COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates	}	Case No. 2016-00162

COMMENTS OF CONSTELLATION NEWENERGY – GAS DIVISION, LLC

INTRODUCTION

Pursuant to 807 KAR 5:001 § 4(11)(e), Constellation NewEnergy – Gas Division, LLC ("CNEG") hereby files these written comments for consideration by the Kentucky Public Service Commission ("Commission") in the above-captioned rate proceeding initiated by Columbia Gas of Kentucky, Inc. ("Columbia" or "Company"). On or about October 20, 2016 the parties in this proceeding filed a Stipulation and Recommendation ("Stipulation") asserting resolution of the outstanding issues in this proceeding. If approved, the Stipulation would adopt the changes to Columbia's Direct Services tariffs which were proposed in the initial Application filed by Columbia on or about May 27, 2016.

CNEG and Constellation Energy Gas Choice, LLC ("CEGC"), (together "Constellation") are wholly-owned indirect subsidiaries of Exelon Corporation ("Exelon"). Exelon subsidiaries provide competitive wholesale and retail electricity and gas supply and energy management services nationwide. CNEG provides natural gas commodity and related services to commercial and industrial ("C&I") end-users, delivering over 700 Bcf of natural gas to C&I customers, while CEGC markets energy services, including natural gas, to residential and small commercial customers. Constellation provides natural gas service to customers throughout the U.S.

including those located in the service territory of Columbia and has been serving retail gas customers in Kentucky for well over a decade. Currently Constellation entities provide natural gas to C&I customers, through Columbia's Rate Schedule DS, and to residential and small commercial customers under Columbia's Rate Schedule Small Volume Gas Transportation Service ("SGVTS"). Since Constellation customers must utilize Columbia's transportation services in order to be supplied by Constellation, Constellation and its customers are subject to the rates, terms and conditions that are reflected in the tariff at issue in this proceeding.

Certain tariff provisions recommended in the Stipulation, if adopted, will harm customers who purchase their natural gas commodity in the competitive marketplace via Columbia's gas transportation tariff. Through these written comments, Constellation respectfully requests that the Commission: 1) reject Columbia's proposal that would permit it to use its own commodity purchases rather than index pricing in the cash-out methodology that is used to price sales resulting from under- and over-deliveries of natural gas; 2) reject Columbia's proposal that it have unfettered discretion to require deliveries of customer-owned natural gas at any receipt point Columbia designates, at any time; or in the alternative, place reasonable conditions on when Columbia may require deliveries to a specific receipt point including providing marketers with a credit to account for their incremental costs when Columbia requires a receipt point change; 3) modify Columbia's proposed tariff language to return a transportation customer to a Sales Service rate following five days of non-delivery of gas supply, making the provision discretionary, and requiring notice to the customer and its marketer after the third consecutive day in order to provide a reasonable opportunity to cure the deficiency; 4) further modify Columbia's proposed tariff to permit the aggregation of gas deliveries for transportation service customers located behind the same pipeline scheduling point; and 5) for any approved tariff

changes that impact natural gas scheduling and deliveries, delay implementation until after the current heating season is complete, i.e. no earlier than April 1, 2017.

COMMENTS

I. The Commission should reject Columbia's proposal that would permit it to use its own commodity purchases rather than index pricing in the cash-out methodology.

Columbia proposes to modify its existing cash-out methodology in Paragraphs B and D of Tariff Sheet No. 91. Currently, Columbia's cash-out methodology uses market index pricing to determine the price that the Company will receive in the event of under-deliveries (average index price times 120%) and over-deliveries (average index price times 80%). Columbia's proposed modification to the cash-out methodology would allow Columbia to instead charge 120% of its ***highest*** purchase price for under-deliveries if higher than the index price and compensate transportation customers 80% of its ***lowest*** purchase price for over-deliveries if lower than the index price. This change has the effect of increasing the prices paid to Columbia and lowering the prices that Columbia pays for cash-out by requiring that customers are not only subject to a market index price, as they are today, but that they also are exposed to variations based on Columbia's own purchasing practices. Tying the cash-out methodology to a publicly available index provides needed transparency for suppliers and customers; in contrast, tying a cash-out methodology to the utility's own decisions not only eliminates that transparency, but it would necessarily require a determination as to the reasonableness of each of Columbia's purchasing decisions used as part of the cash-out process. Columbia's proposed change to cash-out methodology amounts to nothing more than a penalty to customers who exercise their option to purchase commodity from a competitive supplier rather than exclusively from Columbia and should be rejected by the Commission. Regulators elsewhere have rejected similar proposals to intermix both market index and utility costs in cash-out rates. (for example, Ameren Illinois Company, ICC Docket No. 11-0282)

