

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)
REVISIONS; ISSUANCE OF A CERTIFICATE OF)
PUBLIC CONVENIENCE AND NECESSITY; AND)
OTHER RELIEF)
)

Case No. 2021-00183

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 its Responses to Commission Staff's Second Request for Information ("Staff's Second Request") and 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. Commission Staff issued Staff's Second Request on July 6, 2021.

3. The Attorney General issued AG's First Request on July 7, 2021.

4. As part of Columbia's responses to Staff's Second Request and AG's First Request, Columbia is filing responses to information requests concerning sensitive vendor information, customer information, investment and credit reporting information, employee benefit and wage studies, copyrighted materials along with other confidential, proprietary and sensitive information regarding the inner workings and business decision making strategies of Columbia. Collectively this information and these documents are hereinafter referred to as the "Confidential Information."

3. Specifically, the Confidential Information is being provided in response to Staff's Second Request Nos. 8, 27, 28, 31 and 39b and AG's First Request Nos. 4, 35, 37, 40, 54b, 55a, 93, 126, 127, 128d, 163, 206 and 212.

4. Request No. 8 from the Staff's Second Request states as follows:

Refer to the Roy Testimony, page 50, lines 7-8. Provide the analysis used to assess various products and provide support for the selection of Uptime MRP.

5. In the response to Request No. 8, Columbia is providing KY PSC Case No. 2021-00183, Staff 2-08, Attachment A which contains sensitive vendor information regarding pricing and other items that if made publicly available could harm both Columbia and its vendors.

6. Request No. 27 from Staff's Second Request states as follows:

Refer to the Rea Testimony. Provide the most recent Value Line Investment Survey profiles on Columbia/NiSource and each of the companies in the LDC Gas Group and the Combination Utility Group. Consider this as an ongoing request throughout the course of this proceeding and provide updates as they become available.

7. In the response to Request No. 27, Columbia is providing KY PSC Case No. 2021-00183, Staff 2-27, Attachment A which contains the Value Line reports which are sensitive investment and rating information. This is confidential in nature and subject to copyrights of someone other than Columbia. Columbia must make all reasonable efforts to protect the copyrights of these publications. Furthermore, this information is only available to paid subscribers and could be harmful to the provider if disclosed. Disclosure of this information could be a breach of Columbia's subscription as well as copyright infringement.

8. Request No. 28 from Staff's Second Request states as follows:

Refer to the Rea Testimony. Provide the most recent ratings reports for Columbia and for NiSource from S&P and Moody's for 2020 to the present. Consider this an ongoing request throughout the course of this proceeding and provide updates as they become available

9. In the response to Request No. 28, Columbia is providing KY PSC Case No. 2021-00183, Staff 2-28, Attachment A which contains sensitive credit rating information which could be used to the detriment of Columbia.

10. Request No. 31 of Staff's Second Request states as follows:

Refer to the Rea Testimony page 13, For each of Columbia Kentucky's industrial and transportation customers, explain how close it is to the nearest competing pipeline in order to bypass Columbia Kentucky.

11. In the response to Request No. 31, Columbia is providing sensitive customer information regarding names, usage and location of pipelines. Location of pipelines is critical infrastructure information and is highly sensitive and confidential information. It also provides potential competitors with critical information regarding specific customers' identities, consumption profiles and other valuable information that could be used to poach the customers away from Columbia. In addition, if this type of customer information were to become publicly available it could cause competitive harm to the customers themselves.

12. Request No. 39b of Staff's Second Request states as follows:

Refer to the Rea Testimony, pages 72-72, and Attachment VVR-11, page 3 of 8, Footnote (8).

b. Provide the two interest rate forecasts from Blue Chip Financial Forecasts used to derive the 2.94 percent risk free rate.

13. In response to Request No 39b, Columbia is providing KY PSC Case No. 2021-00183, Staff 2-39, Attachment A which contains the Blue Chip Financial Forecasts. This information is only available to paid subscribers and could be competitively harmful to Columbia and the provider if released publicly. Furthermore, this information is subject to copyrights of someone other than Columbia. Columbia must make all reasonable efforts to protect the copyright interests of these publications.

14. Request No. 4 of AG's First Request states as follows:

Refer to the Application, page 2.

a. Provide an organizational chart of Columbia Kentucky, and designate whether each position is based in Kentucky or elsewhere.

b. Columbia Kentucky states that it is a subsidiary of Nisource Gas Distribution Group, Inc. Provide an organizational chart of Nisource Gas Distribution Group, Inc., and designate whether each position is based in Kentucky or elsewhere.

c. Columbia Kentucky states that Nisource Gas Distribution Group, Inc., is a subsidiary of Nisource, Inc ("NiSource") a Delaware corporation registered as a holding company. Provide an organizational chart of Nisource, Inc., and designate whether each position is based in Kentucky or elsewhere.

d. Columbia Kentucky states that NiSource Corporate Services Company ("NCSC") is a management and services subsidiary of NiSource, Inc. Provide an organizational chart of NCSC, and designate whether each position is based in Kentucky or elsewhere.

