

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF COLUMBIA GAS)	
OF KENTUCKY, INC. TO CONTINUE ITS GAS)	CASE NO.
COST INCENTIVE ADJUSTMENT)	2024-00012
PERFORMANCE BASED RATE MAKING)	
MECHANISM)	

ORDER

On January 31, 2024, Columbia Gas of Kentucky, Inc. (Columbia Kentucky) filed an application to renew and modify its natural gas tariff pertaining to recovery under its performance-based ratemaking (PBR) mechanism. No intervenors are present in this case. Having reviewed Columbia Kentucky’s application, the Commission finds that the application should be rejected for filing as Columbia Kentucky failed to comply with the notice requirements of 807 KAR 5:011, Section 8.

LEGAL STANDARD

KRS 278.160(1) requires each utility to “file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it.” KRS 278.160(2) prohibits a utility from charging “greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules.” KRS 278.180 prohibits a utility from amending a rate in its filed schedules without 30 days’ notice to the Commission (or 20 days-notice upon a showing of good cause).

Commission regulations prescribe that a utility's schedule showing all rates and conditions for service be filed in the form of a tariff, or in the form of a special contract establishing rates, charges, or conditions of service not contained in its tariff.¹ Among other things, a tariff must contain a clear statement of all rates in the schedule.² A new or revised tariff shall be placed in effect by:

(a) Order of the commission; or

(b) Issuing and filing with the commission a new tariff or revised sheet of an existing tariff and providing notice to the public in accordance with Section 8 of this administrative regulation and statutory notice to the commission.³

If the Commission orders a change in the rates or rules of a utility, the utility shall file a new tariff or revised sheet of an existing tariff establishing the revised rate, classification, charge, or rule.⁴

Pursuant to 807 KAR 5:011, Section 8, a utility is required to provide public and customer notice if a charge, fee, or rule regarding the provision of service is changed, revised, or initiated and the change will affect the amount that a customer pays for service or the quality, delivery, or rendering of a customer's service.⁵ However, periodic recalculation of a formulaic rate that does not involve a revision of the rate and that is

¹ See 807 KAR 5:011 (generally setting forth the requirement that schedules containing rates be filed in the form of a tariff); 807 KAR 5:011, Section 13 (requiring that utilities file a copy of any "special contract" establishing rates, charges, or conditions of service not contained in its tariff); see also 807 KAR 5:001, Section 16 (requiring that tariffs be filed with any application for a general rate adjustment).

² 807 KAR 5:011, Section 4.

³ 807 KAR 5:011, Section 6; see also 807 KAR 5:011, Section 9 (discussing how a rate may go into effect by operation of law).

⁴ 807 KAR 5:011, Section 7.

⁵ 807 KAR 5:011, Section 8; see also 807 KAR 5:001, Section 17 (setting forth similar notice requirements for general rate adjustments).

performed in accordance with provisions of an effective rate schedule or administrative regulation does not require notice pursuant to that section.⁶ In “special cases, for good cause shown, the commission shall permit deviations” from the notice requirements 807 KAR 5:011, Section 8.⁷

DISCUSSION AND FINDINGS

The PBR mechanism is a cost sharing mechanism intended to incentivize utilities to make cost saving decisions for its fuel procurement practices by granting additional revenue should gas be obtained below an established market cost baseline. Columbia Kentucky’s PBR mechanism is itself comprised of three components: (1) a monthly Gas Cost Incentive (GCI); (2) an Off-System Sales Incentive (OSSI); and (3) a Transportation Cost Incentive (TCI). Notably, the PBR mechanism is itself not a defined line item visible on customers’ bills, however its impact is felt through the Gas Cost Adjustment (GCA) rate.

The most recent modification and renewal of Columbia Kentucky’s PBR mechanism occurred in Case No. 2020-00378, in which the utility sought to extend its PBR mechanism without modification.⁸ In that case the Commission denied Columbia Kentucky’s proposed renewal without modification. Instead, the Commission renewed the PBR mechanism until March 31, 2024, while “adjusting the sharing bands to reduce the extent to which variances between actual and benchmark gas costs are shared with

⁶ 807 KAR 5:011, Section 8(6).

⁷ 807 KAR 5:011, Section 15.

⁸ Case No. 2020-00378, *Electronic Application of Columbia Gas of Kentucky, Inc. to Extend its Gas Cost Incentive Adjustment Performance based rate Making Mechanism*, (Ky. PSC June 6, 2022), Order.

Columbia Kentucky.”⁹ Notably, according to Mr. Pluard’s testimony in this case, Columbia Kentucky is not recommending an immediate change to the benchmark calculation associated with the TCI, instead proposing to update it coincident with the expiration of a contract between Columbia Kentucky and Tennessee Gas Pipeline.