As currently designed, Columbia's tariff already provides strong incentive for suppliers to deliver appropriate volumes for customers. The existing tariff already allow Columbia to charge a price that is 20% higher than the market index price, while reimbursing customers for over-deliveries at a 20% discount from the market index. In very simplistic terms, if the index price is $2.00/Mcf, Columbia can already charge $2.40/Mcf on under-deliveries while at the same time pay only $1.60/Mcf for any over-delivered volumes. That $0.80/Mcf spread represents a very strong incentive to suppliers. Elsewhere, tariffs add surcharges and discounts of only 10% to the relevant published market index, while other utility tariffs apply graduated tiers that start at more modest percentages for lesser imbalances, and yet those *less stringent* incentives are adequate to encourage delivery of appropriate volumes by suppliers. (for example Vectren Energy Delivery of Ohio, Inc.; Indiana Gas Company, Inc.; Citizens Gas; Atmos Energy Corp.; Ameren Illinois Company; Alliant Energy Wisconsin Power & Light; Minnesota Energy Resources Corporation; Consolidated Edison; New York State Electric & Gas Corp.; Black Hills Energy) Rather than adding a provision to also incorporate Columbia's own cost of gas, Columbia should consider reducing its current 120%/80% methodology to a more reasonable 110%/90% or perhaps the application of tiers, reserving the more extreme 120%/80% only for more imbalance over a certain threshold rather than using such extremes for each and every deviation, no matter how small. The testimony of the Retail Energy Supply Association in the Columbia Gas of Virginia, Inc. rate case pending before the State Corporation Commission of Virginia, Docket No. PUE-2016-00033, is instructive on a graduated, tiered methodology, and is attached.

To overlay upon the current cash-out structure a second layer of Columbia's own gas purchasing adds an element that is not transparent, not strictly market-based, nor supported by solid evidence that clearly demonstrates it is warranted. Contrary to Direct Testimony of Company Witness Judy M. Cooper, the revised language actually distorts proper price signals as the *highest* and *lowest* purchase prices secured by Columbia may not be relevant to the current market price.[1] It is inappropriate to add provisions that, in addition to the discounts and surcharges already placed on published market prices,

[1] Cooper Direct Testimony at 9.

further tie the cash-out to Columbia's purchasing and cost of gas as there is no visible means for suppliers to determine what Columbia's costs are and no easy or timely means by which to assess whether those costs are reasonable. The imposition of this onerous burden is especially troubling when there is no compelling evidence to support the need for a tariff change at all.

II. The Commission should reject Columbia's proposal to give it unrestricted discretion to require deliveries of customer-owned natural gas at any receipt point it designates or, at minimum, the Commission should limit Columbia's ability to designate alternative receipt points to only when it clearly is due to reliability issues.

In its Application, Columbia proposes modifications to Tariff Sheet No. 89, Paragraph 1, which would give it unrestricted authority to require the delivery of customer-owned natural gas to an alternative point of delivery, in the sole discretion of Columbia. Specifically, Columbia seeks to add the following tariff language at the conclusion of Paragraph 1 on Tariff Sheet No. 89:

> Notwithstanding anything herein to the contrary, in order to support reliable service on Company's system, Company may require Customer deliveries at other point(s) of receipt as designated by Company from time to time. It is the Customer's obligation to deliver sufficient gas supplies at the points of receipt to Company for redelivery to Customer's facilities.

Although the phrase "in order to support reliable service on the Company's system" subtly suggests that this language restricts Columbia to requiring alternative points of delivery when circumstances related to reliability warrant, absent an objective standard, Columbia could do so essentially at will. Columbia's discretion to change delivery points whenever it wants is especially troubling, given the potential substantial cost differences between one receipt point versus another. Often there are cost advantages for deliveries to certain receipt points on Columbia's system relative to other delivery points on its system. If Columbia has the unfettered flexibility to require alternative delivery points, suppliers could be subject to higher costs. In order to remove any financial incentive to inappropriately restrict deliveries, any ambiguity surrounding the circumstances in which that flexibility is granted should be eliminated from the tariff.

