

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

NATURAL ENERGY UTILITY CORPORATION)	
)	CASE NO.
COMPLAINANT)	2003-00422
)	
V.)	
)	
COLUMBIA GAS OF KENTUCKY, INC.)	
)	
DEFENDANT)	

O R D E R

On October 31, 2003, Natural Energy Utility Corporation (“Natural Energy”) filed a formal complaint against Columbia Gas of Kentucky, Inc. (“Columbia”) alleging that Columbia is preparing to construct natural gas facilities to serve a commercial customer presently being served by Natural Energy. Natural Energy alleges that Columbia has started to construct facilities to serve Hyland Company without first obtaining a Certificate of Public Convenience and Necessity (“CPCN”) from the Commission. Natural Energy alleges that a CPCN is required since such construction is not in the ordinary course of business due to wasteful duplication of facilities and conflicts with another utility operating in the area. Natural Energy states it is able and willing to provide gas service to Hyland Company.

Columbia, in its Answer, stated that Hyland Company requested service from Columbia due to the high cost of gas charged by Natural Energy. A cost/benefit study performed by Columbia, it alleges, contains a finding that no contribution would be

required from Hyland Company for the construction. Columbia states that its preliminary work was in the ordinary course of business and did not require a CPCN. Columbia has not begun construction of any line extension necessary to serve Hyland Company and states that it will not do so as long as the complaint remains pending before the Commission.

The Commission finds that the issue in this case is one of duplication of facilities. The Commission further finds that each party should brief the issue within the context of wasteful duplication of facilities as that phrase is defined in Kentucky Utilities Co. v. Public Service Commission, Ky., 390 S.W.2d 168 (1965).

IT IS THEREFORE ORDERED that:

1. On or before March 8, 2004, Natural Energy shall file with the Commission the original and 4 copies of the information listed in Appendix A hereto, with a copy to all parties of record. Each copy of the requested information shall be bound with each item tabbed. When a number of sheets are required for an item, each sheet should be appropriately indexed, for example, Item 1(a), Sheet 2 of 6. Natural Energy shall include with each response the name of the witness who will be responsible for responding to questions relating to the information provided. Careful attention shall be given to copied material to ensure its legibility.

2. On or before March 15, 2004, the parties shall file with the Commission, and serve upon all other parties of record, briefs, not to exceed 15 pages, upon the issue of wasteful duplication of facilities as described in this Order.

3. A formal public hearing shall commence at 9:00 a.m., Eastern Standard Time, on March 23, 2004, in Hearing Room 1 of the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky.

4. Motions for extensions of time with respect to the schedule herein shall be made in writing and will be granted only upon a showing of good cause.

5. All documents required to be filed by this Order shall also be served upon all other parties.

6. Service of any document or pleading shall be made in accordance with 807 KAR 5:001, Section 3(7), and Kentucky Civil Rule 5.02.

7. Nothing contained herein shall prevent the Commission from entering further Orders in this matter.

Done at Frankfort, Kentucky, this 19th day of February, 2004.

By the Commission

ATTEST:


Executive Director

Case No. 2003-00422

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE COMMISSION IN CASE NO. 2003-00422 DATED February 19, 2004

1. Refer to Item 4 of Columbia's response and to Item 3 of Natural Energy's response to Commission Staff's Data Request dated January 15, 2004. Columbia indicated that its load would increase by 6,154 Mcf annually if Hyland Company is added as a customer. Natural Energy estimates that Hyland Company's use per month is 1,500 Mcf or 18,000 Mcf annually. Provide the actual usage for Hyland Company for the period January – December 2003.

2. Natural Energy's tariff identifies a large commercial customer as one who uses at least 50 Mcf a day and an industrial customer as one who engages primarily in a process which creates or changes raw or unfinished materials into another form or product including the generation of electric power. Hyland Company appears to qualify as both. Explain under which classification Hyland Company is billed.

3. If Hyland Company is an industrial customer, Natural Energy's tariff requires a special contract. If applicable, provide a copy of the contract.

4. Provide an analysis showing the annual economic impact to Natural Energy if it should lose Hyland Company as a customer.

5. Provide the number of large commercial and industrial customers, by category, that Natural Energy currently serves.