

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

|   |   |            |
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| ELECTRONIC APPLICATION OF COLUMBIA      | ) |            |
| GAS OF KENTUCKY, INC. FOR A DECLARATORY | ) |            |
| ORDER THAT THE CONSTRUCTION OF          | ) | CASE NO.   |
| PROPOSED GAS SAFETY TRAINING            | ) | 2016-00181 |
| FACILITIES IS IN THE ORDINARY COURSE    | ) |            |
| OF BUSINESS AND DOES NOT REQUIRE A      | ) |            |
| CERTIFICATE OF PUBLIC CONVENIENCE       | ) |            |

ORDER

This matter comes before the Commission upon the application of Columbia Gas of Kentucky, Inc. ("Columbia"), pursuant to 807 KAR 5:001, Sections 14 and 19, for a declaratory order that Columbia's proposed construction of a gas safety training facility ("training facility") at its headquarters in Lexington, Kentucky, is an extension in the usual course of business and therefore does not require a Certificate of Public Convenience and Necessity ("CPCN").

Columbia is a public utility as defined in KRS 278.010(3)(b) that is engaged in the distribution and sale of natural gas, as well as the transportation of customer-owned volumes of gas in 30 counties of Kentucky. Columbia operates approximately 2,574 miles of natural gas distribution mains that serve more than 135,000 customers. Columbia is also responsible for the operation and maintenance of more than 135,000 meters, service lines and other facilities. To ensure the reliability and safety of these facilities, Columbia employs approximately 113 field employees who are directly responsible for the facilities' installation, repair, and maintenance. Columbia states that

these field employees perform “covered tasks” — operation and maintenance activities on Columbia’s pipelines that are required by 49 C.F.R.<sup>1</sup> Part 192 and that affect the operation and integrity of those pipelines.

Pursuant to 49 C.F.R. 192.805, Columbia must implement a written qualification program that provides training to ensure that all employees who perform covered tasks “have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities . . . .”<sup>2</sup> Columbia states that to meet this requirement, it has adopted the “DOT Operator Qualification Plan” (“the Plan”), which sets forth a list of 33 covered tasks which Columbia field employees may perform and for which they must be qualified. After a Columbia employee is initially qualified on relevant covered tasks, he or she must be evaluated periodically and re-qualified for those covered tasks. Columbia states that employee training is an integral and constant part of its operations and is performed in the usual course of its business.

Columbia notes that it currently has no centralized training facility, and has historically used an apprentice model of comprehensive, structured training for its new field employees. It has previously provided new field employees classroom instruction on covered tasks at its headquarters in Lexington, Kentucky, and then provided those employees an extended period of on-the-job training under the supervision of an experienced Columbia employee under actual field conditions.

Columbia states that its previous training model has become more difficult to maintain due to the aging and retiring of Columbia’s workforce in recent years. Columbia states that its workforce is now younger, and the opportunities for newer

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<sup>1</sup> Code of Federal Regulations.

<sup>2</sup> 49 C.F.R. 192.805(h).

employees to quickly gain the necessary skills to qualify for various covered tasks through one-on-one training with long-tenured employees are much fewer. According to Columbia, 62 percent of its current field employees have five years or less of work experience. Columbia asserts that the increasingly technical demands of successful gas-distribution operations require a higher level of knowledge and training than traditionally has been necessary.

Columbia states that as a result of these changes in its workforce and qualification requirements, it and other NiSource distribution companies are adopting a new training approach that immerses new hires in a blend of training that includes early hands-on practice, tightly structured on-the-job training, and performance support available at time of need. Columbia contends that this approach incorporates best-in-class elements, including individualization, skills refreshment, and technology innovation. Columbia expects the new method to reduce the time necessary for an employee to master covered tasks, and to better enable Columbia field employees to keep pace with technological changes and an increasingly complex workplace.

