



STOLL · KEENON · OGDEN
P L L C

2000 PNC PLAZA
500 WEST JEFFERSON STREET
LOUISVILLE, KY 40202-2828
MAIN: (502) 333-6000
FAX: (502) 333-6099
www.skofirm.com

W. DUNCAN CROSBY III
DIRECT DIAL: (502) 560-4263
DIRECT FAX: (502) 627-8754
duncan.crosby@skofirm.com

July 22, 2010

RECEIVED

JUL 23 2010

PUBLIC SERVICE
COMMISSION

VIA FAX AND HAND DELIVERY

Jeff DeRouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

RE: Application of the City of West Liberty, Kentucky for Approval to Acquire the Utility Assets of Elam Utility Company, Inc. and for Approval of a Management Agreement
Case No. 2010-00302

Dear Mr. DeRouen:

Enclosed please find and accept for filing in the above-referenced matter the original and ten copies of the Memorandum of Understanding between The City of West Liberty, Kentucky, Columbia Gulf Transmission Company and Columbia Gas Transmission, LLC dated July 22, 2010, which includes as an exhibit the Escrow Agreement among the City of West Liberty, Kentucky, Columbia Gas Transmission, LLC and Commercial Bank (West Liberty) dated July 22, 2010. Please confirm your receipt of this filing by placing the stamp of your Office with the date received on the enclosed additional copies and return them to me in the enclosed self-addressed stamped envelope.

Should you have any questions please contact me at your convenience

Sincerely,

W. Duncan Crosby III

WDC:ec
Enclosures
cc: Parties of Record

113812.137923/645164.1

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF WEST LIBERTY, KENTUCKY,

COLUMBIA GULF TRANSMISSION COMPANY,

AND

COLUMBIA GAS TRANSMISSION, LLC.

This Memorandum of Understanding ("MOU") is made and entered into as of the 22 day of July 2010 by and between the City of West Liberty, Kentucky ("City") and Columbia Gulf Transmission Company and Columbia Gas Transmission, LLC, (collectively, "Columbia"). The City and Columbia are sometimes collectively referred to as the "Parties" and individually as a "Party."

WHEREAS, Columbia provides gas transportation through a Services Agreement governed by Columbia's FERC Tariff to Elam Utility Company, Inc., ("Elam") a natural gas utility that provides natural gas services in and around the City; and

WHEREAS, the City and Elam have entered into an Asset Purchase Agreement whereby Elam has agreed to sell, and the City has agreed to purchase, Elam's utility assets, including Elam's Service Agreement with Columbia; and

WHEREAS, the City's purchase of Elam's utility system must be approved by the Kentucky Public Service Corporation ("PSC"); and

WHEREAS, the City filed an application on July 19, 2010 ("City's Application") with the PSC seeking approval for the transfer of Elam's utility assets to the City and it is anticipated that the PSC will take action on the City's Application by August 13, 2010; and

WHEREAS, as of July 23, 2010, Elam has an outstanding obligation to Columbia under the Elam Services Agreement for services provided and various gas imbalances (the "Current Obligation"), which Columbia currently values at Six Hundred Forty-Four Thousand One Hundred Fifty Eight Dollars (\$644,158); and

WHEREAS, Columbia has undertaken the necessary and required steps pursuant to Columbia's FERC Tariff to terminate services to Elam under the Elam Services Agreement effective July 26, 2010; and

WHEREAS, pursuant to Part VII, Section 5.4 of Columbia's FERC Tariff, in the event that the City succeeds to Elam's interest under the Elam Services Agreement with Columbia, the City is liable for Elam's obligations to Columbia, including the Current Obligation owed to Columbia; and

WHEREAS, as a part of the City's Application pending before the PSC, the City has committed to the PSC to fulfill Elam's Current Obligation, in natural gas or money at the City's sole discretion, within fourteen (14) days of the PSC's approval of the City's Application to acquire Elam's utility assets; and

WHEREAS, the City has requested that Columbia hold in abeyance the suspension of services under the Elam Services Agreement while the City's Application is pending before the PSC; and

WHEREAS, Columbia is willing to hold in abeyance the suspension of services under the Elam Services Agreement upon the City's satisfying all of the conditions set forth in this MOU; and

WHEREAS, the City is willing to satisfy all of the conditions set forth in this MOU.