15. In response to Request No. 4, Columbia is providing KY PSC Case No. 2021-00183, AG 1-4, Attachment A and KY PSC Case No. 2021-00183, AG 1-4, Attachment B which contain organization charts with identifying employee information. This information gives other employers an employee-specific understanding of Columbia's workforce and organizational structure. This information would further provide a glimpse into the internal workings of Columbia and the organizational best practices to be gleaned from the Company's structure and hierarchy.

16. Request No. 35 a and b of AG's First Request states as follows:

Refer to the Bartos Testimony, page 16, Table 1 – Forecasted Customer Counts (Year End).

a. Under the heading “Sales Customers by Class,” identify the two wholesale customers.

b. Under the heading “Sales Customers by Class,” identify the one electric generation customer.

17. In response to Request No. 35, Columbia is providing customer names that can reveal usage and other sensitive information for the customers.

18. Request No. 37a of AG’s First Request states as follows:

Refer to the Direct Testimony of Vincent V. Rea (“Rea Testimony”), page 13.

a. Mr. Rea states that approximately 70% of Columbia Kentucky’s gas throughput to transportation customers is concentrated amount five industrial customers. Identify the five industrial customers referenced in this statement.

19. In response to Request No. 37a, Columbia is providing customer names that can identify usage and other sensitive information for the customers.

20. Request No. 40 b, e and f of AG’s First Request states as follows:

Refer to the Rea Testimony generally.

b. Provide copies of all articles and publications cited by Mr. Rea in his Direct Testimony.

e. Provide a copy of the RRA Regulatory Focus article cited by Mr. Rea in footnote 15.

f. Provide an update of the RRA Regulatory Focus article cited by Mr. Rea in footnote 15 using the most recent month available in 2021.

21. In response to Request No. 40 b, e and f, Columbia is providing KY PSC

Case No. 2021-00183, AG 1-040, Attachment B and KY PSC Case No. 2021-00183, AG1-

040, Attachment F, which are Blue Chip publications and KY PSC Case No. 2021-00183, AG 1-040, Attachment AJ and KY PSC Case No. 2021-00183, AG 1-040, Attachment AK which are the requested RRA Regulatory Focus articles. These articles are not available without a paid subscription and are subject to copyrights of someone other than Columbia. Columbia must make all reasonable efforts to protect the copyrights of these publications. Providing these articles publicly could violate the Company's subscription agreement as well as lead to a claim of copyright infringement.

22. Request No. 54b of AG's First Request states as follows:

Refer to the Cartella Testimony, page 12. Ms. Cartella states that base compensation for Columbia Kentucky's non-union employees is measured against base compensation for employees in similar positions at other employers, and the established salary rate is 75% to 125% of the market median. Ms. Cartella compares Columbia Kentucky's base salaries and total cash compensation to utility and general industry companies in the Southeast. Ms. Cartella further compares NCSC base salaries and total cash compensation to utility and general industry companies in the North Central regions.

b. Provide the names of the utility and general industry companies that are included in the above referenced comparison of Columbia Kentucky's base salaries and total compensation, and designate the location of each by city and state.

23. In response to Request No. 54b, Columbia is providing KY PSC Case No. 2021-00183, AG 1-54, Attachment A through KY PSC Case NO. 2021-00183, AG 1-54, Attachment E which contain the list of names of the utility and general industry companies that are included in the wage and salary studies. This information was

provided by the individual survey companies and is proprietary information to the survey companies. Columbia must take reasonable steps to protect the survey companies' proprietary information.

24. Request No. 55a of AG's First Request states as follows:

Refer to the Cartella Testimony, page 13.

a. Identify the portion of the Corporate Incentive Plan ("CIP") that is tied to financial performance measures, and provide evidentiary proof of the same.

25. In response to Request No. 55a, Columbia is providing KY PSC Case No. 2021-00183, AG 1-55, Attachment A which contains sensitive and proprietary information regarding the measures for LTI.

26. Request No. 93 of AG's First Request states as follows:

Provide all supporting workpapers, including historical data used by witness Bartos in the preparation of her forecasts.

