

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)	CASE NO.
KENTUCKY, INC. FOR AN ADJUSTMENT OF)	2013-00167
RATES FOR GAS SERVICE)	

ORDER

On June 18, 2013, Stand Energy Corporation (“Stand Energy”) filed a motion seeking full intervenor status in the instant proceeding. Stand Energy is a private gas marketer with its corporate offices located in Cincinnati, Ohio. Stand Energy states that it:

... is engaged in the marketing of natural gas to a unique blend of public and private customers in over 16 states with relevant experience currently delivering natural gas behind more than 52 separate and distinct local distribution companies on a daily basis, including Columbia Gas of Kentucky, Inc. Stand Energy currently serves customers taking Columbia Gas Delivery (Transportation) Service as well as customers participating in the Columbia Choice Program.¹

In support of its motion, Stand Energy filed a memorandum asserting that no other participant to the matter at bar can adequately represent or protect its interests or the interests of its customers because it has commercial goals that differ from any party in this case. Stand Energy also contends that its participation would lead to the presentation of relevant facts and issues that will assist the Commission in its consideration of the matter without unduly complicating or disrupting the proceedings.

¹ Memorandum Supporting Motion of Stand Energy Corporation to Intervene, p. 3.

Stand Energy asserts that it can assist the Commission in designing rates deemed appropriate by the Commission. Specifically, it contends that it would propose that Columbia Gas of Kentucky, Inc. ("Columbia") and the Commission also consider proposals to modify and improve the existing Columbia tariffs to expand gas transportation services to commercial, industrial, governmental, and other public entities, including the appropriate thresholds and rates. Stand Energy avers that it supports the extension of the Customer Choice Program by Columbia, but contends that Columbia should be required to provide two additional delivery services to gas transportation customers, an "Aggregation" or "Pooling" Service and a "Gas Transfer" Service, which Stand Energy states are provided in other jurisdictions by other NiSource gas distribution companies.²

On July 9, 2013, Columbia filed an objection and response to Stand Energy's motion to intervene. Columbia argues that Stand Energy's commercial interests are not special interests and that Stand Energy competes with Columbia for the sale of natural gas to customers on Columbia's system. Columbia also disputes that Stand Energy will assist the Commission by offering new tariff sheets not proposed by Columbia.

Columbia takes issue with Stand Energy's citing of Case No. 2010-00146, the Commission's Retail Competition Administrative Case,³ as authority for its motion to intervene and states that the paragraph cited by Stand Energy makes no reference to Columbia, but rather to the other four largest local distribution companies in Kentucky that do not have a Customer Choice program. Columbia acknowledges the following

² Columbia is a subsidiary of NiSource, Inc., which owns local distribution company subsidiaries that operate in several other states.

³ Case No. 2010-00146, *In the Matter of: An Investigation of Natural Gas Retail Competition Programs* (Ky. PSC Dec. 28, 2010).

statement made in the Appendix to the Order. "The Commission believes that existing transportation thresholds bear further examination, and the Commission will examine each LDC's tariffs and rate design in each LDC's next general rate proceeding," but argues that, at most, the Commission said that it would examine Columbia's existing transportation thresholds in its next general rate case proceedings and specifically did not say that it would consider new services proposed by gas marketers in the LDCs' next general rate proceedings.

Columbia contends that if Stand Energy is granted intervention, Stand Energy does not propose to address the issue identified in the Retail Competition Administrative Case, gas transportation thresholds, but only proposes to support Columbia's Customer Choice program and to argue that Columbia should offer two new services: Aggregation Service and Transfer Service. Columbia states that this intervention will unduly complicate and disrupt this proceeding.

On July 15, 2013, Stand Energy filed a reply to Columbia's response and objection to Stand Energy's motion to intervene and argued that Columbia's response and objection was untimely, pursuant to 807 KAR 5:001, Section 5, paragraph 2, and should therefore be denied

Having reviewed Stand Energy's motion and memorandum, and Columbia's objection and response, and Stand Energy's reply, and being otherwise sufficiently advised, the Commission finds that the only person that has a statutory right to intervene is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.

In the unreported case of *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007), the Court of Appeals ruled that this Commission retains power in its discretion to grant or deny a motion for intervention but that discretion is not unlimited. The Court then enumerated the statutory and regulatory limits on the Commission's discretion in ruling on motions for intervention. The statutory limitation, KRS 278.040(2), requires that the person seeking intervention have an interest in the rates or service of a utility as those are the only two subjects under the jurisdiction of the Commission.

The regulatory limitation of 807 KAR 5:001, Section 4(11)(b), requires that a person demonstrate a special interest in the proceeding which is not otherwise adequately represented or that intervention is likely to present issues or develop facts that assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. It is under these statutory and regulatory criteria that the Commission reviews a motion to intervene.

The Commission finds that Stand Energy is a gas marketer and a competitor of Columbia Gas. Stand Energy is neither a customer of Columbia Gas, nor did Stand Energy indicate that it represented any Columbia Gas delivery customers who desired the services proposed by Stand Energy. In Case No. 2010-00146,⁴ an investigation to which both Columbia and Stand Energy were parties, the Commission expressly stated that there was a need to review the transportation tariffs of natural gas local distribution companies in their next base rate proceeding. The Commission finds that this case represents its first such opportunity to review Columbia's gas transportation tariffs since

⁴ *Id.*

the Order in that proceeding, and that Stand Energy may present issues or develop facts that assist the Commission in its investigation of these issues. The Commission also finds that although Columbia's objection and response was filed late, a deviation should be granted. For these reasons, the Commission will grant Stand Energy full intervention limited to participate on the issues of Columbia's Customer Choice Program and its transportation threshold levels and any other matters related thereto, but not on the issue of whether the proposed new services of Aggregation or Gas Transfer should be added.

IT IS HEREBY ORDERED that:

1. Stand Energy's reply and request that Columbia's response and objection be denied as untimely is denied.
2. Stand Energy is granted full intervention limited to participate on the issues of Columbia's Customer Choice Program and its transportation threshold levels and any other matters related thereto, but not on the issue of whether the proposed new services of Aggregation or Gas Transfer should be added.
3. Stand Energy shall be served with all Commission Orders and all documents filed by any party to this proceeding issued after the date of this Order.
4. Should Stand Energy file documents of any kind with the Commission in the course of these proceedings, Stand Energy shall also serve a copy of said documents on all other parties of record.
5. Stand Energy shall adhere to the July 16, 2013 procedural schedule.

By the Commission

ENTERED
AUG 23 2013
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:


Executive Director

Case No. 2013-00167

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