NOW, THEREFORE, in exchange of mutual consideration, the receipt and sufficiency of which is acknowledged by both Parties, the Parties hereby agree as follows with respect to this MOU.

1. Columbia agrees to hold in abeyance the suspension of service under the Elam Services Agreement in accordance with the terms of this MOU so long as the conditions of the MOU are satisfied. If at any point the terms and conditions set forth herein are not satisfied, Columbia will cease the abeyance and immediately proceed with suspending the Elam Services Agreement and the shut-in of services in accordance with its rights under its FERC Tariff.

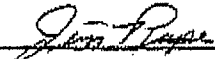
2. In exchange for Columbia's abeyance, the City shall execute an Escrow Agreement whereby the City shall deposit \$64,416.00, approximately ten percent (10%) of the Current Obligation as Columbia Gas currently values it ("Escrowed Funds"), into an escrow account before the close of business on Friday, July 23, 2010. The Escrow Agent shall provide verification to Columbia before the close of business on Friday, July 23, 2010 that the escrow account has been established and that the Escrowed Funds have been deposited into the escrow account. In the event the PSC approves the City's Application, the Escrowed Funds shall be immediately distributed in accordance with terms and conditions of the Escrow Agreement. A copy of the Escrow Agreement is attached hereto as Exhibit A and incorporated by reference.

3. The City shall cooperate with the PSC and do everything in its power to ensure that the PSC considers and acts upon the City's Application pending before the PSC on or before Friday, August 13, 2010. In the event that the PSC either disapproves the City's Application at any time prior to August 13, 2010 or fails to approve the City's Application by close of business on Friday August 13, 2010, Columbia will immediately cease the abeyance and proceed with suspension of the Elam Services Agreement and shut-in of the service in accordance with its rights under its FERC Tariff, and the Escrowed Funds will be immediately released to the City in accordance with terms and conditions of the Escrow Agreement.

4. In the event that the PSC approves the City's Application on or before August 13, 2010, the City shall fulfill the remaining portion of the Current Obligation (i.e., the Current Obligation less the Escrowed Funds or the amount of natural gas purchased therewith), within 14 days of PSC approval. The City may fulfill the Current Obligation remaining at that time in natural gas or money at the City's sole discretion. In the event that the City does not fulfill the remaining portion of the Current Obligation within fourteen (14) days of the PSC's approving the City's Application, Columbia will immediately cease the abeyance and proceed with suspension of the Elam Services Agreement and shut-in of the service in accordance with its rights under its FERC Tariff.
5. Unless extended by mutual agreement of the Parties, this MOU shall remain in effect until the earlier of: (a) August 13, 2010, if the PSC has not taken any action by August 13, 2010, on the City's Application; (b) any denial by the PSC of the City's Application; (c) fourteen days (14) days after PSC approval of the City's Application if the City has not fulfilled the Current Obligation; or (d) the City's fulfillment of the Current Obligation.
6. Subject to the terms and conditions set forth herein, the Parties shall bear their respective fees, costs and expenses (including any legal fees and expenses) in connection with this MOU.
7. Each party represents and warrants that it has taken all necessary action to have the authority to execute, deliver and perform under this MOU. Each party represents and warrants that it has all requisite authority under all applicable laws, including the Constitution and laws of the Commonwealth of Kentucky, any charter, ordinances, bylaws or other governing or organizational documents to execute, deliver and perform under this MOU. Each party further represents and warrants that this MOU constitutes a legally valid and binding agreement.
8. This MOU shall not be modified or amended except by an instrument in writing signed by or on behalf of each Party. The failure of either Party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this MOU or to exercise any right hereunder, shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or conditions or the future exercise of such right, but the obligation of the other Party with respect to such future performance shall continue in full force and effect.
9. This MOU shall be governed by and construed in all respects in accordance with the laws of the Commonwealth of Kentucky, but excluding any conflicts of law and choice of law principles that would direct the application of the laws of another jurisdiction.
10. Neither Party shall be liable to the other Party for special, indirect, consequential, incidental or punitive damages resulting from or arising out of this MOU.
11. This MOU may be executed in any number of counterparts, each of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this MOU on the date first above written.