27. In response to Request No. 93, Columbia is providing is providing KY PSC Case No. 2021-00183, AG 1-93, Attachment A which is a spreadsheet that contains a column containing Global Insight data. This information is purchased from a 3rd party vendor and is sensitive information and is subject to copyrights of someone other than Columbia. Columbia must take reasonable steps to protect the copyrights of others. Furthermore, release of this information could constitute a breach of Columbia's subscription as well as copyright infringement.

28. Request No. 126 of AG's First Request states as follows:

Provide a copy of any studies a) conducted by NiSource or any NiSource affiliate or b) in possession of NiSource or any affiliate comparing the relative Administrative and General cost burden comparing the service company costs of NiSource with its peer holding companies (electric or gas).

29. In response to Request No. 126, Columbia is providing KY PSC Case No. 2021-00183, AG 1-126, Attachment A through KY PSC Case No. 2021-00183, AG 1-126, Attachment D which contain benchmarking studies that contain sensitive information to Columbia and the other companies used as comparisons. This information represents the Company's unique and particular analytical methods and processes and, if revealed, would tell competitors and others how and to what extent Columbia compares its performance to that of other peers. This information would further reveal what information is most valued by Columbia and how that information may be used internally.

30. Request No. 127 of AG's First Request states as follows:

Refer to the Cartella Testimony, page 31. Provide a copy of the most recent comparison of NiSource benefits with industry benefits as referenced on lines 17 and 18.

31. In response to Request No. 127 Columbia is providing KY PSC Case No. 2021-00183, AG 1-128, Attachment A and KY PSC Case No. 2021-00183, AG 1-128, Attachment B which contain benefits comparisons that were developed by a third-party vendor on behalf of Columbia. Information regarding benefit information is highly confidential and proprietary information that if released publicly could cause

competitive harm to Columbia. The information is used by Columbia to develop competitive benefit plans for its employees and could be valuable to a competitor who may desire to mimic Columbia's benefits structure or to poach its skilled workforce.

32. Request No. 128d. of AG's First Request states as follows:

Refer to Volume 7, May 5, 2021 from 8K covering the first quarter 2021 financial results, page 6, which includes a comparison of the first quarter 2021 Net Income with that of first quarter 2020 Net Income. Footnotes 1-3 all relate to 2021 charges taken as a result of Greater Lawrence Incident (\$5.8 million), the NiSource Next initiative (\$9.7 millions) and the Columbia Massachusetts sale (\$6.9 million, \$280.2 million in 2020), respectively. With respect to these three footnote provide the following:

d. Provide a comprehensive explanation of the NiSource next initiative. Provide copies of any internal memos, studies or reports provided to executive management concerning this initiative.

33. In response to Request 128d, Columbia is providing KY PSC Case No. 2021-00183, AG 1-128, Attachment i-1 through KY PSC Case No. 2021-00183, AG 1-128, Attachment i-2 and KY PSC Case No. 2021-00183, AG 1-128, Attachment ii-1 through KY PSC Case No. 2021-00183, AG 1-128, Attachment ii-8 which are the presentations that were presented to its Executive Leadership Team and its Senior Leadership Team concerning NiSource Next. This information is maintained by Columbia on a need to know basis. The information is not widely disseminated within the Company and is only provided to the select few people that need access for business purposes. This information is highly sensitive information regarding a Company developed, forward-

looking initiative. It includes information regarding sensitive business options and decisions that could be highly prejudicial to Columbia if this information was publicly available. It could give competitors an advantage if they were able to gain access to the work and ideas developed by Columbia. As the intellectual property of Columbia, this information is highly sensitive, proprietary and constitutes a trade secret under Kentucky law.

34. Request No. 163 of AG's First Request states as follows:

Provide a copy of all material provided to employees, which explain the i) short-term incentive compensation plan and ii) the long-term incentive compensation plan.

35. In response to Request No. 163, Columbia is providing KY PSC Case No. 2021-00183, AG 1-163, Attachment C, KY PSC Case No. 2021-00183, AG 1-163, Attachment D, KY PSC Case No. 2021-00183, AG 1-163, Attachment H, KY PSC Case No. 2021-00183, AG 1-163, Attachment J, KY PSC Case No. 2021-00183, AG 1-163, Attachment L and KY PSC Case No. 2021-00183, AG 1-163, Attachment M which contain internal documents regarding incentive compensation and information for NiSource employees regarding the details of incentive compensation plans offered by the Company. This information is proprietary and confidential. It provides information regarding compensation that could be detrimental to Columbia and cause competitive harm if it

were made publicly available and make it difficult to retain employees and easier for competitors to poach Columbia employees.

