

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF NISOURCE INC.,)
COLUMBIA ENERGY GROUP AND COLUMBIA) CASE NO.
GAS OF KENTUCKY, INC. FOR APPROVAL OF) 2013-00066
A STOCK TRANSFER)

ORDER

On February 19, 2013, NiSource Inc. ("NiSource"), Columbia Energy Group ("CEG"), and Columbia Gas of Kentucky, Inc. ("Columbia") (collectively referred to as "the Applicants") filed an application, pursuant to KRS 278.020(5) and (6), and pursuant to the Commission's June 30, 2000 Order in Case No. 2000-00129,¹ requesting approval of a transaction that will result in the transfer of ownership and control of Columbia within the NiSource family of companies. Under this transaction, all of Columbia's stock will be transferred from CEG to a new entity, NiSource Gas Distribution Group, Inc. ("NGD"). There were no intervenors in this case. On March 18, 2013, the Commission extended its review of this matter for an additional 60 days. Applicants responded to Commission Staff's discovery requests.

BACKGROUND

NiSource is a corporation organized under the laws of the state of Delaware which acquired CEG and 49 subsidiaries, including Columbia, on November 1, 2000.² It is an energy and utility-based holding company that provides natural gas and electricity

¹ Case No. 2000-00129, *Joint Application of NiSource Inc., New NiSource Inc., Columbia Energy Group and Columbia Gas of Kentucky, Inc. for Approval of a Merger* (Ky. PSC June 30, 2000).

² Application at 4.

to the public for residential, commercial, and industrial uses in the Midwest and Northeast United States.³

Neither NiSource nor any of its direct or indirect subsidiaries other than Columbia are utilities regulated by the Commission pursuant to KRS 278.010(3).⁴ NGD is a corporation organized under the laws of the state of Delaware and, like CEG, is a wholly owned subsidiary of NiSource.⁵

OVERVIEW OF THE TRANSACTION

NiSource acquired CEG and 49 subsidiaries, which included Columbia, on November 1, 2000.⁶ Since that time, NiSource has sold, dissolved or merged out of existence 39 of these subsidiaries and has created another 22 under CEG, which remains a direct, wholly owned subsidiary of NiSource.⁷ The Applicants state that as a result of the acquisition of CEG in 2000, which included distribution and transmission subsidiaries that were not placed in separate holding companies, as well as subsequent acquisitions that have occurred, NiSource's subsidiaries are not organized in a way that reflects how the various businesses are operated and managed.⁸ NiSource's operations have been aggregated into three distinct lines of business: NiSource Gas Distribution, NiSource Gas Transmission and Storage, and Northern Indiana Energy,

³ Application at 2.

⁴ *Id.*

⁵ *Id.*, Response to Staff's First Request for Information, Item 2.

⁶ Application at 4.

⁷ *Id.*

⁸ Response to Staff's First Request for Information, Item 1.

with separate management of each segment.⁹ NiSource's subsidiaries, however, are not organized in a way that reflects how the various businesses are operated and managed,¹⁰ according to the Applicants.

Under the proposed corporate realignment of NiSource, CEG will be renamed Columbia Pipeline Group, Inc. and will become a holding company for entities that primarily relate to the NiSource Gas Transmission and Storage business segment.¹¹ Columbia, which is currently a wholly owned subsidiary of CEG, will be moved under a new holding company — NiSource Gas Distribution Group,¹² formed on February 22, 2013¹³ as a Delaware corporation and a direct, wholly owned subsidiary of NiSource.¹⁴

Under the proposed corporate realignment, Columbia's move will involve a two-step stock transfer: CEG will dividend 100 percent of Columbia's stock to NiSource; NiSource will then contribute that stock into NGD, with Columbia becoming a wholly owned subsidiary of NGD, which, in turn, is a wholly owned subsidiary of NiSource. This corporate realignment and stock transfer will result in a change in the direct ownership of Columbia, but not the ultimate ownership of Columbia by NiSource.¹⁵ The specific goals of the corporate realignment are related to business, financial reporting,

⁹ Application at 4.

¹⁰ Response to Staff's First Request for Information, Item 1.

¹¹ Application at 4.

¹² *Id.*

¹³ Response to Staff's First Request for Information, Item 2.

¹⁴ *Id.*, Application at 4.

¹⁵ Application at 5.

and functional alignment and are not expected to result in significant financial benefits.¹⁶

The stock transfer will not change the manner in which Columbia provides gas sales and distribution service within the Commonwealth.¹⁷ Columbia will continue to provide service under the tariff it has on file with the Commission and will continue to be governed by all applicable rules and regulations of the Commission.¹⁸ There will be no management or operational changes and there will be no change in Columbia's workforce.¹⁹ Columbia will remain a separate and distinct business entity, and its headquarters will remain in Lexington, Kentucky, with key management personnel retained.²⁰

STATUTORY STANDARDS

KRS 278.020(5) requires Commission approval prior to any person acquiring or transferring ownership or control of any utility by the transfer of stock, which the Commission shall grant if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

KRS 278.020(6) further provides that no entity "shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission." The same statute further provides that,

¹⁶ Response to Staff's First Request for Information, Item 1. Under Kentucky tax law, CEG and subsidiaries, including Columbia, file a consolidated state income tax return which produces an income tax liability for the consolidated group that is higher than what the combined total of the separate Kentucky tax return liabilities of each member would be if they were not required to file a consolidated state income tax return. The consolidated tax detriment occurs primarily because Columbia's high Kentucky income apportionment is partially applied to the other companies in the consolidated group who would not be taxed as much if they filed on their own stand-alone basis.