#### Proposed Training Facility

To implement this training approach, Columbia proposes to construct a training facility on its property at 2001 Mercer Road in Lexington, Kentucky, where its headquarters is located. Columbia describes the planned training facility as a replication of a small town consisting of 15 buildings, each of which has gas appliances such as a furnace and water heater, as well as a gas meter and other facilities. Columbia states that the training facility will have simulated gas, water, electric, and sewer lines, and will allow for hands-on, realistic training in most covered tasks,

including line location, leak survey, emergency relight, turn-ons, meter set installation, trench safety, and emergency response procedures. Columbia notes that classroom training will be conducted at the Columbia headquarters building, which is adjacent to the proposed training facility. In addition to serving as a learning center for new field employees, the proposed training facility will be used for evaluation and requalification of field employees in covered tasks, for training emergency responders, and for specialized training courses, according to Columbia.

Columbia asserts that the proposed training facility will allow Columbia instructors to immediately reinforce their classroom operations with practical, realistic training scenarios. Columbia states that the proposed training facility will allow trainees to practice covered tasks and procedures under real-world conditions, but in a supervised and controlled environment, and will facilitate group-based training in which instructors and trainees can discuss and evaluate individual trainee performance. Columbia maintains that such training is a safer and more effective, efficient, and timely approach than on-the-job training.

Columbia proposes to begin construction on the proposed training facility in early 2017 and to place it in service no later than November 1, 2017, at an estimated cost of \$1,955,048. Columbia states that it will not acquire any additional real property to support the proposed training facility, and no debt will be issued to finance its cost. Columbia estimates that the training facility will have a 30-year useful service life and an initial annual maintenance and operation cost of \$11,528.

## Analysis

The legal standard for determining whether a proposed facility is “an ordinary extension in the usual course of business” is set forth in KRS 278.020(1) and 807 KAR 5:001, Section 15(3).

KRS 278.020(1) governs the need for a CPCN. It provides:

No person, partnership, public or private corporation, or combination thereof shall commence providing utility service to or for the public or begin the construction of any plant, equipment, property, or facility for furnishing to the public any of the services enumerated in KRS 278.010, **except** retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until that person has obtained from the Public Service Commission a certificate that public convenience and necessity require the service or construction. [Emphasis added.]

Thus, unless a utility intends to construct a facility that is an “ordinary extension” in the “usual course of business,” it must obtain a CPCN for its proposed facility.<sup>3</sup>

Since KRS 278.020(1) does not define “ordinary extension” in the “usual course of business,” the Commission promulgated 807 KAR 5:001, Section 15(3), which provides:

A certificate of public convenience and necessity shall not be required for extensions that do not create wasteful duplication of plant, equipment, property, or facilities, or conflict with the existing certificates or service of other utilities operating in the same area and under the jurisdiction of the commission that are in the general or contiguous area in which the utility renders service, and that do not involve sufficient capital outlay to materially affect the existing

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<sup>3</sup> Case No. 2000-00481, *The Application of Northern Kentucky Water District (A) for Authority to Issue Parity Revenue Bonds in the Approximate Amount of \$16,545,000; and (B) a Certificate of Convenience and Necessity for the Construction of Water Main Facilities* (Ky. PSC Aug. 30, 2001), Order at 4.

financial condition of the utility involved, or will not result in increased charges to its customers.

When read together, KRS 278.020(1) and 807 KAR 5:001, Section 15(3), set forth those facilities for which a CPCN is not required. The Commission has interpreted this statute and regulation to mean that a CPCN is not necessary “for facilities that do not result in the wasteful duplication of utility plant, do not compete with the facilities of existing public utilities, and do not involve a sufficient capital outlay to materially affect the existing financial condition of the utility involved or to require an increase in utility rates.”<sup>4</sup>

“Wasteful duplication” is defined as an “excess of capacity over need” and “an excessive investment in relation to productivity or efficiency . . . .”<sup>5</sup> A proposed facility does not constitute wasteful duplication unless an “existing facility is reasonably available for the present and future needs of those who will be served by it.”<sup>6</sup>

Columbia asserts that the proposed training facility will not duplicate any existing Columbia facility, and that Columbia presently has no centralized training facility to provide hands-on training in covered tasks or procedures for its field employees or to train emergency responders within its service territory. Columbia states that it has examined the use of the out-of-state training facilities, but found such use to be costlier than constructing and operating its own training facility. Specifically, Columbia states that the closest NiSource gas distribution company training facility is located near Columbus, Ohio, and that based upon 2017 projections, the annual travel and lost-labor

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<sup>4</sup> *Id.* (noting that “[t]he method used to finance the cost of proposed facilities does not determine whether those facilities require a Certificate of Public Convenience and Necessity.”).

