

July 21, 2009

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
Commonwealth of Kentucky  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

**RECEIVED**

JUL 22 2009

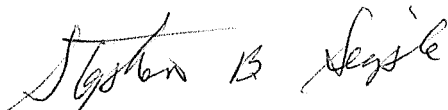
PUBLIC SERVICE  
COMMISSION

**RE: Case No. 2009-00168**

Dear Mr. Derouen,

Enclosed for filing are the original and eleven (11) copies of Columbia Gas of Kentucky, Inc.'s Motion for Administrative Notice. Please docket the original and ten (10) copies and return the extra copy to me in the self addressed stamped envelope enclosed. Should you have any questions about this filing, please contact me at 614-460-4648. Thank you!

Sincerely,



Stephen B. Seiple  
Assistant General Counsel

Enclosures

cc: All Parties of Record  
Hon. Richard S. Taylor

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JUL 22 2009

**PUBLIC SERVICE  
COMMISSION**

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

In the Matter of: Application of Columbia Gas )  
of Kentucky, Inc., to Establish a Regulatory )  
Asset Related to Pension and Other Post- ) Case No. 2009-00168  
Retirement Benefit Expenses )

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**MOTION OF COLUMBIA GAS OF KENTUCKY, INC.  
FOR ADMINISTRATIVE NOTICE**

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On April 23, 2009, Columbia Gas of Kentucky, Inc. (“Columbia”) filed its application with the Public Service Commission of Kentucky (“Commission”) to issue, pursuant to KRS §§ 278.030, 278.040, and 278.220, an order authorizing Columbia to establish regulatory assets and/or liabilities for pension costs and other post-retirement benefits costs (“OPEB”). By this Motion, Columbia requests that the Commission take administrative notice of an Entry issued by the Public Utilities Commission of Ohio.

The Commission, similar to a court of law, may take administrative notice of facts, records, and rulings. The Commission previously held that it “may properly take administrative notice of publicly available information.”<sup>1</sup> Conversely, the Commission refused to take administrative notice of evidence presented at conferences with the Commission because the evidence was “not in the record of this or any other formal proceeding.”<sup>2</sup> The Commission concluded in that proceeding, “given the nature of the evidence, the concept of administrative

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<sup>1</sup> *In the Matter of: Area Code Exhaustion Relief for 606 Area Code Region*, Administrative Case No. 377, Order (September 8, 1999) at 3.

<sup>2</sup> *In the Matter of: Kenergy Corp. v. Kentucky Utilities Company*, PSC Case No. 2002-00008, Order (March 21, 2002) at 5.

notice is not applicable.<sup>3</sup> The Commission may also “take notice of decisions by other state regulatory commissions,” but is “not bound by their decisions.”<sup>4</sup>

After Columbia filed its initial application with the Commission, Columbia Gas of Ohio, Inc., an affiliated gas distribution company of Columbia, received a ruling from the Public Utilities Commission of Ohio (“PUCO”) approving a substantially similar accounting change to that requested in this proceeding. In PUCO Case No. 09-371-GA-AAM, Columbia Gas of Ohio, Inc. (“Columbia of Ohio”), filed an application that requested the authority to revise its accounting procedures, effective January 1, 2009, to provide for the deferral of the difference between annual Pension and OPEB expense calculated through SFAS No. 87 and 106 and the annual Pension and OPEB expense included in base rates.<sup>5</sup> In an Entry dated July 8, 2009, the PUCO approved Columbia of Ohio’s application.<sup>6</sup> The PUCO’s July 8, 2009 Entry is attached hereto as Attachment A.

The rationale and statistical analysis provided to the PUCO by Columbia of Ohio mirrors the statistical analysis and data provided to the Commission by Columbia in this case. The PUCO Entry is in the record in the applicable PUCO administrative proceeding, and is a public document. While not binding upon the Commission, the PUCO Entry may prove informative to the Commission in its consideration of Columbia’s Application in this case due to the overlap of issues.

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<sup>3</sup> *Id.* at 6.

<sup>4</sup> *In the Matter of: Adjustment of Gas Rates of the Union, Light, Heat, and Power Company*, PSC Case No. 2001-00092, Order (March 13, 2002) at 13.