THE CITY OF WEST LIBERTY, KENTUCKY

By: 

Name: Jim Rupe

Title: Mayor

COLUMBIA GAS TRANSMISSION, LLC.

By: 

Name: W. COLIN HARPER

Title: SR. VP COMMERCIAL OPERATIONS

COLUMBIA GULF TRANSMISSION COMPANY

By: 

Name: W. COLIN HARPER

Title: SR. VP COMMERCIAL OPERATIONS

EXHIBIT A
ESCROW AGREEMENT

ESCROW AGREEMENT

among

City of West Liberty, Kentucky,

Columbia Gas Transmission, LLC,

and

Commercial Bank (West Liberty)

Dated as of July 22, 2010 (Effective Date)

ESCROW AGREEMENT made this 22 day of July 2010, by and among Commercial Bank (West Liberty) ("Escrow Agent"), the City of West Liberty, Kentucky ("West Liberty" or "Depositor") and Columbia Gas Transmission, LLC ("Columbia Gas").

Escrow Agent, Depositor and Columbia Gas hereby agree that, in consideration of the mutual promises and covenants contained herein, Escrow Agent shall hold in escrow and shall distribute Escrow Property (as defined herein) in accordance with and subject to the following Instructions and Terms and Conditions:

SECTION I. INSTRUCTIONS:

1. **Escrow Property**

Promptly upon execution of this Agreement, West Liberty shall deposit and maintain with Escrow Agent during the term of this Escrow Agreement a deposit in the amount of \$64,416.00 (the "Deposit") in account number 68391401.

The foregoing property and/or funds, plus all interest, dividends and other distributions and payments thereon (collectively the "Distributions") received by Escrow Agent are collectively referred to herein as "Escrow Property."

The Escrow Property shall be retained in a segregated account and may not be commingled with any assets or funds of either Depositor or the Escrow Agent.

2. **Distribution of Escrow Property**

Escrow Agent is directed to hold and distribute the Escrow Property in the following manner:

Upon notification by Columbia Gas of the approval of the Application of the City of West Liberty, Kentucky, for Approval to Acquire the Utility Assets of Elam Utility Company, Inc, by the Kentucky Public Service Commission, the Escrow Agent shall immediately and unconditionally release all of the Escrow Property per the instructions Columbia Gas will provide with its notification. Notification from Columbia Gas shall not be effective unless accompanied by a copy of the final order from the Commission.

3. **Distribution of Escrow Property upon Termination**

Upon notification by either Depositor or Columbia Gas that the Kentucky Public Service Commission has issued a final order denying the Application of the City of West Liberty, Kentucky, for Approval to Acquire the Utility Assets of Elam Utility Company, Inc, the Escrow Agent shall distribute the Escrow Property then held hereunder to the Depositor. Notification from Depositor shall not be effective unless accompanied by a copy of the final order from the Commission.

4. **Addresses**

Notices, instructions and other communications shall be via overnight mail, postage prepaid, to the parties at the following addresses: Notices shall be deemed to be received the day after overnight transmission.

Escrow Agent
Commercial Bank (West Liberty)
Attn: Hank Allen
P.O. Box 635
West Liberty, KY 41472

City of West Liberty
Attn: Sally Barker
565 Main St.
West Liberty, KY 41472

Columbia Gas Transmission, LLC.
Attn: Jim Downs
5151 San Felipe, Suite 2500
Houston TX 77056

Depositor agrees to indemnify and hold harmless the Escrow Agent against any and all claims, losses, damages liabilities, judgments, costs and expenses (including reasonable attorneys' fees) (collectively, "Losses") incurred or sustained by the Escrow Agent as a result of or in connection with the Escrow Agent's reliance upon and compliance with instructions or directions given by facsimile or Electronic Transmission, provided, however, that such Losses have not arisen from the gross negligence or willful misconduct of the Escrow Agent.