In Ms. Cooper's testimony, Columbia suggests that this additional tariff language is needed in order to respond to restrictions on upstream interstate pipelines.[2] If the Commission determines the addition of a provision allowing alternative delivery points is reasonable, at minimum, the language at Tariff Sheet No. 89, Paragraph 1 should be revised to restrict Columbia to only requiring an alternative receipt point when an upstream pipeline calls an Operational Flow Order (OFO) that requires that deliveries be made to some other point. Columbia's authority to require alternative delivery points should be limited to a precipitating OFO event in order to minimize uncertainty for suppliers and minimize unwarranted cost disadvantages.

Constellation urges the Commission to, rather than approve the more vague reference "to support reliable service," if it decides to approve this additional tariff language, modify the provision to more clearly state "in response to upstream interstate pipeline OFO restrictions directly affecting the Company's system."

Second, marketers make arrangement and enter into agreements based upon the specified delivery points the utility has approved. When the utility modifies those delivery points, suppliers need to adjust their arrangements and agreements, which typically results in additional costs in order to deliver gas to the alternative delivery point that is now required. Similar to how a percentage premium is applied to the cash-out schedule to account for the cost of gas as well as administrative costs associated with the arrangements that must be made by the utility to accommodate over- or under- delivery, when Columbia requires an alternative delivery point the tariff should include a 20% credit to the supplier for similar costs associated with the adjustments that must be made to accommodate the change in delivery points as required by Columbia. CNEG recommends at a minimum the credit be based on the applicable pipeline transport cost.

[2] Cooper Direct Testimony at 6.

Finally, Constellation brings to the attention of the Commission Pennsylvania Docket No. R-2016-2529960, wherein the Pennsylvania Public Utility Commission approved a Joint Proposal, which among other things required the commencement of a "collaborative with the parties to this proceeding and all interested Suppliers on its system to discuss new approaches to deal with ongoing pipeline constraints." While the Kentucky Commission currently precludes suppliers from being parties in utility rate cases, and admittedly issues are unique in each locale, there may be room for collaborative efforts in Kentucky to work together similar to Pennsylvania in order to address challenges that mutually impact both the utility and third party suppliers whose business models depend upon utility tariffs. Constellation urges the Commission to consider approaches which bring Suppliers into the discussion and could potentially result in mutually agreeable solutions to issues.

III. The Commission should modify the tariff language associated with Columbia's proposal to allow the Company to return a transportation customer to a Sales Service rate following five days of non-delivery of gas supply to emphasize the provision is not mandatory and to require notice to the customer and its marketer after the third consecutive day in order to provide opportunity to cure the deficiency

Columbia proposes to revise Tariff Sheet No. 89, Paragraph 2, to allow the Company to return transportation customers to the applicable Sales Service rate due to the failure to meet its obligation to deliver sufficient gas supplies to Columbia for a period of at least five consecutive days. In its Application and supporting testimony Colombia fails, however, to provide any evidence showing that its transportation customers have in fact not met their obligation to deliver sufficient gas supplies or that this is a problem on Columbia's system. The language as drafted presents a harsh punishment, one which could occur even if the Company experiences no harm as a result, by forcing customer on Sales Service in complete disregard for any of their existing contracts or obligations that may be adversely impacted by the action.

If the Commission determines that such dramatic and potentially adverse action is necessary, even in spite of no evidence to support the change, Constellation requests certain modifications be made to the tariff. First, the prosed language states “the account may be returned to the applicable Sales Service rate.” Since the outcome of the action is so severe, Constellation believes it is reasonable to emphasize that this action is not mandatory and that there is not requirement that Columbia take this course of action. The aforementioned language should be appended to state “the account may be returned to the applicable Sales Service rate at the end of the billing period, however, Columbia may in its sole discretion allow the customer to remain on transportation service.” This added language makes it patently clear Columbia is not required to return the customer to Sales Service.

Second, due to the signification impact of this course of action by Columbia, Constellation further requests that after three days of non-delivery according to the terms of the proposed tariff, that the Company notify the customer and its marketer of the violation so that the customer and its supplier have opportunity to cure the deficiency. This is a more reasonable approach that could result in less disruption for the customer.

IV. The Commission should require that Columbia modify its tariff to permit the aggregation of gas deliveries for transportation service customers located behind the same pipeline scheduling point.