<sup>5</sup> *Kentucky Utilities Co. v. Public Service Commission*, 252 S.W.2d 885, 890 (Ky. 1952).

<sup>6</sup> *City of Covington v. Board of Commissioners*, 371 S.W.2d 20, 23 (Ky. 1963), *overruled on other grounds by City of Georgetown v. Public Service Commission*, 516 S.W.2d 842 (Ky. 1974)).

productivity costs related to training field employees at that out-of-state training facility will exceed by \$86,756 the annual cost of the proposed training facility in Lexington. Columbia argues that to the extent that the proposed training facility may be interpreted as duplicating an existing out-of-state facility, it is not wasteful duplication of facilities, since it will result in significant savings or avoided costs by Columbia and its customers.

Furthermore, Columbia states that pursuant to 807 KAR 5:001, Section 15(3), the proposed training facility will not compete with the facilities of existing utilities. Columbia notes that the proposed training facility is intended to maintain and improve the quality and reliability of the gas distribution system that presently serves Columbia's existing service territory by enabling enhanced training of the Columbia field employees who operate and maintain that system, as well as providing valuable safety training for emergency responders located within Columbia's existing service territory.

Columbia also asserts that the cost of the proposed training facility will not materially affect Columbia's financial condition. To determine whether a proposed facility's construction materially affects a utility's financial condition, the Commission has historically compared the cost of a proposed facility to the present value of the utility's existing facilities. The Commission has held:

In assessing whether a proposed project is a system extension in the ordinary course of business, Kentucky courts have traditionally looked to the size and scope of a project in the context of the monetary cost involved. The Commission has similarly adopted this method and likewise looks to the scale of a proposed project in relation to the relative size of the utility and its present facilities.<sup>7</sup>

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<sup>7</sup> Case No. 2014-00171, *Application of Northern Kentucky Water District for Approval of Dixie Highway Water Main Improvements, Issuance of a Certificate of Convenience and Necessity and Approval of Financing* (Ky. PSC Aug. 6, 2014), Order at 4.

Columbia argues that the Commission has consistently found that the construction of a proposed facility whose cost represents 2 percent of the utility's net utility plant is in the ordinary course of business and does not require a CPCN.<sup>8</sup> Columbia estimates the proposed training facility will cost \$1,955,048. Columbia states its net utility plant, as of December 31, 2015, is \$259,607,348. Therefore, the proposed training facility represents an increase of 0.75 percent in Columbia's net utility plant. Columbia asserts that, based upon prior Commission precedent addressing the construction of facilities equal to 2 percent or less of a utility's net plant, the proposed training facility expenditure is not a materially capital outlay. In addition, Columbia points out that the proposed training facility will not increase the rates charged to Columbia customers, but will instead achieve a net annual savings of \$86,756 by avoiding the use of out-of-state training facilities.

Historically, the Commission has held that the construction of headquarters and regional office buildings is not in the ordinary course of business and does require a