SECTION II. TERMS AND CONDITIONS:

1. **Term**
The Term of this Deposit Agreement shall begin upon the Effective Date and shall terminate upon: 1) the distribution of the Escrow Property as provided for in Section I, Paragraph 2; or 2) the distribution of the Escrow Property as provided for in Section I, Paragraph 3, whichever shall occur first.
2. **Compensation**
West Liberty shall pay all activity charges as per Escrow Agent's current fee schedule. West Liberty shall be responsible for and shall reimburse Escrow Agent upon demand for all reasonable expenses, disbursements and advances incurred or made by Escrow Agent in connection with this Agreement.
3. The duties, responsibilities and obligations of Escrow Agent shall be limited to those expressly set forth herein and no duties, responsibilities or obligations shall be inferred or implied. Escrow Agent shall not be subject to, nor required to comply with, any agreement to which the Depositor is a party, even though reference thereto may be made herein. Escrow Agent shall not be required to,

and shall not, expend or risk any of its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder.

4. This Agreement is for the exclusive benefit of the parties hereto and their respective successors hereunder, and shall not be deemed to give, either expressly or impliedly, any legal or equitable right, remedy, or claim to any other entity or person whatsoever.
5. If at any time Escrow Agent is served with any judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process which in any way affects Escrow Property (including but not limited to orders of attachment or garnishment or other forms of levies or injunctions or stays relating to the transfer of Escrow Property), Escrow Agent is authorized to comply therewith in any manner as it or its legal counsel of its own choosing deems appropriate; and if Escrow Agent complies with any such judicial or administrative order, judgment, decree, writ or other form of judicial or administrative process, Escrow Agent shall not be liable to any of the parties hereto or to any other person or entity even though such order, judgment, decree, writ or process may be subsequently modified or vacated or otherwise determined to have been without legal force or effect.
6.
 - (a) Escrow Agent shall not be liable for any action taken or omitted or for any loss or injury resulting from its actions or its performance or lack of performance of its duties hereunder in the absence of gross negligence or willful misconduct on its part. In no event shall Escrow Agent be liable (i) for acting in accordance with or relying upon any instruction, notice, demand, certificate or document from any Depositor or any entity acting on behalf of any Depositor, (ii) for any consequential, punitive or special damages, (iii) for the acts or omissions of its nominees, correspondents, designees, subagents or subcustodians, or (iv) for an amount in excess of the value of the Escrow Property, valued as of the date of deposit.
 - (b) If any fees, expenses or costs incurred by, or any obligations owed to, Escrow Agent hereunder are not promptly paid when due, Escrow Agent may reimburse itself therefor from the Escrow Property and may sell, convey or otherwise dispose of any Escrow Property for such purpose.
 - (c) As security for the due and punctual performance of any and all of Depositor's obligations to Escrow Agent hereunder, now or hereafter arising, Depositor hereby pledges, assigns and grants to Escrow Agent a continuing security interest in, and a lien on, the Escrow Property and all Distributions thereon or additions thereto (whether such additions are the result of deposits by Depositor or the investment of Escrow Property). The security interest of Escrow Agent shall at all times be valid, perfected and enforceable by Escrow Agent against Depositor and all third parties in accordance with the terms of this Escrow Agreement.
 - (d) Escrow Agent may consult with legal counsel at its own expense as to any matter relating to this Escrow Agreement, and Escrow Agent shall not incur any liability in acting in good faith in accordance with any advice from such counsel.

(e) Escrow Agent shall not incur any liability for not performing any act or fulfilling any duty, obligation or responsibility hereunder by reason of any occurrence beyond the control of Escrow Agent (including but not limited to any act or provision of any present or future law or regulation or governmental authority, any act of God or war, or the unavailability of the Federal Reserve Bank wire or telex or other wire or communication facility).

