SEC
STAND ENERGY CORPORATION

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August 26, 2010

VIA UPS NEXT DAY AIR SAVER

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Re: Case No. 2010-00146

Dear Mr. Derouen:

Enclosed for filing in the above-captioned matter with the Commission are the original and ten (10) copies of Stand Energy Corporation's Motion To Compel Data Request Responses to Columbia Gas of Kentucky, Inc.

Thank you for your prompt attention to this filing. If you have any questions about this filing, please contact me at (513) 621-1113.

Sincerely,

John M. Dosker

John M. Dosker
General Counsel

Encls.
cc: All parties of record

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
AUG 27 2010
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:	)	
AN INVESTIGATION OF NATURAL GAS	)	**Case No. 2010-00146**
RETAIL COMPETITION PROGRAMS	)	

STAND ENERGY CORPORATION'S MOTION TO COMPEL RESPONSES TO DATA REQUESTS FROM COLUMBIA GAS OF KENTUCKY

Intervenor, Stand Energy Corporation ("Stand Energy"), by and through counsel, submits the following motion to compel discovery from Columbia Gas of Kentucky, Inc. Stand Energy moves the Commission to compel Columbia Gas of Kentucky, Inc. to provide complete responses to Stand Energy's data requests issued on July 15, 2010. As grounds for this motion, Stand Energy has set out each data request at issue made to Columbia, each response provided by Columbia, and discussion of why the motion to compel should be granted:

<u>Data Request From Stand - All LDC's 1-1:</u>

With regard to your transportation tariffs. Please answer the following:

A. Does it cost you more to deliver third party or supplier natural gas to a customer compared to the cost to deliver natural gas to a sales customer of the same size? If so, explain why in detail.

B. Discuss whether you believe daily balancing or monthly balancing should be required of transportation customers and explain why, in detail.

C. Excluding periods of OFO's and OMO's, please identify the financial harm to your firm sales customers that has occurred over the past 12 months because of daily imbalances of transportation customers?

D. During the past 12 months, please identify each day when transportation customers' deliveries provided a financial credit or system benefit to firm sales customers?

E. If you believe that larger transportation consumers should be subject to daily balancing and smaller transportation consumers subject to monthly balancing explain how you determine the amount of daily or monthly usage that requires daily or monthly balancing and explain.

F. If there are charges for imbalances or penalties for imbalances describe and explain the reasoning for the penalties and describe the allocation of the generated imbalance penalty dollars.

G. Identify any operational events that have occurred that caused you to determine that daily or monthly balancing is necessary. Provide sufficient event details to justify a decision based thereon.

H. Discuss whether or not you believe that supplier "pooling" should be allowed by Kentucky natural gas utilities to allow suppliers to pool deliveries for balancing and penalty avoidance purposes. If not, explain in detail why not.

I. Discuss the necessity for each penalty set forth in your transportation tariffs and the reasons underlying each of the penalty amounts.

J. Identify and briefly explain the allocation of the generated penalty dollars.

Data Request From Stand - All LDC's 1-2:

With regard to your operations pursuant to currently approved PSC tariffs, please respond to the following:

A. For the period covering the past 24 months, identify the dates and duration of all operational flow orders, operational matching orders or other flow orders imposed by you.

B. For all flow orders identified in (A) above, list the reason the flow order was imposed.

COLUMBIA'S RESPONSES

Columbia Gas of Kentucky answered all of the subparts of the first two Stand Energy Data Requests with the following objection: "***OBJECTION: This request is specifically directed toward Columbia's traditional transportation service, and is thus irrelevant to the Commission's Investigation of Natural Gas Retail Competition Programs and is unlikely to lead to admissible evidence.***"

During the Kentucky General Assembly's 2010 Regular Session, House Joint Resolution 141 was enacted and signed by Governor Steven L. Beshear. The preamble of that bill states:

> *. . . It is the policy of the Commonwealth of Kentucky to ensure that Kentucky natural gas customers receive reliable natural gas services at fair and reasonable rates; and*
>
> *. . . In order to ensure price transparency and to create purchasing options for consumers, and with the understanding that competition is reliant upon properly structured markets supported by both regulated and competitive business entities, natural gas retail competition programs should be evaluated.*

The resolution further directs the Commission to "commence a collaborative study of natural gas retail competition programs to determine if benefits could be derived from these programs, and to determine whether natural gas retail competition programs could be crafted to benefit Kentucky consumers."