<sup>5</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Change Accounting Method*, PUCO Case No. 09-371-GA-AAM, Application of Columbia Gas of Ohio, Inc. (April 30, 2009).


<sup>6</sup> *In the Matter of the Application of Columbia Gas of Ohio, Inc. for Approval to Change Accounting Method*, PUCO Case No. 09-371-GA-AAM, Entry (July 8, 2009).

**WHEREFORE**, Columbia respectfully requests that the Commission take administrative notice of the Entry, dated July 8, 2009, entered by the Public Utilities Commission of Ohio in Case No. 09-371-GA-AAM, for the reasons stated herein.

Dated at Columbus, Ohio, this 21<sup>st</sup> day of July 2009.

Respectfully submitted,

**COLUMBIA GAS OF KENTUCKY, INC.**

By:   
Stephen B. Seiple (Counsel of Record)

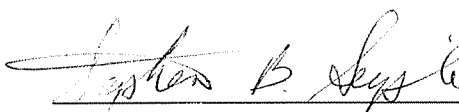
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Attorneys for  
**COLUMBIA GAS OF KENTUCKY, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion of Columbia Gas of Kentucky, Inc., for Administrative Notice was served upon all parties of record by regular U. S. mail this 21<sup>st</sup> day of July, 2009.



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Stephen B. Seiple  
Attorney for  
**COLUMBIA GAS OF KENTUCKY INC.**

**SERVICE LIST**

Dennis G. Howard, II  
Lawrence W. Cook  
Paul D. Adams  
Assistant Attorneys General  
1024 Capital Center Drive, Suite 200  
Frankfort, KY 40601-8204

**ATTACHMENT A**

**THE PUBLIC UTILITIES COMMISSION  
OF OHIO**

**ENTRY DATED JULY 5, 2009  
PUCO CASE NO. 09-371-GA-AAM**

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia )  
 Gas of Ohio, Inc. for Approval to Change ) Case No. 09-371-GA-AAM  
 Accounting Methods. )

ENTRY

The Commission finds:

- (1) Columbia Gas of Ohio, Inc. (Columbia), a subsidiary of NiSource, Inc. (NiSource), is a natural gas company within the meaning of Section 4905.03(A)(6), Revised Code, and, as such, is subject to the jurisdiction of the Public Utilities Commission of Ohio (Commission).
- (2) On April 30, 2009, Columbia filed an Application requesting authority to revise its accounting treatment for pension costs and other post-retirement benefits other than pension costs (OPEB). Columbia seeks to defer pension and OPEB expenses that are incremental to amounts in its current base rates, to Account 182.3, Other Regulatory Assets or Account 254, Other Regulatory Liabilities. Columbia requests that the accounting treatment be effective January 1, 2009. Columbia further requests authority to recover carrying charges on the deferred balance using the embedded debt rate.
- (3) Section 4905.13, Revised Code, authorizes the Commission to establish systems of accounts to be kept by public utilities and to prescribe the manner in which these accounts shall be kept. In Rule 4901:1-13-01, Ohio Administrative Code (O.A.C), the Commission has adopted the Uniform System of Accounts ("USOA") for gas utilities established by the Federal Energy Regulatory Commission ("FERC") for use in Ohio. For Ohio regulatory purposes, the system of accounts is only applicable to the extent that it has been adopted by the Commission. Therefore, the Commission may modify the USOA prescribed by FERC as it applies to Ohio utilities.
- (4) Columbia's current base rates were established by the Commission in Case No. 08-72-GA-AIR (December 3, 2008). According to Columbia's application and the Staff Report, pension and OPEB expenses included in current base rates are (\$2,528,000) and \$4,419,000, respectively.

