

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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|-------------------------------------|---|------------|
| THE APPLICATION OF COLUMBIA GAS |) | |
| OF KENTUCKY, INC. TO EXTEND ITS GAS |) | |
| COST INCENTIVE PROGRAM AND ITS |) | CASE NO. |
| OFF-SYSTEM SALES AND CAPACITY |) | 2008-00433 |
| RELEASE SHARING MECHANISM |) | |

O R D E R

On October 3, 2008, Columbia Gas of Kentucky (“Columbia”) filed an application seeking authority to continue its gas cost incentive mechanism (“GCIM”) and off-system sales and capacity release (“OSS/CR”) revenue sharing mechanism for four years, through October 31, 2012 and March 31, 2013, respectively.¹ Columbia reported having no problems with the operation of either mechanism and proposed no changes to either of the programs.

Columbia has had a GCIM mechanism since 2005.² The GCIM measures the performance of gas supply purchases against a market standard during the months of April through October. Each month, Columbia’s gas purchase costs are compared to that month’s benchmark cost. The difference is shared equally between Columbia and its sales customers through an adjustment to its gas cost adjustment (“GCA”). In the three-year period 2005-2007, customers realized approximately \$740,000 in savings.

¹ The GCIM operates from April through October of each year.

² Case No. 2004-00462, The Application of Columbia Gas of Kentucky, Inc. to Implement a New Small Volume Gas Transportation Service, a Gas Price Hedging Plan, an Off-System Sales and Capacity Release Revenue Sharing Mechanism, and a Gas Cost Incentive Mechanism (Ky. PSC Mar. 29, 2005).

Columbia utilized an OSS/CR revenue sharing mechanism for several years prior to implementing its Customer Choice Program (“Choice Program”) in 2000. In 2005, the Commission granted Columbia’s request to re-establish an OSS/CR revenue sharing mechanism as a pilot through March 31, 2009.³ Under its OSS/CR, Columbia retains 50 percent of the value created from off-system sales and capacity release sales while customers receive the remaining 50 percent through its GCA. Customers received approximately \$5.5 million for the period April 2005 through June 2008.

BACKGROUND

Interstate Gas Supply, Inc. (“IGS”), a marketer participating in Columbia’s Choice Program, requested and was granted intervention in this proceeding. While IGS did not oppose an extension of the GCIM and OSS/CR mechanisms, it contended that the term of the extension of the OSS/CR program should match the two-year term for which Columbia’s Choice Program had been extended.⁴ In the alternative, IGS opined that two years should be added to the term of the Choice Program in order to match the four-year extended term requested by Columbia for the OSS/CR program.

The parties submitted comments and reply comments outlining their positions in detail and the matter was set for hearing on March 19, 2009. Columbia filed a Motion for Continuance on March 18, 2009, in which it requested time for IGS and Columbia to engage in settlement discussions. The Commission granted the Motion and

³ Id.

⁴ Case No. 2008-00195, The Application of Columbia Gas of Kentucky, Inc. to Extend its Small Volume Gas Transportation Service (Ky. PSC Nov. 7, 2008).

rescheduled the hearing for April 16, 2008. On March 30, 2009, on behalf of IGS and itself, Columbia filed a Stipulation and Recommendation ("Stipulation") setting forth their agreement on a mutually satisfactory resolution of all of the issues in this proceeding.

TERMS OF STIPULATION

The provisions of the Stipulation between Columbia and IGS are as follows:

1. Columbia's GCIM would operate from April through October of each year, through October 31, 2012, as proposed in Columbia's application.

2. Columbia's OSS/CR revenue sharing mechanism would remain in effect through March 31, 2013 as proposed in Columbia's application. However, Commission approval of the 50 percent sharing ratio for the OSS/CR for the final two years of that period would be conditioned upon the continuation of Columbia's Choice Program through March 31, 2013.

a. While the Stipulation does not address the continuation of the Choice Program beyond March 31, 2011 (as was authorized in Case No. 2008-00195), Columbia and IGS agree the issue may be addressed in a separate docket nearer to that date. They also agree there should be no changes to the Choice Program or the rate treatment and recovery of the costs related thereto prior to March 31, 2011, unless the changes are agreed to by both parties.

b. If the Commission authorizes the continuation of the Choice Program through March 31, 2013 or beyond in a separate docket, the OSS/CR 50 percent sharing ratio should continue as Columbia proposed.

c. If the Choice Program is not extended beyond March 31, 2011, and Columbia wishes to continue the 50 percent sharing ratio of the OSS/CR beyond that date, it must seek Commission approval thereof. If Columbia makes such a request, IGS preserves its rights to raise any issues it might have with respect to that request.

d. Columbia shall file a notice to either extend or terminate the Choice Program by October 1, 2010.

