

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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

ORDER

On June 12, 2013, Interstate Gas Supply, Inc. ("Interstate Gas") filed a motion seeking full intervenor status in the instant proceeding. Interstate Gas is a private gas marketer. Interstate Gas states that it:

... is the main supplier in the Columbia Choice program and supplies tens of thousands of natural gas customers at the residential and small commercial customer level through the Choice Program.¹

In support of its motion, Interstate Gas asserts that no other participant to the matter at bar can adequately represent or protect the interests of Interstate Gas or its customers because it has commercial goals that differ from any party in this case. Interstate Gas 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. Interstate Gas avers that it has frequently intervened in previous Columbia Gas of Kentucky, Inc.'s ("Columbia") base rate

¹ Interstate Gas Supply, Inc.'s Motion to Intervene, p. 1.

applications, specifically citing Case No. 2007-0008² and Case No. 2009-00141.³ Lastly, Interstate Gas states that it has experience in proceedings such as the instant one, and will likely present expert testimony regarding the Choice Program and other relevant issues.

On July 9, 2013, Columbia filed an objection and response to Interstate Gas's motion to intervene. Specifically, Columbia objects to Interstate Gas's claim that it should represent the interest of its customers. Columbia notes that Interstate Gas did not provide any Commission or statutory authority supporting its representation of any interest belonging to its customers or any facts sufficient to show that its interest and its customers' interests are not currently being adequately represented by the Attorney General.

On July 19, 2013, Interstate Gas filed a reply to Columbia's objection and response to its motion to intervene. Interstate Gas concedes that it is the Attorney General's unique statutorily charged duty to represent Columbia's residential ratepayers. It notes, however, that Columbia proposes changes to the Choice Program and as the main supplier and the largest stakeholder in that program, Interstate Gas has a significant financial investment in the Choice Program and has a special interest in these proceedings not represented by any other parties.

Having reviewed Interstate Gas's motion, Columbia's objection and response and Interstate Gas'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,

² Case No. 2007-0008, *Adjustment of Rates of Columbia Gas of Kentucky, Inc.* (Ky. PSC Apr. 2, 2007).

³ Case No. 2009-00141, *Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates* (Ky. PSC Jul. 17, 2009).

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 has 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.

In Case No. 2010-00146,⁴ an investigation to which both Columbia and Interstate Gas 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. In addition, although Interstate Gas is a gas marketer and a competitor of Columbia Gas, not a customer, Interstate Gas was

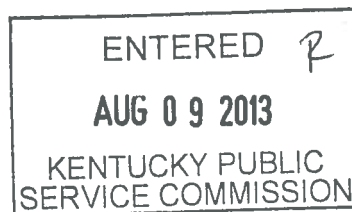
⁴ Case No. 2010-00146, *In the Matter of: An Investigation of Natural Gas Retail Competition Programs* (Ky. PSC Dec. 28, 2010)

granted intervention in Case Nos. 2007-0008 and 2009-00141 and the Commission finds that Interstate Gas is likely to present issues or to develop facts that assist the Commission in its investigation of these issues. For these reasons, the Commission will grant Interstate Gas full intervention limited to participation on the issues of Columbia's Customer Choice Program and its transportation thresholds levels and any other matters related thereto.

IT IS HEREBY ORDERED that:

1. Interstate Gas is granted full intervention limited to participation on the issues of Columbia's Customer Choice Program and its transportation thresholds and any other matters related thereto.
2. Interstate Gas shall be served with all Commission Orders and all documents filed by any party to this proceeding issued after the date of this Order.
3. Should Interstate Gas file documents of any kind with the Commission in the course of these proceedings, Interstate Gas shall also serve a copy of said documents on all other parties of record.
4. Interstate Gas shall adhere to the July 16, 2013 procedural schedule.

By the Commission



ATTEST:



Executive Director

Case No. 2013-00167

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