- (5) According to Columbia, its pension and OPEB costs are determined according to the provisions of Statement of Financial Accounting Standard (SFAS) No. 87, Employers Accounting for Pensions and SFAS No. 106, Employers Accounting for Post Retirement Benefits Other Than Pensions. Columbia explains that NiSource administers the benefit plans and that NiSource's actuary determined the annual net periodic benefit costs.
- (6) According to the application, Columbia experienced significant variances in pension and OPEB expenses over the past six years. Columbia states that the reasons for these variances are the return on plan assets and discount rates, factors in pension and OPEB expenses that are beyond its control. Long-term interest rates and trust asset return fluctuations cause changes to the market value of Columbia's pension and OPEB plan assets which affect the amount of recorded pension and OPEB expenses.
- (7) Columbia states in its application that market fluctuations impact pension and OPEB expenses. Pension and OPEB expenses may be more or less than amounts included in base rates going forward. The market events that contributed to the extraordinary change in pension and OPEB costs from 2008 to 2009, creating a regulatory asset, may reverse over time giving rise to regulatory liabilities in subsequent years. The pension and OPEB related regulatory asset and regulatory liability may ultimately negate each other.
- (8) Pension and OPEB expenses currently included in base rates were based upon the twelve months ended September 30, 2008, the test-year. The test-year pension and OPEB expenses totaled \$1.9 million; whereas 2009 pension and OPEB costs are \$16.5 million. In the four years prior to 2008, pension and OPEB expenses were, at a minimum, double the expenses contained in the test-year.
- (9) The Commission has reviewed the application and reasons that, because of the combination of the market and the unusually low test-year pension and OPEB expenses, Columbia should be permitted to establish the requested deferral. The Commission finds that Columbia's incurrence of pension and OPEB



expenses, in compliance with SFAS No. 87 and SFAS No. 106, respectively, is a necessary business cost. Columbia's request to modify its accounting procedures and to defer annual pension and OPEB costs that are incremental to amounts included in base rates should therefore be approved. The deferrals shall be recorded in a unique sub-account of Account 182.3, Other Regulatory Assets, or Account 254, Other Regulatory Liabilities, as appropriate. The deferred balances shall not accrue carrying charges and the accounting treatment shall be effective January 1, 2009. Columbia shall not seek recovery of pension and OPEB deferrals, authorized in this proceeding, in a base rate proceeding for a period of five years, in order to give the market time to improve.

- (10) Columbia shall file, under this case docket, annual updates on the status of the deferred balances. The filing shall include pension and OPEB data determined by Columbia's actuary. The amounts shall be attributable to the operation and maintenance expense of Columbia Gas of Ohio, Inc. Columbia shall provide the Commission Staff with additional information as needed.
- (11) Granting Columbia's application seeking authority to defer incremental pension and OPEB expenses is for booking purposes only, and does not address or affect ratemaking treatment of these deferrals.

It is, therefore,

ORDERED, That the request of Columbia for authority to defer incremental pension and OPEB costs as of January 1, 2009, be approved. The deferred balance shall not accrue carrying charges. It is, further,

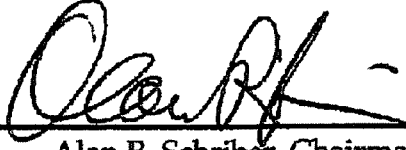
ORDERED, That Columbia shall not to seek recovery of pension and OPEB deferrals in a base rate proceeding for a period of five years. It is, further,

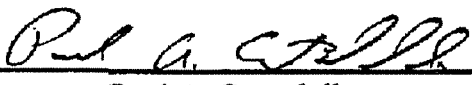
ORDERED, That Columbia shall file annual status reports on the pension and OPEB deferred balances in accordance with Finding 10. It is, further,

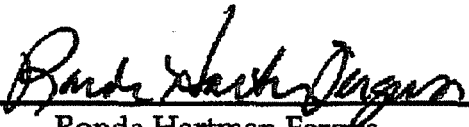
ORDERED, That nothing in this entry shall be binding upon this Commission in any further proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

ORDERED, That a copy of this entry be served upon all parties of record.

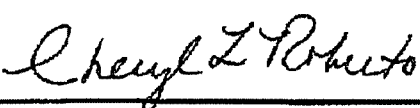
THE PUBLIC UTILITIES COMMISSION OF OHIO

  
\_\_\_\_\_  
Alan R. Schriber, Chairman

  
\_\_\_\_\_  
Paul A. Centolella

  
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Ronda Hartman Fergis

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Valerie A. Lemmie

  
\_\_\_\_\_  
Cheryl L. Roberto

LT:djb

Entered in the Journal

JUL 08 2009

  
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Renee J. Jenkins  
Secretary