

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:)
)
THE ELECTRONIC APPLICATION OF)
COLUMBIA GAS OF KENTUCKY, INC. FOR AN)
ADJUSTMENT OF RATES; APPROVAL OF)
DEPRECIATION STUDY; APPROVAL OF TARIFF) Case No. 2021-00183
REVISIONS; ISSUANCE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY; AND)
OTHER RELIEF)
)

COLUMBIA GAS OF KENTUCKY, INC.'S
MOTION FOR CONFIDENTIAL TREATMENT

Comes now Columbia Gas of Kentucky, Inc., (“Columbia”), by and through counsel, pursuant to KRS 61.878, 807 KAR 5:001, Section 13 and other applicable law, and for its Motion requesting that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain information filed in Supplemental Responses to the Attorney General’s First Request for Information (“AG’s First Request”) in the above-captioned proceeding, respectfully states as follows:

1. Columbia’s Application in the above-styled proceeding was deemed filed on June 2, 2021.
2. The Attorney General issued AG’s First Request on July 7, 2021.

3. Columbia filed responses to the AG's First Request on July 21, 2021 and additional information that was not previously filed on August 1, 2021.

4. Counsel for Columbia and the AG have since discussed Columbia providing additional information to four of the AG's First Requests without the AG having to ask supplemental requests for that information.

5. Columbia agreed to provide the requested information in this proceeding.

6. The information Columbia is providing in response to the additional information requested by the AG to Response No. 197 is confidential in nature and contains sensitive salary and benefit information.

7. As part of Columbia's supplemental responses to the AG's First Request, Columbia is filing a response to information requests concerning forecasted benefits and wages. Collectively this information and these documents are hereinafter referred to as the "Confidential Information."

8. After the original responses were filed, counsel for Columbia and the AG discussed this response and Columbia agreed to provide additional information to the AG pursuant to a Motion for Confidential Treatment and without waiving Columbia's objection regarding any additional responses.

9. Request No. 197 from AG's First Request states as follows:

Refer to the confidential response to Staff's First Request, Item 54 and specifically Tab G-2. Provide the calculations supporting the adjustment to base period compensation and benefit costs in arriving at the forecasted period costs for these

employees. Provide an explanation of the assumptions incorporated into this adjustment.

10. In the response to Request No. 197, Columbia is providing KY PSC Case No. 2021-00183, AG 1-197, Supplemental Attachment A, which contain forecasted salary and benefit information details that were the underlying calculations used in the original response provided. This information is not publicly available at this time and is highly sensitive and personal information. Furthermore, this information provides more details than were originally requested in AG 1-197.

11. The information included in the response listed above is only being provided under seal in unredacted Excel spreadsheet format. Since the filing is being made in Excel format, it cannot be redacted and keep formulas intact.

12. Compensation and benefit information is personal in nature and if disclosed could violate Columbia's employees' reasonable expectations of personal privacy with regard to compensation.¹ Although this information is for Columbia's executive management, it is not historical information. The compensation information pertains to potential future compensation that has not yet been released publicly and is therefore confidential.

¹ See *Cape Pub'ns, Inc. v. Univ. of Louisville Found., Inc.*, 260 S.W.3d 818, 822 (Ky. 2008) (compensation information is private in nature); *Zink v. Department of Workers' Claims, Labor Cabinet*, 902 S.W.2d 825, 828 (Ky. Ct. App. 1994) ("information such as . . . wage rate . . . [is] generally accepted by society as [a] detail in which an individual has at least some expectation of privacy."); see also KRS 68.878(1)(a).

13. The Kentucky Open Records Act exempts the Confidential Information from public disclosure. *See* KRS 61.878(1). Moreover, the Kentucky Supreme Court has stated, “information concerning the inner workings of a corporation is ‘generally accepted as confidential or proprietary.’” *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995). The Confidential Information is commercially sensitive and proprietary and constitutes a “trade secret” under KRS 365.880(4). Furthermore, the Confidential Information is retained by Columbia on a “need-to-know” basis and is not publicly available. Because the Confidential Information is critical to Columbia’s effective execution of business decisions and strategy, particularly in regard to its human resources management responsibilities, it satisfies both the statutory and common law standards for being afforded confidential treatment.

14. Columbia does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to the Attorney General or any other intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case.

15. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Columbia is filing one copy of the Confidential Information separately under seal. The filing of the Confidential Information is noted in the Notice of Filing.

16. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Columbia respectfully requests that the Confidential Information in the responses be

withheld from public disclosure for a period of one year. This will assure that the Confidential Information – if disclosed after that time – will be less likely to include information that continues to be commercially sensitive so as to impair the interests of Columbia if publicly disclosed. Columbia reserves the right to seek an extension of the grant of confidential treatment if it is necessary to do so in the future.

WHEREFORE, on the basis of the foregoing, Columbia respectfully requests the Commission to enter an Order granting this Motion for Confidential Treatment and to so afford such protection from public disclosure to the unredacted copies of Confidential Information, which is filed herewith under seal, for the periods set forth herein.

This 13th day of August, 2021.

Respectfully submitted,



Mark David Goss
David S. Samford
L. Allyson Honaker
GOSS SAMFORD, PLLC
2365 Harrodsburg Road, Suite B-325
Lexington, KY 40504
(859) 368-7740
mdgoss@gosssamfordlaw.com
david@gosssamfordlaw.com
allyson@gosssamfordlaw.com


and

Joseph M. Clark
Assistant General Counsel
290 W. Nationwide Blvd.
Columbus, Ohio 43215
(614) 813-8685
josephclark@nisource.com

Counsel for Columbia Gas of Kentucky, Inc.

CERTIFICATE OF SERVICE

This is to certify that the electronic filing has been transmitted to the Commission on August 13, 2021 and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means. Pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085 no paper copies of this filing will be filed.



Counsel for Columbia Gas of Kentucky, Inc.