Currently, suppliers who serve transportation customers must prepare and submit natural gas nominations to Columbia for each individual transportation customer it serves. Requiring individual nominations for each customer is a significant burden that adds costs to customers and suppliers, but provides little to no value, given that a single customer’s over- or under-nomination is unlikely to have any impact on the system. Across the industry in other jurisdictions, it is common for utilities to permit suppliers to aggregate the deliveries of the transportation customers they supply. (for example, Vectren Energy Delivery of Ohio, Inc.; Indiana Gas Company, Inc.; Citizens Gas; Atmos Energy Corp.; Nicor Gas; Peoples Gas Company; Atlanta Gas Light Co.; Brooklyn Union Gas Company; Wisconsin Gas

Company; Piedmont Natural Gas Co.; Michigan Gas Utilities) Aggregation, or pooling as it is often referred to, is a more efficient and less costly approach. Pooling mitigates the risk of over- or under-delivery for customers, as synergies between customers are taken into account, while maintaining the volumes expected for the system overall.

The aggregation of gas deliveries for transportation customers behind the same pipeline scheduling point is also an effective mechanism to address Columbia's concern with non-delivery of gas supply by a transportation customer or its supplier. (*See III. above*) Aggregation of a supplier's transportation customers that are located at a single point would result in the netting of gas across the entire group. If a single customer does not meet its obligation to deliver sufficient gas supply on any given day, any over-deliveries on that day from the rest of the customers in that aggregated group are available to Columbia to offset the customer's non-delivery. Experience with aggregation elsewhere has shown tangible benefits of aggregation to transportation customers, marketers and utilities, and in the case of Columbia, would allow over-deliveries within the group to mitigate any insufficient gas deliveries by another customer.

The Commission should require that Columbia allow suppliers to aggregate their nominations when serving customers located at the same pipeline scheduling point. Columbia should do likewise.

V. The Commission should defer any approved tariff changes that impact natural gas scheduling and deliveries until after the current heating season is complete, i.e. no earlier than April 1, 2017.

The Stipulation recommends that the revised tariffs take effect December 27, 2016. For the natural gas industry, this is during the middle of the heating season, when there is the greatest demand on the system and the prices may be highest for customers. It is more prudent to make material tariff changes that impact scheduling and deliveries during off-peak months when gas volumes are lower and events such as curtailments and OFOs that threaten system integrity are less likely. Constellation urges the Commission to delay the implementation of any tariff changes that impact natural gas scheduling, deliveries, imbalances, etc. until after the current heating season is complete, i.e. no earlier than April 1,

2017. This is only a delay of slightly more than three months and should not impact the revenue requirement of Columbia.

CONCLUSION

The Stipulation that is before the Commission, if approved as filed, includes tariff language that would adversely impact transportation customers behind Columbia. Suppliers are bound by the transportation tariffs of the Company, as are their customers, and are well-versed in the technical details and operations of transportation service and have experience dealing with a variety of concerns in other jurisdictions throughout the country. However, suppliers did not have the opportunity to provide input into a Stipulation that directly affects their customers and their business. Constellation respectfully requests that the Commission:

1. Reject Columbia's proposal that would permit it to also use its own commodity purchases rather than just the current index pricing in the cash-out methodology that is used to price sales resulting from under and over-deliveries of natural gas;
2. Reject Columbia's proposal that gives the Company unrestricted discretion to require deliveries of customer-owned natural gas at any receipt point it designates, or in the alternative place reasonable, objective conditions upon it including providing marketers with a credit to account for their incremental costs when Columbia requires a receipt point change;
3. Modify the tariff language associated with Columbia's proposal to require notice to the customer and its marketer after the third consecutive day in order to provide opportunity to cure the deficiency and, if the deficiency is not cured by the fifth day, allow (but not require) the Company to return a transportation customer to a Sales Service rate following five days of non-delivery of gas supply to emphasize the provision;
4. Further modify Columbia's tariff to permit the aggregation of gas deliveries for transportation service customers located behind the same pipeline scheduling point; and

5. Delay implementation of any approved tariff changes that impact natural gas scheduling, deliveries, and imbalances until after the current heating season is complete, i.e. no earlier than April 1, 2017.

Respectfully submitted,

/s/

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Date: December 2, 2016

<u>CERTIFICATE OF SERVICE</u>

I hereby certify that the Comments of Constellation NewEnergy – Gas Division, LLC have been filed electronically, with the requisite materials being sent to the Commission, and that a copy has been provided to the following electronically:

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