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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of :

CONSTELLATION NEW-ENERGY-GAS DIVISION, LLC)

COMPLAINANT)

CASE NO.
2005-00184

V.)

COLUMBIA GAS OF KENTUCKY, INC.)

DEFENDANT)

**CONSTELLATION NEW-ENERGY-GAS DIVISION, LLC'S
MOTION TO ALLOW PRE-FILED WRITTEN TESTIMONY**

Constellation New-Energy-Gas Division, LLC ("CNEG), by and through counsel, moves the Commission to allow it to pre-file written testimony prior to the hearing on August 30, 2007 at 10:00 a.m. The basis for this request is to provide the parties and staff with the testimony in advance in order to alleviate the need for direct oral testimony, and to help make the hearing be more efficient. Prefiled testimony of Ralph Dennis and Andrea Ferriell is attached.

Respectfully submitted,



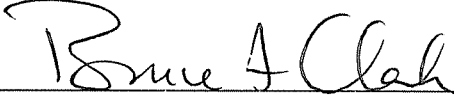
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States First Class Mail, postage prepaid, on this 28th day of August, 2007 upon:

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Bruce F. Clark

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PRE-FILED TESTIMONY OF RALPH DENNIS

**ON BEHALF OF CONSTELLATION NEW-ENERGY-GAS
DIVISION, LLC**

Q. Please state your name and business address.

A. My name is Ralph E. Dennis. My business address is 9960 Corporate Campus Dr., Suite 2000, Louisville, Kentucky 40223.

Q. By whom are you employed and in what capacity?

A. I have been employed by Constellation NewEnergy-Gas Division, LLC (“CNEG”) since October 2000 as Director, Regulatory Affairs.

Q. What are your primary duties and responsibilities in this position?

A. As the Director of Regulatory Affairs, I manage the day-to-day functions of the Regulatory Affairs Department in a manner that provides support to CNEG staff and to customers’ energy procurement requirements and related needs. My Department monitors and analyzes regulatory and legislative policies, actions, and proposals by local, state, and federal regulatory commissions along with those of the legislative and executive branches of government. My Department provides recommendations to CNEG staff and customers on available courses of action to mitigate increased costs, reduced service options or impacts on reliability of service, and to receive any expected benefits that may transpire from proposed actions or policies. I also supervise the development of customer focused reports on issues that may impact their energy costs or reliability of service. I present recommendations to management for interventions in utility rate cases and tariff filings; and, for filing complaints, when warranted, against existing or proposed utility service requirements or rates. I also coordinate CNEG’s regulatory and governmental activities with its eighteen (18) regional sales offices, Constellation

Energy Group's ("CEG") regulatory and governmental affairs staff, and related staff in other CEG subsidiaries.

Q. Please describe your business experience.

A. I have over 25 years experience in analyzing energy-related issues, policy, and regulation in North America, with particular focus on electricity and natural gas. In October 2000, upon beginning employment with CNEG (which, at the time, was doing business as Alliance Energy Services), I organized the Regulatory Department to monitor regulatory issues in the 15 states in which we operated. Through mid-2007, the Department has grown its scope of activity to 42 states, four Canadian provinces, and Mexico.

Prior to joining CNEG I worked at the Kentucky Public Service Commission ("Commission") from August 1985 through September 2000. During the January 1997-September 2000 period I was Staff Assistant to the Commissioners. In that role, I advised the Commissioners on numerous issues and policies related to electricity and natural gas, including legislative and agency activities at state and federal levels related to energy industry restructuring. Before becoming Staff Assistant, I served as Manager of the Natural Gas Branch, assigning and reviewing case-related work, conducting studies, and investigating natural gas utilities for compliance with Commission statutes and regulations. I also investigated complaints against utilities related to natural gas transportation issues, interpreted Commission policy on natural gas transportation in Kentucky and the impact and application of Federal Energy Regulatory Commission

("FERC") policies on Kentucky. In 1987, following FERC's Order 436, I was one of the principal staff coordinators in developing recommendations to the Commission that resulted in Kentucky's natural gas pipelines becoming open access for transportation, and assisted in monitoring the utilities' compliance in filing open access tariffs. In 1996, I proposed and facilitated the Commission's Natural Gas Collaborative meetings over a four-month period, which solicited comments and suggestions from utilities, marketers, and other stakeholders on whether residential retail choice should be implemented in Kentucky.

Prior to joining the Commission I was employed at the Kentucky Energy Cabinet ("KEC") from August 1978 through July 1985. While at KEC my responsibilities included developing and implementing public education programs promoting the use of renewable energy resources in Kentucky. I also coordinated numerous workshops, seminars, and other meetings involving architects, engineers, the business community, and the general public.