¹⁷ Application at 5.

¹⁸ Direct Testimony of Herbert A. Miller at 6.

¹⁹ *Id.* at 8.

²⁰ *Id.* at 9.

"[t]he commission shall approve any proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest." There are a limited number of exceptions to the prior approval required under KRS 278.020(6). Those exceptions, set forth in KRS 278.020(7)(b), include the transfer of stock to effectuate a corporate reorganization where the acquirer already controls, is controlled by, or is under common control with, the utility.

Although the parameters of the proposed stock transfer may fit within the statutory exception to KRS 278.020(6), the need for Commission approval in this matter was established by the Commission in Case No. 2000-00129,²¹ which stated as follows:

NiSource, Columbia Energy, and Columbia of Kentucky commit that either NiSource or Columbia Energy shall hold 100 percent of the common stock of Columbia of Kentucky and that Columbia Energy shall not transfer any of that stock without prior Commission approval even if the transfer is pursuant to a corporate reorganization as defined in KRS 278.020(6)(b).²²

DISCUSSION

The Applicants state that after the transfer of Columbia's stock from CEG to NGD, NGD will have the financial ability to provide reasonable service; that Columbia will not issue any new equity or indebtedness to effect, or as a result of the stock transfer; and that NiSource's policy of attaining and maintaining investment-grade credit ratings for its subsidiaries will continue to benefit Columbia,²³ as will NiSource's policy of

²¹ Case No. 2000-00129, *Joint Application of NiSource Inc., New NiSource Inc., Columbia Energy Group, and Columbia Gas of Kentucky for Approval of a Merger*, Appendix A at 8, Other Commitments and Assurances, Item 2 (Ky. PSC Jun. 30, 2000).

²² Subsequent to the issuance of the Order in Case No. 2000-00129, KRS 278.020 was amended so that what at that time was KRS 278.020(6)(b) is now KRS 278.020(7)(b).

²³ Application at 11. Response to Staff's First Request for Information, Item 4.

making capital available at favorable terms to fund Columbia's total capital requirements.²⁴

According to the Applicants, NiSource and Columbia will continue to draw upon the technical expertise and abilities of a diverse management pool and employee workforce; the transfer of Columbia's stock from CEG to NGD will result in no management changes for Columbia; and decision-making authority for Columbia will continue to reside with the Lexington management. The Applicants state that Columbia's collective bargaining agreement will be honored and there will be no impact on employment. According to testimony,²⁵ Columbia's current workforce of 137, with its operational and technical expertise and experience, will remain the same.

Applicants state that the plan to move Columbia from under one holding company, CEG, to under a new holding company, NGD, which like CEG, is a direct, wholly owned subsidiary of NiSource, will enhance NiSource's ability to facilitate management of Columbia, as well as its other subsidiaries; that the proposed stock transfer will have no detrimental impact on Kentucky or Kentucky customers or adversely affect the manner in which Columbia provides service to its customers; that there will be no change to Columbia's rates, terms, conditions, or quality of service,²⁶ and the Commission's regulatory authority over Columbia will remain unchanged;²⁷ and that Columbia intends to continue to provide charitable contributions and community

²⁴ Application at 11.

²⁵ Direct Testimony of Herbert A. Miller at 9. Response to Staff's First Request for Information, Items 12-13.

²⁶ Application at 9. Response to Staff's First Information Request, Item 21.

²⁷ Direct Testimony of Herbert A. Miller at 10.

support at levels substantially comparable to those provided before the stock transfer and will continue to support economic development in its service area and throughout the Commonwealth.²⁸

Having reviewed the record and being otherwise sufficiently advised, the Commission finds that the reorganization should be transparent to Columbia's customers and that the proposed plan to transfer Columbia's stock from CEG to NGD meets the standards set forth in KRS Chapter 278. The Applicants have provided sufficient evidence to support their assertion that NGD, as a wholly owned subsidiary of NiSource, and Columbia, as a wholly owned subsidiary of NGD, will have the financial ability to provide reasonable service to Columbia's customers.

Given the management-and energy-related experience and expertise of the current principals and employees of Columbia, all of whom will be retained following the reorganization, the Commission finds that there is demonstrated managerial and technical abilities necessary to provide reasonable service and that both the level and quality of service currently received by Columbia customers will be maintained. The Commission further finds that the proposed transaction will be made in accordance with the law, does not violate any statutory prohibition, and is consistent with the public interest.

IT IS THEREFORE ORDERED that:

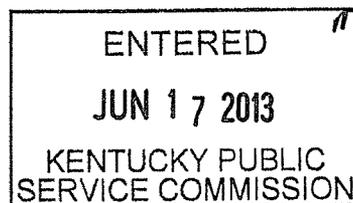
1. The proposed stock transfer proposed by NiSource, CEG, and Columbia as described in the Application is approved.

²⁸ *Id.* at 12.

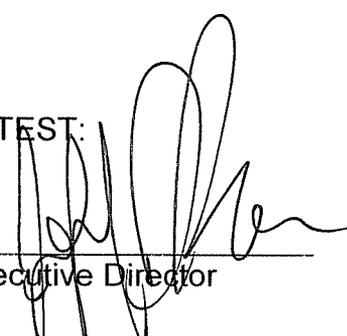
2. The Applicants shall notify the Commission when the reorganization has been completed. If it has not been completed within six months of the date of this Order, the Applicants shall provide a written status report to the Commission.

3. Any documents filed pursuant to ordering paragraph No. 2 of this Order shall reference the number of this case and shall be retained in the utility's general correspondence file.

By the Commission



ATTEST:



Executive Director

Case No. 2013-00066

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