

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter:

A FORMAL REVIEW OF WESTERN KENTUCKY)
GAS COMPANY'S DECISION TO TERMINIATE)
A NATURAL GAS SALES, TRANSPORTATION)
AND STORAGE AGREEMENT WITH NORAM) CASE NO. 99-447
ENERGY SERVICES, INC. AND ENTER INTO)
A NATURAL GAS SALES, TRANSPORTATION)
AND STORAGE AGREEMENT WITH)
WOODWARD MARKETING, L.L.C.)

O R D E R

On November 5, 1999, the Commission initiated this case to review Western Kentucky Gas Company's ("WKG") actions concerning its source of supply and asset management contracts, specifically its decision to terminate its contract with NorAm Energy Services, Inc. ("NorAm") and enter into a replacement contract with its affiliate, Woodward Marketing, L.L.C. ("Woodward").

On January 7, 2000, Innovative Gas Services, Inc. ("IGS"), by counsel, filed a motion with the Commission requesting full intervention in this proceeding. In support of its motion, IGS states that as a bidder on the original contract with NorAm and current competitor of Woodward it has a direct and substantial interest in this proceeding which cannot be represented by any other party. It further asserts that its participation in this proceeding may lead to the presentation of material issues regarding the impact of the affiliate relationship on competition in the marketplace and that its participation will not unduly complicate or disrupt the proceedings.

Commission Regulation 807 KAR 5:001, Section 3(8), governs intervention in Commission proceedings. “The regulation reposes in the Commission the responsibility for the exercise of sound discretion in the matter of affording permission to intervene.” Inter-County Rural Electric Cooperative Corporation v. Public Service Commission, Ky., 407 S.W.2d 127, 130 (1966). Commission Regulation 807 KAR 5:001, Section 3(8) provides in part:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by party is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Thus the regulation requires a person seeking to intervene to establish either (1) “a special interest” in the proceeding, or (2) that intervention is likely to develop facts and issues which will assist the Commission without unduly complicating or disrupting the proceeding. IGS’s motion satisfies neither requirement.

The purpose of this proceeding is to ensure that WKG acted reasonably and in the best interest of its customers and its shareholders with regard to its termination of the NorAm contract and its execution of the agreement with Woodward. IGS has not expressed an interest that differs from that of the general public. The fact that IGS is a competitor does not enlarge or enhance its interest in this proceeding and it should not be permitted to intervene on that ground. See Lexington Retail Beverage Dealers Ass’n v. Alcoholic Beverage Control Bd., Ky., 303 S.W. 2d 268 (1957). Furthermore, the public’s interest in this proceeding is adequately represented by the Attorney General who has intervened as a party for that purpose.

In addition, IGS has failed to demonstrate that its intervention will not unduly complicate or disrupt the proceedings. The Commission entered an Order on November 5, 1999 establishing the procedural schedule for this case. An Order amending the procedural schedule was subsequently entered by this Commission on December 13, 1999. IGS's motion for intervention was not filed with the Commission until January 7, 2000. Granting intervention to IGS would require the procedural schedule to be amended again to allow IGS adequate time to fully participate in the proceeding and thus unduly disrupt and delay the proceedings.

Based on a review of the motion and the applicable regulation, the Commission hereby finds that IGS has not met the requirements for full intervention and that its motion should be denied.

IT IS THEREFORE ORDERED that the motion of IGS to intervene is denied.

Done at Frankfort, Kentucky, this 2nd day of March, 2000.

By the Commission

ATTEST:

Executive Director