7. Notices, instructions or other communications shall be in writing and shall be given to the address set forth in the "Addresses" provision herein (or to such other address as may be substituted therefor by written notification to Escrow Agent or Depositor). Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by Depositor or by a person or persons authorized by Depositor. Whenever under the terms hereof the time for giving a notice or performing an act falls upon a Saturday, Sunday, or banking holiday, such time shall be extended to the next day on which Escrow Agent is open for business.
8. Depositor shall be liable for and shall reimburse and indemnify Escrow Agent and hold Escrow Agent harmless from and against any and all claims, losses, liabilities, costs, damages or expenses (including reasonable attorneys' fees and expenses) (collectively, "Losses") arising from or in connection with or related to this Escrow Agreement or being Escrow Agent hereunder (including but not limited to Losses incurred by Escrow Agent in connection with its successful defense, in whole or in part, of any claim of gross negligence or willful misconduct on its part), provided, however, that nothing contained herein shall require Escrow Agent to be indemnified for Losses caused by its gross negligence or willful misconduct.
9. This Agreement shall be interpreted, construed, enforced and administered in accordance with the internal substantive laws (and not the choice of law rules) of the Commonwealth of Kentucky. The Depositor hereby submits to the personal jurisdiction of and agrees that all proceedings relating hereto shall be brought in courts located within the Commonwealth of Kentucky or elsewhere as Escrow Agent may select. The parties hereby waive the right to trial by jury and to assert counterclaims in any such proceedings. To the extent that in any jurisdiction the Depositor may be entitled to claim, for itself or its assets, immunity from suit, execution, attachment (whether before or after judgment) or other legal process, hereby irrevocably agrees not to claim, and hereby waives, such immunity.
10. Except as otherwise permitted herein, this Escrow Agreement may be modified only by a written amendment signed by all the parties hereto, and no waiver of any provision hereof shall be effective unless expressed in a writing signed by the party to be charged.
11. The rights and remedies conferred upon the parties hereto shall be cumulative, and the exercise or waiver of any such right or remedy shall not preclude or inhibit the exercise of any additional rights or remedies. The waiver of any right or remedy hereunder shall not preclude the subsequent exercise of such right or remedy.

12. Depositor hereby represents and warrants (a) that this Escrow Agreement has been duly authorized, executed and delivered on its behalf and constitutes its legal, valid and binding obligation and (b) that the execution, delivery and performance of this Escrow Agreement by Depositor, to the reasonable knowledge of Depositor, do not and will not violate any applicable law or regulation.
13. The invalidity, illegality or unenforceability of any provision of this Agreement shall in no way affect the validity, legality or enforceability of any other provision; and if any provision is held to be enforceable as a matter of law, the other provisions shall not be affected thereby and shall remain in full force and effect.
14. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter and supersedes all prior oral or written agreements in regard thereto.
15. The provisions of these Terms and Conditions shall survive termination of this Escrow Agreement and/or the resignation or removal of the Escrow Agent.
16. No printed or other material in any language, including prospectuses, notices, reports, and promotional material which mentions "Commercial Bank (West Liberty)" by name or the rights, powers, or duties of the Escrow Agent under this Agreement shall be issued by any other parties hereto, or on such party's behalf, without the prior written consent of Escrow Agent.
17. The headings contained in this Agreement are for convenience of reference only and shall have no effect on the interpretation or operation hereof.
18. This Escrow Agreement may be executed by each of the parties hereto in any number of counterparts, each of which counterpart, when so executed and delivered, shall be deemed to be an original and all such counterparts shall together constitute one and the same agreement.
19. The Escrow Agent does not have any interest in the Escrowed Property deposited hereunder (except as provided in Paragraph 6(c) herein) but is serving as escrow holder only and having only possession thereof. West Liberty shall pay or reimburse the Escrow Agent upon request for any transfer taxes or other taxes relating to the Escrowed Property incurred in connection herewith and shall indemnify and hold harmless the Escrow Agent any amounts that it is obligated to pay in the way of such taxes. Any payments of income from this Escrow Account shall be subject to withholding regulations then in force with respect to United States taxes. West Liberty will provide the Escrow Agent with appropriate W-9 forms for tax I.D., number certifications, or W-8 forms for non-resident alien certifications. It is understood that the Escrow Agent shall be responsible for income reporting only with respect to income earned on investment of funds which are a part of the Escrowed Property and is not responsible for any other reporting. This paragraph and paragraph (9) shall survive notwithstanding any termination of this Escrow Agreement or the resignation of the Escrow Agent.

IN WITNESS WHEREOF, each of the parties has caused this Escrow Agreement to be executed by a duly authorized representative as of the day and year first written above.

City of West Liberty, Kentucky

Columbia Gas Transmission, LLC.

By: Jim Rupe

By: [Signature]

Name: Jim Rupe

Name: W. COLIN HARPER

Title: Mayor

Title: SR. VP COMMERCIAL OPERATIONS

Date: 7-22-10

Date: 7/22/10

Commercial Bank (West Liberty), as Escrow Agent

By: [Signature]

Name: Hank Allen

Title: CEO

Date: 7-22-10