As part of its January 31, 2024, application, Columbia Kentucky requested that the Commission issue a final order in this case by October 31, 2024. Columbia Kentucky provided no public or customer notice in this case. As Mr. Pluard’s testimony clarifies, Columbia Kentucky is proposing to modify the TCI in addition to requesting the PBR mechanism be renewed for five years.¹⁰ Notably, Columbia Kentucky does not propose to change its benchmark calculation immediately, but instead to wait until the expiration of two discounted contracts.¹¹

Given that the application is proposing both an amendment and renewal, the notification requirements housed in 807 KAR 5:011, Section 8 apply and require Columbia Kentucky give notice to its customers and the public.¹² The Commission recently addressed similar concerns in Case No. 2023-00067, in which the utility sought to change the definition and calculation of certain inputs to its Gas Cost Recovery (GCR) formulaic rate.¹³ The Commission in that case found that notice was required pursuant to 807 KAR 5:011, Section 8 because the utility was changing the manner in which the GCR rate was

⁹ Case No. 2020-00378, June 6, 2022 Order at 10.

¹⁰ Application at 4-5.

¹¹ Application, Direct Testimony of Patrick Pluard at 8.

¹² Since Columbia Kentucky is requesting a modification to its TCI and renewal, the exception to notice requirements in 807 KAR 5:011, Section 8(6) do not apply.

¹³ Case No. 2023-00067, *Electronic Application for Revised Quarterly Gas Cost Recovery Schedules for Kentucky Frontier Gas, LLC* (filed Feb. 24, 2023), Application at 1-3.

calculated, and thus, revising a “charge, fee, condition of service, or rule regarding the provision of service [which] will affect the amount that a customer pays for service.”¹⁴

The Commission recognizes that Columbia Kentucky previously filed applications to modify or renew its PBR mechanism without evidence of public or customer notice, and that the Commission issued Orders in those cases approving rates in whole or in part. However, as discussed above, and in Case No. 2023-00067,¹⁵ the Commission finds that 807 KAR 5:011, Sections 6 and 8, require, at a minimum, public and customers notice in the case of an amendment to a charged proposed by a utility.¹⁶

Additionally, the Commission also recognizes the potential impracticability regarding applicability of certain portions of 807 KAR 5:011, Section 8 to changes made in a formulaic rate, such as the PBR mechanism. However, to the extent the utility believes this to be the case, 807 KAR 5:011, Section 15 allows the utility to request a deviation “for good cause shown[.]” In fact, in Case No. 2023-00067, the Commission granted a deviation which allowed the utility to comply with 807 KAR 5:011, Section 8(4)(c-d) by giving an average of how the proposed change in that case would have affected the rates for a year preceding the application.¹⁷ If Columbia Kentucky believes it faces similar issues in providing notice to the public and its customers in this case, it

¹⁴ Case No. 2023-00067, Apr. 10, 2023 Order at 8-9.

¹⁵ The Commission also ruled similarly in Case No. 2023-00411, in which Louisville Gas and Electric Company proposed to modify its PBR.

¹⁶ The Commission recognizes that there are other notice requirements that might apply in other specific circumstances, such as an application filed pursuant to 807 KAR 5:076, but absent the applicability of those requirements, the Commission believes that the default requirement in 807 KAR 5:011, Section 8 applies.

¹⁷ Case No. 2023-00067, Apr. 10, 2023 Order at 9.

should file a motion requesting deviation, as without one the question cannot be properly considered by the Commission.

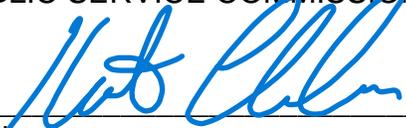
For the reasons discussed above, the Commission finds that Columbia Kentucky's application to modify its PBR mechanism should be rejected for filing due to lack of notice. The Commission further finds that this case should stay open for 30 days to give Columbia Kentucky the opportunity to provide and file proof of compliant notice or to request any deviation.¹⁸

IT IS THEREFORE ORDERED that:

1. Columbia Kentucky's application regarding its PBR mechanism is rejected for filing due to lack of notice.
2. This matter will remain open for 30 days on the Commission's docket to allow Columbia Kentucky the opportunity to provide and file proof of compliant notice or to request a deviation.

¹⁸ The Commission recognizes it might be necessary to extend the 30-day period if Columbia Kentucky requests a deviation.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
MAR 01 2024 bsb
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

*Judy M Cooper
Director, Regulatory Services
Columbia Gas of Kentucky, Inc.
2001 Mercer Road
P. O. Box 14241
Lexington, KY 40512-4241

*John R. Ryan
Columbia Gas of Kentucky, Inc.
2001 Mercer Road
P. O. Box 14241
Lexington, KY 40512-4241

*Joseph Clark
NiSource
290 W. Nationwide Blvd
Columbus, OHIO 43215

*Columbia Gas of Kentucky, Inc.
290 W Nationwide Blvd
Columbus, OH 43215