Q. Please describe your educational background.

A. I received a Bachelor of Arts degree in Political Science and History from Eastern Kentucky University in 1974. I also completed in 1976 the course requirements for a Master of Arts degree in Political Science at Eastern Kentucky University, and took additional course work in the University of Tennessee's doctoral program in Political Science during the period 1976-1978. I have attended and participated in numerous regulatory training conferences and seminars concerning

rate and service regulation, rate design and cost allocation, and utility and regulatory operations.

Q. What is purpose of your direct testimony?

A. The purpose of my testimony is to explain why CNEG believes that the Stipulation and Recommendation filed jointly by Columbia Gas of Kentucky, Inc. (“CKY”) and CNEG in the instant proceeding on October 19, 2006 (the “Settlement Agreement”) addressing CNEG’s Complaint against CKY, docketed by the PSC on July 10, 2005 (the “Complaint”), is reasonable and appropriate.

Q. Please summarize the Complaint.

A. CNEG filed the Complaint against CKY due to actions taken by CKY in assessing penalty charges against some of our customers related to natural gas deliveries in mid-November, 2004. In the Complaint, CNEG asked the Commission to take two actions:

- (1) require CKY to refund to the affected customers the penalty charges that CNEG believes were inappropriately assessed by CKY; and
- (2) require CKY to provide CNEG on a continuing basis appropriate customer-related information identifying CKY customers as either daily metered or not daily metered.

Q. Did you participate in the negotiations which has led to the Settlement Agreement which has been filed with the Commission?

A. Yes.

Q. Are you familiar with the terms of the Settlement Agreement?

A. Yes.

Q. Does CNEG support the Settlement Agreement, and seek Commission approval of its terms?

A. Yes.

Q. How does the Settlement Agreement now being presented to the Commission address the first of the two remedies sought by CNEG in the Complaint, regarding customer refunds?

A. The Complaint reflects CNEG's belief that the affected customers are entitled to a 100 percent refund of the penalty charges assessed by CKY, due to the lack of clarity in the Tariff, and the absence of clear and timely information provided by CKY. The Settlement Agreement provides affected customers (not CNEG) refunds of 50 percent on a pro rata basis based upon the penalty amounts paid by each customer. CNEG's agreement to customer refunds in a lesser amount in the Settlement Agreement is in part due to recognition of the time value of money, and the benefit that customers receive in obtaining refunds immediately.

Q. Please explain on what basis you believe CNEG is able to accept the compromise on refunds embodied in the Settlement Agreement.

A. CNEG's Complaint indicates that its principal business is managing the commodity supply accounts for commercial and industrial accounts, which includes arranging for the supply and delivery of natural gas to the city gate of local utility systems, like CKY. CNEG filed its Complaint on its behalf and on behalf of its CKY customers. Through Agency Agreements with each of its customers, CNEG is the exclusive authorized representative to act on behalf of its customers involving the management of their natural gas supply, transportation needs, and related services. In its July 12, 2006 Order denying CKY's Motion to Dismiss, the Commission expressly recognized CNEG's standing to file the Complaint on behalf of its customers. In this capacity as our customers' representative, CNEG agreed to settle with CKY for 50 percent of the amount of penalty charges assessed to the affected customers.

Q. How does the Settlement Agreement now being presented to the Commission address the second of the two remedies sought by CNEG in the Complaint, identifying CKY customers as either daily metered or not daily metered?

A. The second goal of the Complaint was to have CKY clarify the distinction between daily metered and monthly-metered customers, in order to allow marketers to comply with Daily Delivery Interruption notices when issued by CKY. Since filing the Complaint in 2005, two full winter heating seasons have passed, and the 2007-2008 winter heating season is only a few months away.

CNEG believes it is more important now to have the Commission approve the revised tariff language that clarifies the distinction between daily and monthly-metered customers, along with the information in the report that would be available via the Internet, rather than a 100 percent refund of past charges assessed almost three years ago.

Under the Settlement Agreement, CKY proposes tariff changes and an Internet-based report that would be available to natural gas marketers, each of which will enable marketers to more clearly determine whether their customers are deemed by CKY to be monthly or daily metered. These changes to CKY's tariff are reasonable and will not negatively impact other ratepayers or impose unreasonable burden on CKY.