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<sup>8</sup> See, e.g., Case No. 2015-00284, *Application of East Kentucky Power Cooperative, Inc. for an Order Declaring the Expansion of the Bavarian Landfill Gas to Energy Project to be an Ordinary Extension of Existing Systems in the Usual Course of Business* (Ky. PSC Nov. 20, 2015); Case No. 2012-00269, *Tariff Filing of Warren County Water District to Establish the Rockfield School Sewer Capital Recovery Fee* (Ky. PSC Nov. 19, 2012); Case No. 2007-00058, *Application of Big Rivers Electric Corporation for Approval of an Interconnection Agreement with Kentucky Utilities Company* (Ky. PSC Apr. 16, 2007); Case No. 2002-00474, *Application of East Kentucky Power Cooperative, Inc. for an Order Declaring the Green Valley and Laurel Ridge Landfill Gas to Energy Projects to be Ordinary Extensions of Existing Systems in the Usual Course of Business* (Ky. PSC Mar. 3, 2003); Case No. 98-508, *In the Matter of the Application of Kentucky Turnpike Water District for a Declaration that a Certificate of Public Convenience and Necessity Is not Required or, in the Alternative, for the Issuance of Such a Certificate of Public Convenience and Necessity* (Ky. PSC Nov. 19, 1998); and Case No. 92-028, *In the Matter of the Application of Kenton County Water District No. 1 for Authority to Perform Maintenance at Its Taylor Mill Treatment Plant by Replacing Filer Valves at a Total Cost of Approximately \$700,000* (Ky. PSC Feb. 18, 1992). See also Case No. 2013-00365, *Application of Delta Natural Gas Company, Inc. for an Order Declaring that It is Authorized to Construct, Own and Operate a Compressed Natural Gas Station in Berea, Kentucky* (Ky. PSC Mar. 30, 2015).



CPCN.<sup>9</sup> In this case, Columbia has for many years utilized a training facility located near Columbus, Ohio. Whether utilization of that training facility is more or less costly than the proposed training facility is an issue that merits further investigation, in addition to the issue of wasteful duplication. Having reviewed the record and being otherwise sufficiently advised, the Commission finds that further investigation is necessary to address the factors set forth in 807 KAR 5:001, Section 15(3), and that Columbia will need to file a CPCN to obtain Commission approval for the proposed construction.

IT IS THEREFORE ORDERED that Columbia's proposed construction of a gas safety training facility at its headquarters in Lexington, Kentucky, does require a CPCN.

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<sup>9</sup> See, e.g., Case No. 2013-00343, *Application of Salt River Electric Cooperative Corporation for a Certificate of Convenience and Necessity Authorizing Certain Proposed Construction Identified as the Headquarters Construction and District Renovations* (Ky. PSC Oct. 25, 2013), Order granting Salt River's request for a CPCN to construct a new warehouse/operations center; Case No. 2011-00196, *Application of Kenergy Corp. for a Certificate of Public Convenience and Necessity* (Ky. PSC Dec. 19, 2011), Order granting Kenergy a CPCN to construct a new district office and service facility; Case No. 2010-00244, *Application of Shelby Energy Cooperative, Inc. for a Certificate of Convenience and Necessity for Its 2010–2014 Construction Work Plan* (Ky. PSC Aug. 3, 2011), Order holding that a CPCN was required for Shelby's AMI program since the AMI project was not in the ordinary course of business; Case No. 2008-00371, *Application of South Kentucky Rural Electric Cooperative Corporation for a Certificate of Public Convenience and Necessity to Construct a New Headquarters Facility in Somerset, Kentucky* (Ky. PSC May 11, 2010), Order granting South Kentucky a CPCN to construct proposed headquarters facilities; Case No. 2004-00416, *Application of Kenergy Corp. for a Certificate of Public Convenience and Necessity for 2004–2007 Construction of Work Plan* (Ky. PSC Feb. 25, 2005), Order holding that in the event Kenergy or Big Rivers desires to proceed with a headquarters construction, a separate CPCN will have to be filed; Case No. 2001-00178, *The Application of the Big Sandy Water District for a Certificate of Public Convenience and Necessity to Construct an Improvement Project and to Issue Securities in the Approximate Principal Amount of \$822,000 for the Purpose of Financing Said Project and Refunding Certain Outstanding Revenue Bonds of the District Pursuant to the Provisions of KRS 278.020, 278.300 and 807 KAR 5:001* (Ky. PSC Dec. 20, 2001), Order finding that prima face evidence exists that Big Sandy violated KRS 278.020(1) by its construction of the proposed tank facilities without first obtaining a CPCN from the Commission; and Case No. 94-182, *Columbia Gas of Kentucky, Inc. Alleged Failure to Comply with KRS Chapter 278* (Ky. PSC June 27, 1994), Order initiating an investigation into Columbia's construction of a new headquarters and customer service facility prior to obtaining a CPCN.

By the Commission

ENTERED  
SEP 09 2016  
KENTUCKY PUBLIC  
SERVICE COMMISSION

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