

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)	CASE NO.
KENTUCKY, INC. FOR AN ADJUSTMENT IN)	2009-00141
RATES)	

O R D E R

On June 9, 2009, Stand Energy Corporation Customer Group ("SEC Customer Group") moved the Commission for authority to intervene in this proceeding as an individual party. Columbia Gas of Kentucky, Inc. ("Columbia Gas") and the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention ("Attorney General"), filed comments on the motion. SEC Customer Group then filed a memorandum in support of its intervention, to which Columbia Gas filed a response.

The Commission, having considered all the pleadings filed by SEC Customer Group, Columbia Gas, and the Attorney General, and being otherwise sufficiently advised, finds that the motion and information provided in support thereof should be considered those of SEC Customer Group and not of Stand Energy Corporation ("Stand Energy"). We further find that SEC Customer Group has failed to satisfy the requirements of 807 KAR 5:001, Section 3(8), and that SEC Customer Group's request for intervention should be denied without prejudice for the reasons set forth below.

The only person entitled to intervene as a matter of right is the Attorney General.¹ Intervention by all other parties is permissive and within the sound discretion of the Commission. In exercising its discretion to determine permissive intervention, the Commission follows 807 KAR 5:001, Section 3(8), which establishes two alternative bases for full intervention in a Commission proceeding. The regulation provides, in pertinent 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 the party is likely to present issues or to develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Thus, a person seeking intervention must establish that he has a “special interest” that is not otherwise adequately represented or that his full intervention is likely to present issues or develop facts that will assist the Commission without undue complication or disruption.

SEC Customer Group requested that it be granted approval to intervene in this proceeding; however, it pled the interest of both SEC Customer Group and Stand Energy as support. It appears from the motion that SEC Customer Group is asserting that it meets the first regulatory alternative for intervention and that Stand Energy, through its experience, meets the second.

SEC Customer Group states that it is made up of transportation gas customers in Kentucky and that it has differing commercial goals than other parties in this proceeding. However, while it cites to the type of customers it serves, SEC Customer Group avers that the identities of those customers should not be disclosed publicly. It

¹ See KRS 367.150(8)(b).

further states that Stand Energy is a privately held Kentucky corporation that engages in marketing natural gas and serves several Commonwealth of Kentucky governmental facilities and several large public universities in Kentucky and that its 25 years of experience will lead to the presentation of issues that will assist the Commission in rendering its decision.

Columbia Gas objects to SEC Customer Group's intervention and requests that the Commission deny the motion. It argues, among other things, that SEC Customer Group has failed to establish that it meets the regulatory criteria for intervention. It further argues that, pursuant to statute, the Attorney General, as a party to this proceeding, represents the interests of all consumers, including those of SEC Customer Group. It contends that SEC Customer Group's argument that the Attorney General cannot adequately represent its interests fails because it did not disclose the identity of its members and did not distinguish their interest from the interests of other consumers. Columbia further states that it is impossible to determine from SEC Customer Group's pleadings whether Stand Energy is a member of SEC Customer Group or whether Stand Energy is acting as a representative of SEC Customer Group. It asserts that, if Stand Energy wishes to intervene in this proceeding to protect its stated interest, it must move the Commission for such approval.

The Attorney General, asserting that he is not capable of providing the same perspective and representation that the SEC Customer Group would provide in this matter, states that SEC Customer Group should be granted intervention. He further asserts that, since Columbia Gas's application includes a proposal regarding negotiated

sales service, SEC Customer Group's intervention is likely to lead to the development of facts that may assist the Commission.

Only persons who have an interest in a utility's rates or service are eligible to be granted intervenor status. SEC Customer Group is not a customer of Columbia Gas and, thus, has no individual interest in the rates or service at issue in this case. Rather, SEC Customer Group is asserting an interest as the representative of certain unnamed customers of Columbia Gas. The Commission has, on prior occasions, required a customer representative to identify the specific customers being represented.² Absent this information, the Commission would be unable to verify that the customer representative would be acting on behalf of actual customers. To the extent that SEC Customer Group believes that it would suffer competitive injury by the public disclosure of the names of the customers being represented, it can file a petition for confidential protection pursuant to Commission regulation 807 KAR 5:001, Section 7.

In addition, the disclosure of the specific customers is particularly important here, since it appears that SEC Customer Group is an unincorporated association which, under Kentucky law, lacks the power to sue or be sued. Further, SEC Customer Group has failed to provide sufficient information to establish standing to represent its customers before this Commission. While SEC Customer Group's request to intervene asserts the existence of agency agreements sufficient to represent the customers served, no such agency agreements were filed to support that assertion.

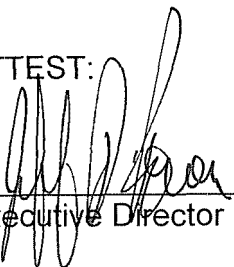
² Administrative Case No. 2007-00477, An Investigation of the Energy and Regulatory Issues in Section 50 of Kentucky's 2007 Energy Act (Ky. PSC Dec. 17, 2007).

IT IS THEREFORE ORDERED that the motion of SEC Customer Group to intervene is denied without prejudice.

By the Commission

ENTERED
JUL 15 2009 *M*
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Honorable David F Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OH 45202

Lawrence W Cook
Assistant Attorney General
Office of the Attorney General Utility & Rate
1024 Capital Center Drive
Suite 200
Frankfort, KY 40601-8204

Thomas J FitzGerald
Counsel & Director
Kentucky Resources Council, Inc.
Post Office Box 1070
Frankfort, KY 40602

Honorable Stephen B Seiple
Attorney at Law
Columbia Gas of Kentucky, Inc.
200 Civic Center Drive
P.O. Box 117
Columbus, OH 43216-0117

Iris G Skidmore
415 W. Main Street, Suite 2
Frankfort, KY 40601

Willis L Wilson
Attorney Sr.
Lexington-Fayette Urban County Government
Department Of Law
200 East Main Street
Lexington, KY 40507