This investigation into retail natural gas competition must, by definition, include gas transportation programs. The existing gas transportation programs are the ONLY current basis for retail competition between natural gas marketers among all Kentucky regulated gas utilities - with the sole exception of Columbia Gas of Kentucky's Choice Program. The fact that Columbia Gas of Kentucky has a pilot retail CHOICE program for small volume users does not excuse Columbia from answering valid questions about its traditional gas transportation programs in this proceeding. <u>To rule otherwise, will completely frustrate and ignore the legislature's directive to investigate competition in retail natural gas in Kentucky</u>. The legislature did not intend this case to be solely about residential customers, because only Columbia has a residential CHOICE program. If CHOICE was the only subject the legislature wanted addressed, that information would have been easily obtainable in a proceeding specifically designed for that purpose. Stand Energy is very concerned that the PSC has not addressed Columbia's almost complete failure to answer any of Stand Energy's valid questions on its own accord without the necessity of having to file a Motion requesting such relief. As the quasi-judicial forum, the PSC has the duty and the power to rule without the necessity of a party filing a motion. Again, this is not your typical regulatory proceeding.

Columbia of Kentucky cannot refuse to answer questions because it will be embarrassed by the truth or any other reason. If the PSC allows Columbia to avoid Stand Energy's legitimate and relevant questions in this proceeding, we are hopeful the legislature will obtain the information via subpoenas to Columbia personnel to answer questions live, under oath, before appropriate committee(s).

<u>Data Request From Stand - All LDC's 1-3</u>

With regard to your operations pursuant to currently approved tariffs, please respond to the following:

A. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any Supplier? If so, identify any such waiver and the Supplier that received the waiver.

B. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any Affiliate? If yes, identify any such waiver and the Affiliate that received the waiver.

C. For the past 24 months, have you waived any requirement set forth in PSC-approved tariffs for any consumer? If so, identify any such waiver and the consumer that received the waiver.

<u>COLUMBIA'S RESPONSE:</u> "***OBJECTION. Stand has not specified what type of waiver about which it is seeking information. As such, this request is overly broad, burdensome and not reasonably calculated to lead to the discovery of admissible information.***"

Stand Energy specifically requested information on "**any**" waivers granted to "any" supplier. This information is essential to understand how Columbia enforces its tariff. Waivers of tariff requirements should only occur in unique and unusual circumstances. Therefore, we are not talking about a large amount of data. Columbia must be required to respond to the request and detail all waivers of tariff requirements. <u>Otherwise, the Commission and the parties have no way of knowing whether Columbia is fairly enforcing its tariff as approved by the Kentucky PSC or granting waivers in an anti-competitive or discriminatory manner.</u>

Stand Energy data requests 1-4, 1-5, and 1-6 requested information regarding purchases of natural gas by Columbia for system supply from their own unregulated marketing arm or asset manager. Columbia, although objecting to several questions, answered essentially that it did not purchase system supply gas from its unregulated marketing arm or an asset manager. Stand Energy is satisfied with these responses.

Data Request From Stand - All LDC's 1-7:

Relative to your pipeline delivery requirements, please respond to the following:

A. During the past 2 years, with regard to the pipeline delivery requirements, have you waived or otherwise altered specific compliance with the requirements for any supplier? If so, identify and fully describe any such waiver and/or alteration, and the supplier.

B. During the past 2 years, and with regard to the pipeline delivery requirements, have you waived or otherwise altered specific compliance with the requirements for any consumer or customer? If so, identify and fully describe any such waiver and/or alteration, and the consumer/customer.

C. During the past 2 years, and with regard to the pipeline delivery requirements, have you waived or otherwise altered specific compliance with the requirements for your Gas Marketing Affiliate, if any? If so, identify and fully describe any such waiver and/or alteration, and the Affiliate.

COLUMBIA'S RESPONSE: ***"OBJECTION: This request is overly broad, burdensome and not reasonably calculated to lead to the discovery of admissible evidence."***

Stand Energy specifically requested information on Columbia's waiver of pipeline delivery requirements for **"any"** supplier (subpart a); consumer/customer (subpart b); or marketing affiliate (subpart c). This information is essential to understand how Columbia enforces pipeline delivery requirements. Waivers of pipeline delivery requirements should only occur in unique and unusual circumstances. Therefore, we are not talking about a large amount of data. Columbia must be required to respond to the request and detail all waivers of pipeline delivery requirements. Otherwise, the Commission and the parties have no way of knowing whether Columbia is fairly enforcing its pipeline delivery requirements in a non-discriminatory fashion without engaging in anti-competitive behavior.

Data Request From Stand - Columbia 1-9:

Please answer the following questions:

A. What percentage of your system gas supplies are produced in Kentucky?

B. What percentage of your system gas supplies are produced in the Appalachian area?

C. What percentage of your system gas supplies are transported on the Columbia Gulf system?

D. Please provide any studies that were done to establish a threshold of 25,000 Mcf/yr or greater to qualify for Delivery Service.

