

July 28, 2009

**SENT VIA FAX AND
OVERNIGHT DELIVERY**

Mr. Jeff Derouen
Executive Director
Public Service Commission
Commonwealth of Kentucky
211 Sower Boulevard
P. O. Box 615
Frankfort, KY 40602

RECEIVED

JUL 29 2009

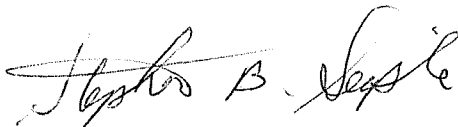
**PUBLIC SERVICE
COMMISSION**

RE: Case Nos. 2009-00141 and 2009-00168

Dear Mr. Derouen,

Enclosed for filing is Columbia Gas of Kentucky's Memorandum Contra the Attorney Generals' Motion to Consolidate. One copy is being faxed, and the original and eleven (11) copies are being sent by overnight delivery. Please docket the fax copy, and upon receipt of the overnight delivery please docket the original and ten (10) copies and return the extra copy to me in the self addressed stamped envelope enclosed. Should you have any questions about this filing, please contact me at 614-460-4648. Thank you!

Sincerely,



Stephen B. Seiple
Assistant General Counsel

Enclosures

cc: All Parties of Record
Hon. Richard S. Taylor

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:) Case No. 2009-00168
Application of Columbia Gas of Kentucky,)
Inc., to Establish a Regulatory Asset Related)
to Pension and Other Post-Retirement Benefit)
Expenses)

In the Matter of:)
Application of Columbia Gas of Kentucky,) Case No. 2009-00141
Inc. for an Adjustment of Rates.)

**COLUMBIA GAS OF KENTUCKY, INC.’S
MEMORANDUM CONTRA THE ATTORNEY GENERAL’S
MOTION TO CONSOLIDATE**

On April 23, 2009, Columbia Gas of Kentucky, Inc. (“Columbia”) filed its application with the Public Service Commission of Kentucky (“Commission”) to issue, pursuant to KRS §§ 278.030, 278.040, and 278.220, an order authorizing Columbia to establish regulatory assets and/or liabilities for pension costs and other post-retirement benefits costs (“OPEB”). On July 24, 2009, the Attorney General filed a Motion to Consolidate (“Motion”) in which the Attorney General requested that the Commission consolidate this docket with the docket for Columbia’s pending rate case – Case No. 2009-00141. Columbia respectfully requests that the Commission deny the Attorney General’s Motion to Consolidate for the reasons discussed below.

In support of its Motion, the Attorney General argues that the two cases share a common nucleus of operating facts, and that “many of the facts relevant to Case No. 2009-00168 are so closely intertwined with the facts of the rate case that a resolution of Case No. 2009-00168

cannot be made without a full resolution of the rate case.”¹ The Attorney General’s conclusion is incorrect, and the Motion should be denied.

While the two cases may share a common nucleus of operating facts – both deal with pension and OPEB costs – the facts of the two cases are not so closely intertwined that they must be decided together. In Case No. 2009-00168 Columbia seeks only Commission authority for an accounting change. Columbia seeks to establish regulatory assets and/or liabilities for pension costs and other post-retirement benefits costs (“OPEB”) to the extent such costs differ from those embedded in rates. Columbia is making no claim for recovery of the regulatory assets in Case No. 2009-00168. As stated in paragraph (d) of Columbia’s application in Case No. 2009-00168, “The recovery of the deferred amounts will be addressed in Columbia’s base rate case proceedings.” It is in the rate case, Case No. 2009-00141 where Columbia addresses its claim for the subsequent recovery of any regulatory assets eventually authorized by the Commission in Case No. 2009-00168. The two different forms of relief sought – accounting authority in the one case, and rate recovery in the other case – are clearly separable.

While there is a relationship between the issues in the two cases, Columbia filed the two separate cases for one reason – timing. In order to create the regulatory asset/liability in 2009 for costs incurred during 2009 Columbia needs a Commission order by the end of December 2009. While Columbia is optimistic that the rate case can be concluded with a Commission order issued before the end of 2009, there is a possibility that the Commission order in the rate case may not be issued until early 2010. Thus, Columbia filed the separate request for accounting treatment in Case No. 2009-00168 in order to ensure that at least with regard to the establishment of the regulatory asset/liability the Commission could issue an order without getting sidetracked

¹ Motion at 1.

by the multitude of other issues in the rate case that have the potential to prolong the conclusion of the rate case.

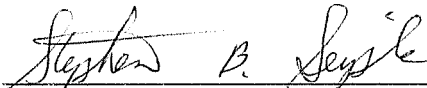
Therefore, in order to ensure that the accounting issue in Case No. 2009-00168 is acted upon by the Commission before the end of 2009, Columbia respectfully requests that the Commission deny the AG's Motion. There is nothing about the regulatory asset/liability accounting issues that compels the Commission's review and decision on these issues as part of the rate case.

WHEREFORE, for the reasons discussed above, Columbia respectfully requests that the Commission deny the AG's Motion, and promptly issue its decision in Case No. 2009-00168.

Dated at Columbus, Ohio, this 28th day of July 2009.

Respectfully submitted,

COLUMBIA GAS OF KENTUCKY, INC.

By: 
Stephen B. Seiple (Counsel of Record)

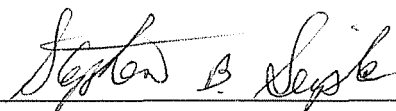
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Attorneys for
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra of Columbia Gas of Kentucky, Inc., was served upon all parties of record by regular U. S. mail this 28th day of July, 2009.



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