

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF COLUMBIA GAS )	CASE NO.
OF KENTUCKY, INC. FOR APPROVAL OF THE )	2022-00049
GREEN PATH RIDER PILOT PROGRAM )	

ORDER

On November 17, 2023, Columbia Gas Kentucky, Inc. (Columbia Kentucky) filed a petition, pursuant to KRS 278.400, requesting rehearing on the denial of Columbia Kentucky's proposed Green Path Rider Pilot Program contained in the Order entered October 30, 2023.

LEGAL STANDARD

KRS 278.400, which establishes the standard of review for motions for rehearing, limits rehearing to new evidence not readily discoverable at the time of the original hearings, to correct any material errors or omissions, or to correct findings that are unreasonable or unlawful. A Commission Order is deemed unreasonable only when "the evidence presented leaves no room for difference of opinion among reasonable minds."<sup>1</sup> An order can only be unlawful if it violates a state or federal statute or constitutional provision.<sup>2</sup>

By limiting rehearing to correct material errors or omissions, and findings that are unreasonable or unlawful, or to weigh new evidence not readily discoverable at the time

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<sup>1</sup> *Energy Regulatory Comm'n v. Kentucky Power Co.*, 605 S.W.2d 46 (Ky. App. 1980).

<sup>2</sup> *Public Service Comm'n v. Conway*, 324 S.W.3d 373, 377 (Ky. 2010); *Public Service Comm'n v. Jackson County Rural Elec. Coop. Corp.*, 50 S.W.3d 764, 766 (Ky. App. 2000); *National Southwire Aluminum Co. v. Big Rivers Elec. Corp.*, 785 S.W.2d 503, 509 (Ky. App. 1990).

of the original hearings, KRS 278.400 is intended to provide closure to Commission proceedings. Rehearing does not present parties with the opportunity to relitigate a matter fully addressed in the original Order.

### DISCUSSION AND FINDINGS

Columbia Kentucky argued that the Commission's Order dated October 30, 2023, was unlawful and unreasonable. In support of its position, Columbia Kentucky stated that the Commission applied an unlawful standard of review to Columbia Kentucky, "[a]n 'increased' adequate, efficient, and reasonable standard."<sup>3</sup> Columbia Kentucky summarized a page of the final Order with an accompanying footnote and argued the denial was a result of a failure to demonstrate increased adequate, efficient and reasonable standard. Columbia Kentucky stated that the program approval would not diminish service to any customer.<sup>4</sup> Lastly, Columbia Kentucky argued that the program would provide a benefit to customers.<sup>5</sup>

Columbia Kentucky also argued the Order was unreasonable because it allegedly prevents customers from voluntarily purchasing a product that will offset their carbon footprint.<sup>6</sup> Additionally, Columbia Kentucky stated potential customer interest in the Green Path Rider, coupled with the low risks to customers, warrants reconsideration.<sup>7</sup> Columbia Kentucky cited to survey results that they argued indicate

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<sup>3</sup> Columbia Kentucky's Motion for Rehearing (filed Nov. 17, 2023) at 4.

<sup>4</sup> Columbia Kentucky's Motion for Rehearing at 5.

<sup>5</sup> Columbia Kentucky's Motion for Rehearing at 5.

<sup>6</sup> Columbia Kentucky's Motion for Rehearing at 6.

<sup>7</sup> Columbia Kentucky's Motion for Rehearing at 6.

interest in the program while acknowledging that the Commission correctly noted that less than 1 percent of the customers are likely to participate in the program.<sup>8</sup>

Having reviewed the relevant record, the rehearing motion, and being otherwise sufficiently advised, the Commission finds that Columbia Kentucky's motion for rehearing should be denied. First, the Commission notes that both KRS 278.030(1),<sup>9</sup> and KRS 278.030(2)<sup>10</sup> apply to this application. As such, the final Order was not unreasonable nor unlawful. The Commission did not prevent customers from reducing their carbon footprint. The Commission's Order merely stated that this program was not necessary to accomplish the goals alleged by Columbia Kentucky and noted that Columbia Kentucky does not appear to have proposed anything different than persons could contract for themselves.<sup>11</sup> The Commission discussed the concerns with the survey results and specifically noted that, to the extent to which they were used to calculate the Green Path Rider's proposed starting rates and associated volumetric usage, it did not have confidence rates could be considered fair, just and reasonable due to the lack of statistical significance of the survey results.<sup>12</sup>

Contrary to the allegation made in Columbia Kentucky's motion, the Commission applied the correct standard. Had the motion completely summarized the Order, Columbia Kentucky would have had to cite at least two places, in addition to the legal standard section of the Order, in which the Commission stated the legal standard found

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<sup>8</sup> Columbia Kentucky's Motion for Rehearing at 6.

<sup>9</sup> A utility may demand, collect and receive fair, just and reasonable rates.

<sup>10</sup> The service rendered and conditions under which service is to be rendered by the utility must be adequate, efficient and reasonable.

<sup>11</sup> Order at 9.

<sup>12</sup> Order at 7–8.

in KRS 278.030(2). As noted on page 7 of the final Order, “Columbia Kentucky is required to provide adequate, efficient, and reasonable service, and may establish reasonable rules related to how it conducts business and the conditions under which it provides service.” The standard is again repeated on page 9:

Columbia Kentucky has a responsibility to its customers to provide adequate, efficient and reasonable gas service at the lowest reasonable cost possible. Expanding service to financial products to satisfy a speculative interest for less than one percent of customers does not effectuate increased adequate, efficient, and reasonable service. Columbia Kentucky currently offers and participates in the Choice program. The Choice program includes marketers that offer customers environmentally friendly programs. Customers have the option to choose those offerings. Based on the above discussion, the Commission finds that Columbia Kentucky has not demonstrated that the Green Path Rider is needed or is a reasonable or efficient condition under which to provide natural gas service. Columbia Kentucky has not established the reasonableness of the proposed rates, and has not identified sufficient benefit to any customers that might choose to participate.

The full context of the quote makes clear that the Commission understood the standard of service. The Commission discussed numerous concerns about the program, including cost, a speculative survey, and the fact that there are no specific benefits from this pilot program that are not already available. The partial quotation presented in Columbia Kentucky’s motion was taken out of context. The use of “increased” in the context of this discussion was merely an acknowledgement that Columbia Kentucky could not even make an argument for why this program was necessary. The service Columbia Kentucky is obliged to provide is natural gas service, not carbon offsets or environmental attributes. The standard cannot be applied incorrectly in a matter for which the utility is not obligated to provide service. It is

disingenuous to argue otherwise and to summarize the Commission's Order inaccurately.

IT IS THEREFORE ORDERED that:

1. Columbia Kentucky's motion for rehearing is denied.
2. The case is closed and removed from the Commission's docket.

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PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

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KENTUCKY PUBLIC  
SERVICE COMMISSION

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