

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)	
KENTUCKY, INC. FOR AN ORDER)	CASE NO.
APPROVING USE OF DISCLAIMER BY A)	2011-00299
NON-REGULATED AFFILIATE)	

O R D E R

On August 12, 2011, Columbia Gas Company, Inc. ("Columbia") filed an application requesting Commission approval of proposed disclaimers to be used by a non-regulated affiliate, NiSource Retail Services d/b/a Columbia Retail Services ("CRS"). According to the application, CRS will offer residential and small commercial customers service plans for the repair of heating and cooling systems, water heaters, appliances, pipes and wires, as well as equipment leasing services. As the Commission was unable to complete its review within the time requested, Columbia's disclaimers were approved on an interim basis on October 6, 2011, pending completion of our review.

KRS 278.2213(13) provides that a utility's name, trademark, brand, or logo shall not be used by a non-regulated affiliate in any type of visual or audio media without a disclaimer and that the Commission shall approve any disclaimer prior to use by the utility's affiliate. The statute directs the Commission to develop specifications for the disclaimer. Pursuant to this statutory directive, the Commission promulgated 807 KAR 5:080, Section 6, which states that the disclaimer shall comply with the following:

- (1) The disclaimer shall state that "(affiliate's name) is not the same company as (utility's name). (Affiliate's name) is not regulated by the Kentucky Public Service Commission. You do not have to buy (the affiliate's) (products or services, as applicable) in order to continue to receive quality regulated services from the utility;"
- (2) If an affiliate of an affected utility uses the utility name, trademark, brand, or logo in a print format, the disclaimer shall appear in capital letters on the first page or at the first point where the utility's name, trademark, logo or brand appears;
- (3) If an affiliate of an affected utility uses the utility's name, trademark, brand, or logo in a televised format, the disclaimer shall appear at the first point at which the utility name, trademark, logo, or brand appear; and
- (4) If an affiliate of an affected utility uses the utility's name in an audio format, the disclaimer shall be spoken at the close of the advertisement.

Columbia states that the proposed disclaimer will be used in print, televised, and audio formats, as well as on its corporate website, should there be any reference to CRS, and will appear at the first point where Columbia's name, trademark, logo or brand appears, in a manner that conforms to 807 KAR 5:080, Section 6. Columbia requests that the following disclaimer be approved for CRS:

Columbia Retail Services (CRS) is an affiliate of Columbia Gas of Kentucky but is not the same company. CRS is not regulated by the Kentucky Public Service Commission and you do not have to buy CRS products or services in order to continue to receive quality regulated services from Columbia Gas of Kentucky.

Columbia's application specifies the terms and conditions of its agreement with CRS. Columbia intends to provide CRS with updated customer lists, minus any "Do Not Solicit" customer information. In response to an information request, Columbia states

that it will comply with its other privacy policies, applicable statutes and regulations in effect and required at the time.¹ Columbia will be compensated by CRS based upon the number of customer names on each list, as well as a flat fee for weekly lists of “new connects” and “mover” customers.² CRS is currently the only party with whom Columbia has an agreement of this type; however, Columbia states that the agreement is not exclusive and that it maintains the discretion to enter into similar arrangements with other parties.³

Columbia states that neither it nor its customers will be subsidizing CRS and that this agreement is limited to Columbia’s provision of its customer list and the provision of billing services to CRS.⁴ Columbia will not perform any service work, crew or customer service functions.⁵ Any possible confusion regarding Columbia’s role in promoting or actually providing these services will be minimized, based on the following:

CRS will be working with local contractors to perform the services according to the Customer Agreement. As such, these contractors will not have the words “Columbia” imprinted on their trucks and uniforms due to their relationship with CRS. Rather, CRS will coordinate the service work to be performed between the contractor and customer. CRS Service Delivery representatives will work with each customer to let them know the name of the contractor doing work and the time and date the contractor will be doing the work.

¹ Columbia’s Response to Commission Staff’s First Information Request, Item 1 (b), in accordance with a billing agreement, dated August 8, 2011, between NiSource Retail Services (dba Columbia Retail Services) and Columbia Gas.

² Id. at Item 1 (c).

³ Id. at Item 2.

⁴ Id. at Item 1 (e). Attachment D. The sample letter to customers states: “Billing services may be unavailable if a customer does not qualify for billing on Columbia’s monthly statement, due to a special payment plan or if the customer’s utility account is not current at the time of enrollment.”

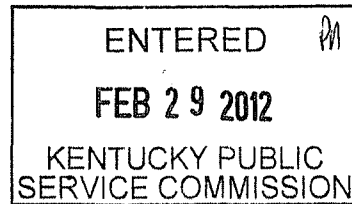
⁵ Id. at Item 1(e).

The contractors will carry their own identification and present it to the customers prior to performing the work.⁶

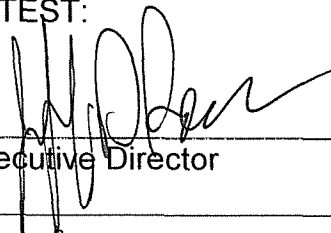
Having considered Columbia's request and being otherwise sufficiently advised, the Commission finds that the proposed disclaimer is consistent with the requirements of 807 KAR 5:080, Section 6, is reasonable, and should be approved as proposed.

IT IS THEREFORE ORDERED that Columbia's application for approval of its disclaimer is approved.

By the Commission



ATTEST:



Executive Director

⁶ Id. at Item 3.

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