximately August 1, 2006.

Done at Frankfort, Kentucky, this 10th day of May, 2006.

By the Commission

ATTEST:

Executive Director