

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of:

THE ELECTRONIC APPLICATION OF)	
COLUMBIA GAS OF KENTUCKY, INC.)	CASE NO.
FOR AN ADJUSTMENT OF RATES;)	2024-00092
APPROVAL OF DEPRECIATION STUDY;)	
APPROVAL OF TARIFF REVISIONS; 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 requests that the Kentucky Public Service Commission (“Commission”) afford confidential treatment to certain information filed in its Responses to Commission Staff’s First Request for Information (“Staff’s First Request”). In support of the motion Columbia respectfully states as follows:

1. On April 24, 2024, Commission Staff issued its First Request for Information to Columbia in the above styled proceeding.
2. As part of Columbia’s responses, Columbia is providing detailed compensation information (“Confidential Information”). Specifically, the Confidential Information is being provided in response to Request Nos. 48 and 41.

3. Request No. 48 from the required Columbia to provide any wage and salary studies that have been performed.

4. In response to Request No. 48, Columbia is providing a workpaper, KY PSC Case No. 2024-00092, Staff 1-48, Attachment A, that was the source of current wage information that was used to develop three attachments to the Direct Testimony of Columbia Witness Beth Owens, specifically Attachments BO-1, BO-2, and BO-3. This workpaper lists the employee number, title, location, and salary of every employee who either works for Columbia, or an affiliate of Columbia who provided services for and allocated labor costs to Columbia.

5. Request No. 41 required Columbia to provide salary and benefit information for Columbia employees.

6. In response to Request No. 41, Columbia is providing a schedule containing forecasted amounts of compensation for its officers. Specifically, this portion of the Confidential Information is presented in KY PSC Case No. 2024-00092, Staff 1-41, Attachment C.

7. The compensation-related Confidential Information contained within Response No. 48 is personal in nature and if disclosed would violate Columbia's employees' reasonable expectations of personal privacy with regard to compensation.¹

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

While the employees' names are not reflected in KY PSC Case No. 2024-00092, Staff 1-48, Attachment A, this workpaper does contain information that could be used to identify individual employees. This includes Columbia's assigned employee ID numbers, which are available to all employees and are sometimes disclosed publicly, and the titles for employees which, combined with locational information, could be used to identify individual employees by name. While this information is useful to management 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 loss of millions of dollars in investment in human capital. The Commission has previously recognized that wage and compensation studies are confidential under the Kentucky Open Records Act.²

8. The Confidential Information provided in response to Request No. 41 includes officer salary information. For certain of Columbia's officers, compensation is disclosed publicly elsewhere. However, this Confidential Information is based upon a forecasted test year. The executive compensation found in KY PSC Case No. 2024-00092,

(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).

² *See In the Matter of the Proposed Adjustment of the Wholesale Water Service Rates of the City of Augusta*, Order, Case No. 2015-00039 (Ky. P.S.C. Sept. 22, 2015).

Staff 1-41, Attachment C is based upon assumptions regarding forward-looking earnings-related information that may be considered material, non-public information.

9. In response to Request No. 54, Columbia is providing an Excel file that includes the workpapers used to develop its cost of service model, specifically KY PSC Case No. 2024-00092 Staff 1-1, Attachment A. The formulas and inputs for this file are all intact. The cost of service study represents the culmination of hundreds of hours of labor to develop an analytical model that is unique to Columbia and based upon information that is confidential and proprietary. The entirety of the Excel file is included within the scope of this request for confidential treatment.

10. KRS 61.878(1)(a) allows the confidential protection of information that is personal in nature and where disclosure would constitute a clearly unwarranted invasion of personal privacy. KRS 61.878(1)(c)(1) allows confidential protection of information that is generally recognized as confidential or proprietary, which if disclosed would permit an unfair commercial advantage to competitors. The Kentucky courts have upheld these protections for information provided, *Zink v. Department of Workers Claims, Labor Cabinet*, 902 S.W.2d 825 (Ky. App. 1994); *Hoy v. Kentucky Industrial Revitalization Authority*, 907 S.W.2d 766, 768 (Ky. 1995).

11. The Confidential Information meets both the requirements for confidential protection pursuant to KRS 61.878(1)(a) and KRS 61.878(1)(c)(1) because it is personal salary information and it is generally recognized as confidential.

12. Columbia does not object to limited disclosure of the Confidential Information, pursuant to an acceptable confidentiality and nondisclosure agreement, to any intervenors with a legitimate interest in reviewing the same for the sole purpose of participating in this case. However, as it is unknown who may or may not eventually intervene in the case, Columbia reserves the right to object to sharing the Confidential Information with any party that may have a mixed-motive for accessing the Confidential Information, that may be a competitor of Columbia in any market, who may have a commercial conflict of interest or for any other reason.

13. In accordance with the provisions of 807 KAR 5:001, Section 13(2), Columbia is providing 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, to the extent practical, redacted copies of such information.

14. In accordance with the provisions of 807 KAR 5:001, Section 13(3), Columbia respectfully requests that the documents be withheld from public disclosure for a period of five years. 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.

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 the 30th day of May, 2024.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that the foregoing electronic filing was transmitted to the Commission for filing on May 30, 2024; that there are currently no parties that the Commission has excused from participation by electronic means in this proceeding; by virtue of the Commission's July 22, 2021 Order in Case No. 2020-00085, no paper copies of this filing will be made.

Heather S. Temple

Counsel for Columbia Gas of Kentucky, Inc.