If the Stipulation is adopted by the Commission in its entirety, Columbia and IGS each agree to file neither a request for rehearing with the Commission nor an appeal to the Franklin County Circuit Court with respect to this matter. If the Commission does not accept the Stipulation in its entirety, each party reserves the right to seek rehearing or withdraw from the Stipulation.

ANALYSIS OF THE STIPULATION

The Stipulation, in essence, represents a compromise of the positions originally outlined by the parties, but, as explained below, includes contradictory language with regard to the continuation of the 50 percent sharing ratio of the OSS/CR mechanism. The parties clearly agree that (1) the term of the Choice Program will continue unchanged from what was approved in Case No. 2008-00195 and (2) the GCIM and OSS/CR mechanisms will continue for four years, through October 31, 2012 and March 31, 2013, respectively. The parties' intent regarding the OSS/CR sharing ratio is not as clear. The Stipulation first provides that Commission approval of the continuation of the 50 percent sharing ratio of the OSS/CR for the period March 31, 2011 through March 31, 2013 is conditioned upon continuation of the Choice program through March 31,

2013.⁵ However, it also states that if the Choice program is not continued beyond March 31, 2011, Columbia shall file an application to request continuation of the 50 percent sharing ratio.⁶ The Commission finds that the reasonableness of continuing the current 50 percent sharing ratio and the terms thereof should be addressed in a future proceeding regardless of Columbia's plans for the future of the Choice Program.

We also note that the Stipulation provides that if the Commission rejects or modifies all or any portion of the Stipulation, each party shall have the right to seek rehearing or terminate and withdraw from the Stipulation by filing notice with the Commission within 30 days. KRS 278.400 provides that any party may apply for rehearing within 20 days after service of an order, with service of an order deemed complete three days after mailing. The Commission finds that the Stipulation should be modified to comply with this statute.

Based on a review of the Stipulation and the complete case record, we find, with the modifications discussed herein, that the provisions of the Stipulation are reasonable and should be approved. Columbia's GCIM and OSS/CR programs have operated as was projected when they were authorized in Case No. 2004-00462. The Commission also finds that the programs have provided adequate incentives to Columbia to manage its gas supply so that its management thereof has inured to the benefit of its customers. The Commission further finds that Columbia should continue to file annual reports with the Commission on its GCIM by November 30 of each year as it has previously done.

⁵ See Stipulation p. 2, ¶2.

⁶ *Id.* at p.3, ¶2.C.

IT IS THEREFORE ORDERED that:

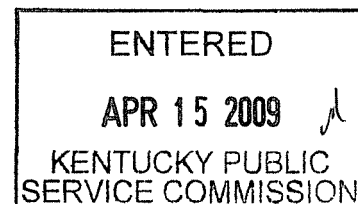
1. The Stipulation, attached in the Appendix hereto, is approved as modified herein.
2. Columbia's GCIM is extended through October 31, 2012.
3. Columbia's OSS/CR revenue sharing mechanism is extended through March 31, 2013; however, continuation of the OSS/CR 50 percent sharing ratio beyond March 31, 2011 and the terms thereof shall be determined in a future proceeding.
4. Columbia shall file a notice to extend or terminate its Choice Program no later than October 1, 2010.
5. Columbia shall file revised tariff sheets which reflect the extensions of the mechanisms approved herein within 30 days from the date of this Order.
6. Columbia shall continue to file annual reports on the GCIM program with the Commission on or before November 30 of each year.
7. If either party wishes to seek rehearing or withdraw from the Stipulation because of the modifications herein, it shall notify the Commission in writing within 23 days of the date of this Order.
8. The hearing scheduled for April 16, 2009 is cancelled.

By the Commission

ATTEST:



Executive Director



APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2008-00433 DATED **APR 15 2009**

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

In the matter of:)
)
THE APPLICATION OF COLUMBIA GAS)
OF KENTUCKY, INC. TO EXTEND ITS) CASE NO. 2008-00433
GAS COST INCENTIVE PROGRAM AND)
ITS OFF-SYSTEM SALES AND CAPACITY)
RELEASE REVENUE SHARING MECHA-)
NISM)

STIPULATION AND RECOMMENDATION

It is the intent and purpose of the parties to this proceeding, namely Columbia Gas of Kentucky, Inc. ("Columbia") and Interstate Gas Supply, Inc., to express their agreement on a mutually satisfactory resolution of all of the issues in the instant proceeding.

It is understood by all parties hereto that this Stipulation and Recommendation is not binding upon the Public Service Commission ("Commission"), nor does it represent agreement on any specific theory supporting the appropriateness of the recommendations herein. The parties have expended considerable efforts to reach the agreements that form the basis of this Stipulation and Recommendation. The parties, representing diverse interests and divergent viewpoints, agree that this Stipulation and Recommendation, viewed in its entirety, constitutes a reasonable resolution of all issues in this proceeding.