36. Request No. 206 of AG's First Request states as follows:

With respect to legal fees and contingencies provide the following information:

a. Provide copies of 2020 invoices for costs direct charged to Columbia Kentucky during 2020. This would include any costs directly incurred by Columbia Kentucky and those costs direct charged by NCSC in 2020.

b. Provide all underlying analysis supporting any legal liabilities accrued on the books of Columbia Kentucky in 2020.

c. Provide all underlying analysis used in developing the budget of legal costs i) direct charged to Columbia Kentucky as well as allocated legal costs. For purpose of this response, provide this information for both the base period and forecasted period. Costs should be defined as not only legal costs associated with third-party vendors, but also the amount of estimated accrued legal liabilities associated with civil matters, either direct charged or allocated.

37. In response to Request No. 206, Columbia is providing KY PSC Case No. 2021-00183, AG 1-206, Attachment A and KY PSC Case No. 2021-00183, AG 1-206, Attachment B which contain copies of invoices both direct billed and allocated legal fees. These legal invoices are for matters other than the rate proceeding. The attached invoices contain sensitive, confidential and privileged information regarding various legal matters which could be detrimental to Columbia and its outside legal firms if the information were to be made publicly available. Furthermore, the description of the legal

work for the allocated invoices has been redacted since this is highly sensitive, privileged and confidential information regarding Columbia and its affiliates.

38. Request No. 212 of AG's First Request states as follows:

Refer to the Siegler Testimony, page 5, lines 11 through 13.
Provide all the workpapers supporting the forecast of the LCR customers performed by the LCR group.

39. In response to Request No. 212, Columbia is providing KY PSC Case No. 2021-00183, AG 1-212, Attachment A which contains the requested workpapers in excel format. Due to the nature of the spreadsheet, redacting confidential information regarding customer names and other sensitive customer information which could be used to determine the usage and other information of Columbia's customers, is not possible therefore Columbia is requesting confidential treatment of the entire Excel spreadsheet so as to keep the formulas and information intact.

40. The information included in the responses listed above is, to the extent possible, being tendered in redacted form in the public version of Columbia's filing and in an unredacted form filed under seal herewith.

41. 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 While such information is useful to management

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).

in assuring that Columbia's compensation is properly oriented and in-line with the market, the data would be extremely valuable to competitors in the labor market who could use the information to poach Columbia's workforce. If disclosed, the compensation data would allow others to know with precision how to approach Columbia's skilled workforce and target them for recruitment to other firms. This would, of course, lead to the diminution of Columbia's skilled workforce and the potential loss of millions of dollars in investment in human capital.

42. The Confidential Information also contains sensitive information that describes the proprietary information regarding NiSource Next initiative developed and implemented by Columbia. As set forth above, this work product is the result of hundreds of hours of investment and based upon confidential and proprietary information, ideas and processes. The documents outlining NiSource Next would be extremely valuable to competitors and others in the market who would use the data to undercut Columbia's competitive position.

43. 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 and the NiSource Next initiative, it satisfies both the statutory and common law standards for being afforded confidential treatment.

44. 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.

45. 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 public version of Columbia’s responses, which include redacted copies of such information.

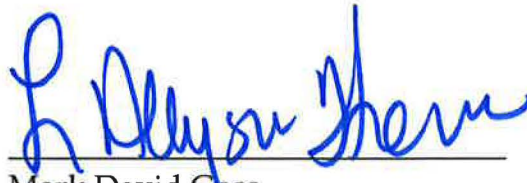
46. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Columbia respectfully requests that the Confidential Information in the responses be withheld from public disclosure for a period of ten years except for the information provided in Response 128. This will assure that the Confidential 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. For

the Confidential Information in Response 128, Columbia respectfully requests that it be withheld on an indefinite basis as it describes the means and methods used to develop and implement Columbia's NiSource Next initiative. This information is unlikely to grow stale and therefore requires confidentiality on a much-longer term basis. 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 21st day of July, 2021.

Respectfully submitted,



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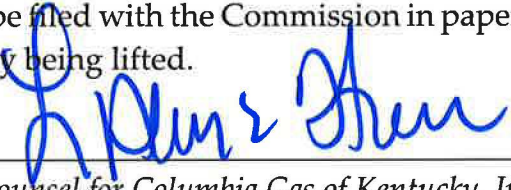
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CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, this is to certify that the electronically filed document is a true and accurate copy of the same document being filed in paper medium; that the electronic filing has been transmitted to the Commission on July 21, 2021; that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means; and that the original versions of the documents transmitted electronically will be filed with the Commission in paper medium within thirty days of the state of emergency being lifted.



Counsel for Columbia Gas of Kentucky, Inc.