Q. In your opinion, should the Commission accept the Settlement Agreement as filed, and why?

A. Yes. Both parties to the Complaint, Columbia and CNEG, agree to the provisions stated therein. The provisions in the Complaint represent a legitimate and reasonable compromise to the dispute raised and the honest differences expressed. No other customers have intervened in this Complaint or otherwise expressed any concerns or complaint about the Settlement Agreement submitted. The resolution in my opinion is in the public interest.

Q. Does this conclude your prepared testimony?

A. Yes it does.

AFFIDAVIT

Ralph Dennis, upon first being duly sworn, states that the foregoing testimony constitutes his direct testimony, and swears and affirms that to the best of his information and belief all statements and representations made therein are true and correct.

Ralph Dennis

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Ralph Dennis this ____ day of August, 2007.

My Commission Expires: _____

NOTARY PUBLIC

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DEFENDANT)

PRE-FILED TESTIMONY OF ANDREA FERRIELL
ON BEHALF OF CONSTELLATION NEW-ENERGY-GAS
DIVISION, LLC

Q. Please state your name and business address.

A. My name is Andrea Ferriell. My business address is 9960 Corporate Campus Dr., Suite 2000, Louisville, KY 40223.

Q. Who is your employer?

A. I am employed by Constellation New Energy - Gas Division, LLC (“CNEG”).

Q. What is your position with your employer?

A. Currently, my title is Sales Operations Coordinator. On [date], the date on which CNEG filed the Complaint against Columbia Gas of Kentucky, Inc. (“CKY”), my position was Inside Sales Consultant.

Q. What are your duties and responsibilities?

A. In my current position, I act as the liaison between our Sales group and support departments within the company. At the time of the Complaint, my responsibilities included renewing customer contracts, discussing pricing with customers, locking pricing in for customers, resolving customer inquiries, and working with our Operations group to properly balance and maintain customer’s supply needs.

Q. Describe your business experience.

A. I have been in the energy industry for six and one-half years. I began my career in the Operations group, balancing customer’s gas needs, managing gas storage,

and customer natural gas banks, nominating gas (supplies, needs, etc.) on behalf of customers, working with utilities in regards to invoices, balancing and constraints, signing up new customers, and notifying utilities when we no longer served customers. I moved to an Inside Sales position five years ago. Those duties were described previously.

Q. What is the purpose of your testimony?

A. The purpose of my testimony is to describe the series of events and communication that led to the filing of the Complaint, and to explain the position of CNEG with regard to the Complaint.

Q. Have you read the Complaint filed by CNEG in this proceeding?

A. Yes.

Q. Are the factual statements made the Complaint inaccurate?

A. Yes.

Q. Please describe the events that led to this Complaint.

A. CNEG has gas supply contracts with 76 customers who receive their gas over the CKY system. Pursuant to these contracts, CNEG purchases gas for our customers, and delivers the gas on to the CKY system, for ultimate delivery to our customers. This relationship requires CNEG to be the agent for our customers, and to be responsible for working with CKY and for complying with CKY tariffs.

On November 17, 2004, CKY posted a Daily Interruption Notice (“DIN”), also sometimes referred to as a Daily Delivery Notice (“DDN”). A copy is attached to CNEG’s Complaint. The DIN required Delivery Service customers **without** daily measurement to delivery their supply at a level no more than 33 percent of the customer’s Maximum Daily Quantity (“MDQ”). Delivery service customers **with** daily measurement were required to deliver their supply at no more than their actual daily demand.

Q. How did CNEG respond to this notice?

A. This was the first time CNEG had received a DDN that differentiated between deliveries for customers that had daily metering, and customers that did not. CNEG’s first response was to contact CKY to clarify which customers fell into which category. On November 17, 2004, our gas operations team (Kerry Smith and Goldie Miller) telephoned their CKY contact (Sandra Cook) for clarification on the meaning of daily metering. The CNEG team asked if daily metering referred only to the customers who were telemetered on CKY’s Aviator site, and that other customers would then be considered monthly metered. Sandra Cook confirmed that the customers who had telemetering were daily metered customers; CKY did not explain that they considered other customers to be daily metered, even though they did not have telemetering equipment.

Based on this understanding, CNEG responded to the DDN by reducing the deliveries for daily metered customers (pursuant to the CKY Aviator site) to no more than their actual daily demand; and for CNEG's other customers, gas delivery was reduced to no more than the customers MDQ.

Q. Did CNEG's response conform to the DDN?

A: Yes, CNEG's response conformed to the language of the DDN assuming that all customers with telemetering were considered "daily measured," and that all customers without the device fell into the "non-daily metered" category. Further, CNEG responded to the DDN as we have to any previous DDN or constraint situation. We acted on the information available at the time, and made decisions with and for our customers regarding deliveries to adhere to the instructions of the DDN based on the response received from CKY regarding daily measured customers.

