

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

* * * * *

In the Matter of:

NOTICE OF PENDLETON COUNTY WATER)
DISTRICT GAS DIVISION, TO INCREASE)
BASIC GAS RATES, TO IMPOSE A) CASE NO. 8568
TEMPORARY GAS SURCHARGE TO PAY ITS)
SUPPLIERS AND MOTION FOR INTERIM RATES)

O R D E R

On November 5, 1985, Columbia Gas Transmission Corporation and Columbia LNG Corporation ("Columbia") filed a motion renewing its motion of May 8, 1985, to characterize the funds held by Pendleton County Water District ("Pendleton County") in certain surcharge accounts. Columbia also seeks to have the funds transferred to Columbia after being characterized as "payment of past due purchased gas obligations."¹ In addition to the renewed motion, Columbia has also asked the Commission to order Pendleton County to pay in full all future invoiced amounts for gas purchases and all future invoice amounts for interest on delinquent gas purchases.

In support of its motion, Columbia states that the amounts placed in the surcharge accounts correspond to the amounts for Columbia's January and February 1985 invoices which were not

¹ Renewed Motion at 3.

paid. Columbia quotes testimony of Pendleton County's manager as agreeing with the proposition that the surcharge accounts were established from funds due Columbia for current gas purchases.²

Pendleton County filed its response to the renewed Columbia Gas motion on November 18, 1985. In that response, Pendleton County stated its view that the surcharge accounts issue should be kept separate from the current account payment issue and thus, the surcharge accounts should not be recharacterized. However, Pendleton County stated it has always been willing to transfer the surcharge account funds to Columbia as long as Columbia accepts them under the condition that they may be required to be refunded with interest, if a reviewing court finds the surcharge improper.

The Commission did not initially act on Columbia's motion because it expected that an audit of Pendleton County would provide key information to aid in the decision and that audit was not expected to be completed until October, 1985. It now appears that the audit will not be completed for some time and therefore, the Commission will address the motion without benefit of those results.

Columbia's position that the surcharge accounts were established as a result of Pendleton County's failure to pay the January and February 1985 gas bills is correct as far as it goes.

² Renewed Motion, Appendix C.

Although Pendleton County clearly chose to establish the surcharge accounts and thus, failed to timely pay the January and February 1985 gas bills, recharacterization of those funds requires the Commission to look beyond how funds were spent. The Commission must also consider the source of Pendleton County's total revenues, including the revenues which Pendleton County placed in the surcharge accounts. There is no question that customers of Pendleton County had, over a period of years, been billed for the \$1.01 per mcf surcharge, although the surcharge was not necessarily set out as a separate item on the bill. Apparently, customers had paid bills which included the surcharge during that period.³ Thus, the level of funds at which the surcharge accounts were established was approximately the same as the level of surcharge collections that had occurred. Under this circumstance, it would not be appropriate for the Commission to recharacterize the surcharge accounts. However, the Commission will permit Pendleton County to transfer the balance in the surcharge accounts to Columbia at closing, should the sale to Union Light, Heat and Power be consummated, subject to Columbia's obligation to refund those sums to Pendleton County's successor, with interest, should the surcharge be found improper by a

³ Response of Pendleton County to Commission Order of March 28, 1985, filed April 4, 1985, at Exhibit I, showed \$229,897 had been billed to customers during the period July 1, 1983, through December 31, 1984, for the surcharge and that \$210,646 was actually collected from customers.

reviewing court. Pendleton County's successor would then, of course, be obligated to pass the refund along to the customers.

As for Columbia's request that the Commission order Pendleton County to pay in full all future invoiced amounts from Columbia for gas purchases and interest, the Commission strongly admonishes Pendleton County to promptly pay all bills and interest which it owes its supplier. Pendleton County may, of course, have legitimate reasons to dispute the invoiced amounts. Therefore, the Commission will not enter the order Columbia sought in its motion.

IT IS THEREFORE ORDERED that:


1. The renewed motion of Columbia Gas for recharacterization and transfer of the Pendleton County surcharge accounts be and it is hereby denied.


2. Pendleton County shall, if the sale to Union Light, Heat and Power is consummated, pay the balance in the surcharge accounts to Columbia, subject to Columbia's obligation to refund to Pendleton County's successor should a reviewing court find the surcharge improper. Pendleton County's successor shall then pass that refund through to the customers.

3. Columbia's motion that the Commission order Pendleton to pay all future invoiced amounts for gas purchases and interest be and it is denied.

Done at Frankfort, Kentucky, this 26th day of December, 1985.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:

Secretary