

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF NATURAL GAS	)	ADMINISTRATIVE
RETAIL COMPETITION PROGRAMS	)	CASE NO. 2010-00146

ORDER

On July 15, 2010, Stand served discovery requests upon Columbia in accordance with the existing procedural schedule in this proceeding. On July 29, 2010, Columbia submitted its responses to these requests. On August 27, 2010, Stand Energy Corporation (“Stand”) moved the Commission for an Order compelling Columbia Gas of Kentucky (“Columbia”) to respond to certain requests for information. Columbia filed a response to the motion on September 20, 2010. Having considered the motion and response, we grant the motion in part and deny in part.

Stand argues in its motion that Columbia has failed to file complete responses to Request 1-1 A through J; 1-2 A and B; 1-3 A through C; 1-7 A through C; and 1-9 A through F. It further argues that its requests are relevant and reasonable and consistent with the legislature’s directive to investigate competition in retail natural gas in Kentucky. In its response to the motion, Columbia reasserted its objections to the requests and further asserted that Stand is inappropriately using the discovery process in this proceeding to expand the scope of this proceeding.

Columbia’s response to Stand’s Request 1-1 A through J and Request 1-2 A and B is that the requests are directed toward Columbia’s traditional transportation service and are irrelevant to this proceeding on retail competition. Stand does not disagree that

the requests involve traditional gas transportation, but asserts that the investigation directed by the legislature must include gas transportation programs. The General Assembly directed this Commission to investigate natural gas retail competition programs. The directive does not limit the investigation to small volume transportation. Therefore, we find that information regarding transportation, even what Columbia refers to as traditional transportation, is relevant to this proceeding and direct Columbia to file responses to these requests.

Stand requested in Requests 1-3 A through C and 1-7 A through C that Columbia provide information concerning any waivers it has granted from its approved tariffs and from its pipeline delivery requirements. Columbia asserts in its filed responses to both requests that Stand had not specified the type of waiver and that, as a result, the requests were overly broad, burdensome and not reasonably calculated to lead to discovery of admissible information. Stand asserts that it requested information on “any” waiver and that the information is relevant because, without it, neither the Commission nor the parties to this proceeding will know whether Columbia is fairly enforcing its tariffs and pipeline delivery requirements in a non-discriminatory or anti-competitive manner. The Commission will grant Stand’s motion in part with respect to these requests. We will require Columbia to state whether it has granted any waivers and allow it to provide an explanation, but we will deny Stand’s request for Columbia to specifically identify the recipient of the waiver. We recognize that non-discriminatory access to offered services is important to any well-designed competitive program and welcome all input from the parties on what criteria should be included in any program to avoid anti-competitive or discriminatory practices. However, we also recognize that the

legislature directed the initiation of this proceeding to investigate whether retail competition in natural gas may benefit Kentucky consumers, not to investigate whether Columbia or any other utility is in compliance with its filed tariffs.

Columbia objects to Stand's Request 1-9 A through E on grounds that the requests are not relevant to the Commission's investigation of retail competition and are not reasonably calculated to lead to admissible evidence. Stand argues that Requests 1-9 A through E are relevant because they relate to whether Kentucky's regulated natural gas utilities are ignoring KRS 278.507 and that Columbia needs to admit its failure and discuss its plan for remediation. It further argues relevance based on the requirement in Columbia's CHOICE program on assigned capacity. Columbia asserts Stand's argument regarding compliance with KRS 278.507 is misplaced and that any questions specifically related to its CHOICE program should be addressed in a CHOICE proceeding.

The Commission finds Request 1-9 A through E relevant to our investigation in this proceeding and directs Columbia to respond. The General Assembly unambiguously stated that our investigation "shall include an evaluation of existing natural gas retail competition programs." While we recognize that the General Assembly also stated that nothing in the Joint Resolution shall be construed to interfere with existing natural gas retail competition programs, we believe that inquiries regarding the existing program will provide worthwhile information to our investigation. Although we find the requests relevant, we do not agree with Stand's claim of relevance based on KRS 278.507. Stand's assertion that Columbia has violated KRS 278.507 and that

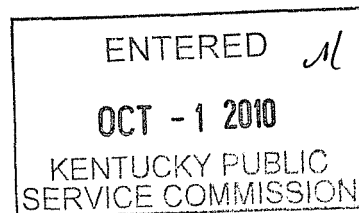
Columbia should admit the violation and fashion its own remedy far exceeds the purpose and scope of this proceeding.

In Request 1-9 F, Stand states that Columbia requires participants in its CHOICE program to make deliveries to designated receipt points and that delivery to these designated receipt points increases the costs. It requested that Columbia explain its delivery policy. In response, Columbia states that its Small Volume Gas Transportation Service Tariff does not contain any such requirement. The Commission directs Columbia to provide a more complete answer to the question. Columbia shall state whether it requires any supplier to make deliveries to any specific delivery point and, if so, it shall explain the reason for the requirement.

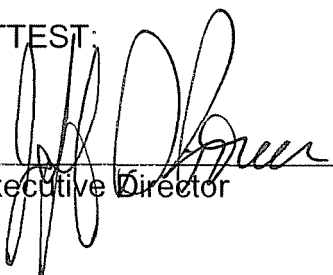
IT IS THEREFORE ORDERED that:

1. Stand's motion to compel is granted in part and denied in part as set forth herein.
2. Columbia shall provide the responses directed herein within five days of the date of this Order.

By the Commission



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