E. Please explain why Columbia Gas of Kentucky has a much higher threshold for transportation service than their sister Columbia distribution companies in Ohio, Pennsylvania, Maryland and Virginia.

F. In your Small Volume Gas Transportation Service (SVGTS) program, a supplier supplying gas to facilities in Frankfort Kentucky must deliver their supplies to the Portsmouth, Ohio receipt point (PSP 17-15). This receipt point, in addition to requiring backhaul" to the Columbia of Kentucky service territory, has a BTU factor of approximately 1.131. Deliveries under the Delivery Service rate schedule for larger facilities in Frankfort must be delivered to PSP 18-10 which has an approximate BTU factor of 1.02. The result is that the SVGTS customers must pay an additional 10-11% more for gas each month. Please explain the reason for this policy.

COLUMBIA'S RESPONSE: **(To subparts a - e) "*OBJECTION: This request seeks information not relevant to the Commission's Investigation of Retail Competition and is not reasonably calculated to lead to admissible evidence.*"** The question is relevant because it goes to the issue of whether Kentucky's regulated natural gas utilities routinely ignore the law as enacted by the Kentucky legislature on this natural gas issue. K.R.S. 278.507 contains a clear legislative mandate to the Kentucky Public Service Commission - ". . . *facilitate greater utilization of the natural gas produced or available for production within the state, where this can de done without detriment to the customers of utilities under jurisdiction of the Commission.*" There is a legislative mandate to purchase Kentucky produced gas if it can be purchased without harming ratepayers. Columbia needs to admit its failure and discuss its plan for remediation of this failure. Moreover, Columbia's CHOICE program, which is also at issue in this proceeding, **requires** gas suppliers to accept assignment of Columbia's interstate pipeline capacity from the Gulf of Mexico to Kentucky. Certainly, the existence of a potentially cheaper source of market-priced gas (lower transportation cost for shorter distance), in closer proximity to Kentucky than the Gulf of Mexico (more reliable - no Hurricanes in Appalachia), should reduce Columbia's cost to serve. The question is highly relevant and should be answered.

Data Request From Stand - Columbia 1-9, subpart f:

F. In your Small Volume Gas Transportation Service (SVGTS) program, a supplier supplying gas to facilities in Frankfort Kentucky must deliver their supplies to the

Portsmouth, Ohio (sic) receipt point (PSP 17-15). This receipt point, in addition to requiring backhaul" to the Columbia of Kentucky service territory, has a BTU factor of approximately 1.131. Deliveries under the Delivery Service rate schedule for larger facilities in Frankfort must be delivered to PSP 18-10 which has an approximate BTU factor of 1.02. The result is that the SVGTS customers must pay an additional 10-11% more for gas each month. Please explain the reason for this policy.

COLUMBIA'S RESPONSE: (To subpart f): "*Columbia's Small Volume Transportation Service, Rate Schedule SVGTS, does not contain any of the requirements that you question. A copy of Rate Schedule SVGTS is attached for reference.*"

This response is nonsensical. First it references a Rate Schedule which would not contain Columbia's required receipt and delivery points in any event. Columbia states that it attached the Rate Schedule for "reference". Reference for what?

Our question was quite precise and can be restated as follows: Why does Columbia Gas of Kentucky require Stand Energy to deliver natural gas (for re-delivery to our Kentucky State Government customers in Frankfort, Ky), **including but not limited to the Kentucky Public Service Commission Building on Sower Drive in Frankfort, Kentucky)** to the Portsmouth receipt point located in Greenup County, Kentucky when that required receipt point results in Columbia having to "backhaul" the gas to Frankfort and further and more importantly results in the Commonwealth of Kentucky paying **more** for natural gas to heat those Buildings than would otherwise be required by deliveries to other receipt points? The Commission needs to require Columbia to answer this question. The delivery requirement has no logical basis other than to frustrate Stand Energy and increase costs to the Commonwealth. This type of anti-competitive behavior by Columbia, which cost is borne by Kentucky taxpayers, is EXACTLY the type of issue that the PSC should be examining closely in this proceeding.

CONCLUSION

Stand Energy's data requests to Columbia were reasonable, relevant and did not request any specific customer information or any confidential or proprietary business information. There is absolutely no reason why Columbia should not be required to fully answer all of Stand Energy's data requests. The intent of this proceeding will not be realized otherwise.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of Stand Energy Corporation's Motion to Compel Responses to Columbia Gas of Kentucky were served upon the following parties of record via U.S. Mail postage prepaid on August 20, 2010.

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