

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF LOUISVILLE GAS AND |) | |
| ELECTRIC COMPANY FOR AN ADJUSTMENT |) | |
| OF ITS ELECTRIC AND GAS RATES, A |) | CASE NO. |
| CERTIFICATE OF PUBLIC CONVENIENCE |) | 2012-00222 |
| AND NECESSITY, APPROVAL OF |) | |
| OWNERSHIP OF GAS SERVICE LINES AND |) | |
| RISERS, AND A GAS LINE SURCHARGE |) | |

ORDER

On June 14, 2012, Movant, 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 13 states (including Kentucky), with experience delivering natural gas behind more than 33 local distribution companies (including, but not limited to customers behind [Louisville Gas & Electric Company]).¹

In support of its motion, Stand Energy filed a memorandum asserting that no other party to the matter at bar can adequately protect the interests of Stand Energy or 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. Lastly, Stand Energy

¹ Memorandum Supporting Motion of Stand Energy Corporation for Full Intervention, p. 4.

points out that, in Case No. 2010-00146,² the Commission expressed its desire to review the reasonableness of Louisville Gas and Electric Company's ("LG&E") transportation tariffs in its next general rate case. Because "LG&E proposes to adjust the rates of all classes of service within the LG&E system," Stand Energy asserts that it would be appropriate in this matter for the Commission to consider proposals to adjust the volumetric threshold requirements for customers to transport natural gas on the LG&E system. Specifically, Stand Energy states that it would propose that LG&E expand its gas transportation programs for commercial, governmental, and other public entities by establishing lower volumetric thresholds for customers to transport gas.

On June 19, 2012, LG&E filed an objection to Stand Energy's Motion for Full Intervention. LG&E argues that Stand Energy's only interest in this proceeding is a competitive one, noting that Stand Energy is not an LG&E customer but rather is a gas marketer that sells gas to certain customers who use LG&E's gas transportation service. Thus, LG&E contends that Stand Energy has no interest in the rates and service of LG&E sufficient to entitle it to intervention in this matter.

LG&E asserts that Stand Energy was previously denied intervention in a transfer case involving Duke Energy Kentucky, Inc. ("Duke Kentucky"). In Case No. 2011-00124,³ the Commission found that Stand Energy's interest as a competitive supplier of commodity gas to certain customers in Duke Kentucky's service territory was not sufficient to justify intervenor status. LG&E maintains that Stand Energy's request for

² Case No. 2010-00146, *An Investigation of Natural Gas Retail Competition Programs* (Ky. PSC Dec. 28, 2010).

³ Case No. 2011-00124, *Joint Application of Duke Energy Corporation, Cinergy Corp., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Diamond Acquisition Corporation, and Progress Energy, Inc., for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc.* (Ky. PSC May 12, 2011).

full intervention in this matter should be denied on similar grounds expressed by the Commission in Case No. 2011-00124.

Although LG&E acknowledges that the Commission stated in Case No. 2010-00146 that it would review the transportation tariffs of natural gas local distribution companies, like LG&E, in their next base rate proceedings, LG&E argues that Stand Energy lacks any special interest in LG&E's rates and service other than that as a competitor. LG&E contends that the only interests and views that are relevant to the instant proceeding are those of its customers and their duly designated representatives, including the Attorney General's Office ("AG"). LG&E maintains that the AG, who has intervened in this matter, is more than capable of advocating customers' interests, such as the type of change that Stand Energy seeks to promote.

Lastly, LG&E argues that Stand Energy lacks any relevant expertise to assist the Commission in its determination of the issues in this proceeding. Referencing Stand Energy's statement that it "has absolutely no connection to any regulated utility in any state," LG&E concludes that Stand Energy could not have any claimed expertise in LG&E's rates and service that would be central to the consideration of this proceeding.

Having reviewed Stand Energy's motion, and LG&E's objections thereto, and being otherwise sufficiently advised, the Commission finds that the only person that has a statutory right to intervene is the AG, 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 3(8), 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.

In Case No. 2010-00146, an investigation to which both LG&E 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. This case represents the Commission's first such opportunity to review LG&E's gas transportation tariffs, and LG&E's Application does propose tariff changes to the eligibility criteria for gas transportation. The Commission finds that, based on our findings in Case No. 2010-00146, it is appropriate to conduct an investigation in this case of the reasonableness of LG&E's gas transportation thresholds. Further, we find that although Stand Energy is a gas marketer and a competitor of LG&E, not a customer, Stand Energy was granted intervention in Case No. 2010-00146. Since the issue of LG&E's gas transportation thresholds is being investigated in this case as a follow-up to Case No. 2010-00146, we find that Stand Energy is likely to present issues

or to develop facts that assist the Commission in our investigation of that issue. For these reasons we will grant Stand Energy limited intervention to participate solely on the issue of gas transportation thresholds.

IT IS THEREFORE ORDERED that:

1. Stand Energy is granted limited intervention solely to participate on the issue of LG&E's gas transportation thresholds.

2. Stand Energy shall be entitled to the rights of a limited intervenor on the issue of LG&E's gas transportation thresholds and shall be served with electronic notice of the issuance of all Commission Orders issued after the date of this Order and of all documents filed by any party to this proceeding.

3. Stand Energy shall comply with all provisions of the Commission's Order of June 22, 2012 related to the electronic filing of documents.

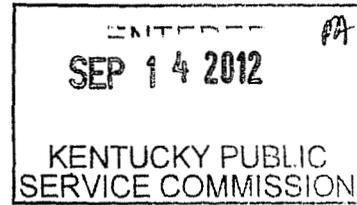
4. Within five days of entry of this Order, Stand Energy shall:

a. Notify the Commission and all other parties of record in writing of the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

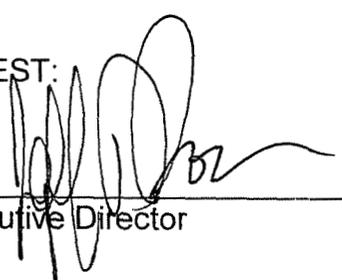
b. File a written statement as to whether it, or its agent, is capable of receiving electronic transmissions, and whether it waives its right to service of Commission Orders by United States mail in return for electronic notification of the issuance of such Orders.

By the Commission

Commissioner Breathitt is abstaining from this proceeding.



ATTEST:



Executive Director

Case No. 2012-00222

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