In addition, the adoption of this Stipulation and Recommendation will eliminate the need for the Commission and the parties to expend significant resources in litigation of this proceeding, and eliminate the possibility of, and any need for, rehearing or appeals of the Commission's final order herein. It is the position of the parties hereto that this Stipulation and Recommendation is supported

by sufficient and adequate data and information, and is entitled to serious consideration by the Commission. Based upon the parties' participation in settlement conferences and the materials on file with the Commission, and upon the belief that these materials adequately support this Stipulation and Recommendation, the parties hereby stipulate and recommend the following:

1. Columbia's Gas Cost Incentive Mechanism should be authorized to continue to operate during April through October each year from April 1, 2009 to October 31, 2012, as proposed in Columbia's Application filed on October 3, 2008.

2. Columbia's Off-System Sales and Capacity Release Revenue Sharing Mechanism ("OSS/CR RSM") should be authorized to continue to operate from April 1, 2009 through March 31, 2013, as proposed in Columbia's Application filed on October 3, 2008. However, the Commission's approval of the continuation of the 50% sharing ratio of OSS/CR RSM for the final two years of the period ending March 31, 2013 is conditioned upon the continuation of Columbia's CHOICE program through March 31, 2013.

A. By Order dated November 7, 2008 in Case No. 2008-00195 the Commission authorized Columbia to continue its CHOICE program through March 31, 2011. This Stipulation does not address an extension of Columbia's CHOICE program, but the parties agree that matter may be addressed in a separate docket sometime closer to the March 31, 2011 expiration of the CHOICE program. The parties do, however, agree that there should be no changes to Columbia's current CHOICE program, nor to the rate treatment and recovery of costs related to the CHOICE program, prior to March 31, 2011 unless mutually agreed to by both parties.

- B. If Columbia's CHOICE program is continued through March 31, 2013, or beyond, by means of a Commission order in a subsequent proceeding, then Columbia's 50% sharing ratio of OSS/CR RSM should continue through March 31, 2013 as described in Columbia's Application filed on October 3, 2008 in the instant docket.
- C. If Columbia's CHOICE program is not continued beyond March 31, 2011, then Columbia agrees to allow the Commission to review its authorized continuation of Columbia's 50% sharing ratio of OSS/CR RSM. In this case, if Columbia desires to continue the current sharing ratio of OSS/CR RSM beyond March 31, 2011, Columbia must file an application in a new docket seeking such authority. If Columbia files such an application, IGS preserves all its rights to raise any issues it might have with respect to such an application.
- D. Columbia shall file a notice to either extend or terminate the CHOICE program by October 1st of 2010.

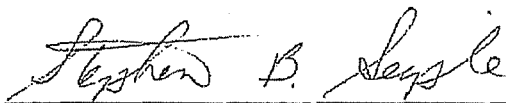
3. If the Commission issues an order adopting this Stipulation and Recommendation in its entirety, each of the parties hereto agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin County Circuit Court with respect to such order.

4. In the event the Commission should reject or modify all or any portion of this Stipulation and Recommendation, or impose additional conditions or requirements upon the signatory parties, each signatory party shall have the right, within thirty (30) days of the Commission's order, to either file an application for rehearing or terminate and withdraw from the Stipulation and Recommendation by filing a notice with the Commission. Upon rehearing,

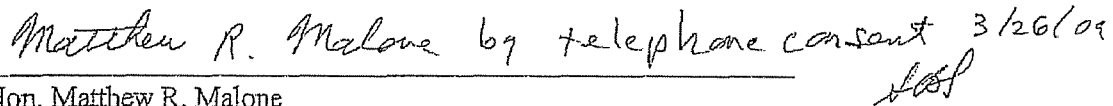
any signatory party shall have the right within fifteen (15) days of the Commission's order on rehearing to file a notice of termination or withdrawal from this Stipulation and Recommendation. In such event the terms of this Stipulation and Recommendation shall not be deemed binding upon the parties hereto, nor shall such Stipulation and Recommendation be admitted into evidence, or referred to, or relied upon in any manner by any party hereto.

5. All of the parties hereto agree that the foregoing Stipulation and Recommendation is reasonable and in the best interests of all concerned, and urge the Commission to adopt the Stipulation and Recommendation in its entirety.

AGREED, this 26th day of March, 2009.



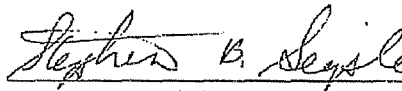
Hon. Stephen B. Seiple
Counsel
On behalf of Columbia Gas of Kentucky, Inc.



Hon. Matthew R. Malone
Of Hurt, Crosbie, & May PLLC
On behalf of Interstate Gas Supply, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Stipulation and Recommendation was served upon all parties of record by regular U. S. mail and electronic mail this 26th day of March, 2009.



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