Q. What happened next?

A. In January 2006, we received several calls from customers asking about additional charges (i.e., penalties) made by CKY on their December 2004 gas invoice. CNEG first looked at the CKY tariff to determine whether the tariff might give us some guidance on the penalty issue. We concluded that it did not, so we called CKY for an explanation. Their initial response was to refer us to the tariff. Yet in our opinion, the tariff does not give sufficient guidance on the penalty issue. In our opinion, a penalty provision should clearly identify those affected by the

provision; and CNEG believes that the CKY tariff failed to meet this standard. We received copies of the invoices, and after reviewing them, we realized that some customers were being charged DDI penalties by CKY for CNEG's response to the November DDN.

Q. How did you respond to this information?

A. We contacted CKY to investigate why the penalty charges were being imposed. CNEG first believed that the penalty charges were made in error, and would be reversed. CKY then responded that the customers in question were daily metered customers, and therefore subject to the DDN penalties, even though they did not have telemetering equipment. This was the first time CNEG had been informed by CKY that these accounts were to be considered to be daily metered.

Q. How would this information have assisted CNEG during the DDN?

If CNEG had known that there was a group of customers considered daily metered, but did not have telemetering equipment, CNEG would have reacted to the DDN for those customers by reducing their gas delivery to no more than the customers actual daily demand. However, since we were not aware of this designated group of customers, CNEG responded as we have to past DDNs, as if these customers were monthly read versus daily read.

Q. What did you do next?

A. Upon further conversations with CKY, CNEG found out that CKY had a list of customers that are designated as OFO or OMO customers. OMO accounts are considered daily measured and OFO accounts are monthly measured. When asked to explain how customers would know which group they are in, CKY's representative responded that if the customer receives a Tariff Gas Invoice each month, they should deduce that they are a daily read customer. The CKY representative admitted that the terms OFO and OMO were not used in the customer contract, or on the invoice; and that these terms are not in CKY's filed tariff.

Q. How did CKY respond?

A. At CNEG's request, CKY provided CNEG a list of its customers with their OMO/OFO designations. After reviewing the list, CNEG realized that of 76 meters served, 45 are considered OMO, and of those, only 19 have telemetering equipment. If CNEG had been given this information at the time of the DDN, we would have responded differently and would have been able to avoid the penalties that were later assessed against our customers. CKY would not waive the penalties, and stated that CNEG had not properly complied with the DDN order on behalf of our customers.

Q. How did CNEG proceed?

A. CNEG felt that the lack of clear information and communication from CKY to jurisdictional customers led to the DDN penalties. CNEG sent CKY a letter explaining the situation requesting:

- 1) a reversal of all penalties for the group of customers that did not have telemetering equipment, but were assessed penalties,
- 2) that CKY provide CNEG, on a quarterly basis, an updated list of customers and their daily or monthly measured designations, and
- 3) that CKY provide daily meter reads for customers without telemetering or consider those customers monthly read for purposes of a DDN.

Q. Please continue.

A. The letter was sent on February 9, 2005. CNEG received a response dated March 24, 2005 from CKY. Essentially, CKY denied any misinformation and failed to waive the penalties in question. CKY further stated that they would be willing to verify that CNEG's information is up to date. CKY also stated that it is up to the customer to report their daily usage to CNEG if they do not want to take on the expense of installing telemetering equipment. Once the letter from CKY was received, CNEG filed the Complaint with the PSC seeking a refund of the penalties paid by CNEG's customers.

Q. Why did CNEG file the Complaint?

A. CNEG believes that the CKY tariff and DDN notice are vague and ambiguous; and that, in order to properly adhere to the requirements set forth by CKY in the future, we need to have clear communication and full understanding of the tariff. In addition, we believed that our customers were improperly penalized due to a lack of clear and timely information during the November 17 DDN. Our complaint was docketed by the PSC on June 10, 2005.

Q. Does this conclude your testimony?

A. Yes it does.

AFFIDAVIT

Andrea Ferriell, upon first being duly sworn, states that the foregoing testimony constitutes her direct testimony, and swears and affirms that to the best of her information and belief all statements and representations made therein are true and correct.

Andrea Ferriell

COMMONWEALTH OF KENTUCKY

COUNTY OF JEFFERSON

Subscribed and sworn to before me by Andrea Ferriell this ____ day of August, 2007.

My Commission Expires: _____

NOTARY PUBLIC