

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)	CASE NO.
KENTUCKY, INC. FOR AN ADJUSTMENT)	2016-00162
IN RATES)	

ORDER

This matter arises upon the motion of Interstate Gas Supply, Inc. ("IGS") filed June 27, 2016, for full intervention in this case. IGS describes itself as the largest gas supplier participating in Columbia Gas of Kentucky, Inc.'s ("Columbia") Small Volume Gas Transportation Service ("Choice Program"). IGS states that in this proceeding, Columbia is proposing changes to its tariff that would allow Columbia to modify the delivery points for Choice suppliers which could affect the costs suppliers pay to deliver gas to Columbia. IGS further states that Columbia is proposing changes to the cash-out mechanism for transportation customers that are served by competitive suppliers and, as the main supplier in the Columbia Choice Program, IGS supplies tens of thousands of natural gas customers at the residential and small commercial customer level through that program. Accordingly, IGS asserts that since the application proposed by Columbia involves changes to the Choice Program which will directly impact IGS, current Choice Program customers, and future Choice Program customers, IGS has a special interest in the proceeding and should be granted intervention.

In its response filed July 1, 2016, Columbia emphasizes that it is proposing no changes to its Choice Program, other than changes to correct the headings on some of

the tariff sheets. Columbia states that its proposed change to the cash-out mechanism for transportation customers that are served by competitive suppliers does not affect the Choice Program, but rather the General Terms and Conditions applicable to Delivery Service Rate Schedule customers only. Furthermore, Columbia notes that IGS was permitted to intervene in Columbia's last base rate case, Case No. 2013-00167,¹ per the Commission's Order in Administrative Case No. 2010-00146,² which mandated review of transportation thresholds in Columbia's next base rate case, not in all subsequent cases. Additionally, Columbia argues IGS should be denied intervention since it is a competitor of Columbia, and not a customer. Columbia asserts that other than customers in its Choice Program, IGS serves only five traditional transportation customers on Columbia's system and competes with Columbia for the sale of natural gas to those customers.

In IGS's reply filed July 6, 2016, IGS asserts that since Columbia is proposing changes that will allow Columbia to modify delivery points for gas suppliers, including IGS, on the system, Columbia is making proposals that will directly impact IGS's ability to serve its current customers and the cost IGS will incur to serve these customers. IGS further asserts that it was granted intervention in Case No. 2013-00167 because it had an interest in ensuring the extension of the Choice Program past March of 2017. IGS states that it still has an interest in ensuring the extension of the Choice Program past March of 2017, since no such commitment was made in Columbia's last rate case or in this proceeding. As a result, IGS claims it has grounds to intervene.

¹ Case No. 2013-00167, *Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service* (Aug. 9, 2013), Order at 4.

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

Based on the motion to intervene and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case 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.³ The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and enumerated the limits on the Commission's discretion: one arising under statute; the other under regulation.⁴ The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC."⁵

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that IGS does not receive natural gas service from Columbia and is not a customer of Columbia. Rather, IGS is a competitive supplier of retail natural gas service. Thus, IGS lacks the necessary interest in the natural gas rates or natural gas service of Columbia sufficient to justify intervention.

³ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁴ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁵ *Id.* at 3.

With respect to gas service in Kentucky, supplying competitive natural gas is not prohibited per se, but may be authorized by the Commission. In fact, in the case of Columbia, the Commission has authorized tariffs permitting all classes of customers to obtain competitive supplies of natural gas through the transportation programs of local distribution companies. Thus, the only interest that IGS arguably has in the natural gas rates and service of Columbia is as a competitor, and that interest is too remote to justify intervention here.

The Commission further finds that an investigation of expanding retail natural gas competition in Kentucky markets was conducted in Administrative Case No. 2010-00146. The Commission's decision in that investigation was to not mandate competitive retail natural gas programs in Kentucky without additional statutory authority and consumer protections. Consequently, the Commission will not revisit those issues with respect to Columbia's Choice Program in this case, and IGS's status as a competitive supplier of natural gas does not justify its intervention in this case.

Lastly, with regard to IGS's alleged interest in pursuing Columbia's failure to address extension of the Choice Program past March of 2017, we find that addressing the future of the Choice Program is not part of this base rate case and will be addressed in a separate proceeding.

IT IS THEREFORE ORDERED:

1. IGS's motion to intervene is denied.
2. IGS's data request to Columbia, issued while IGS's motion to intervene was pending before the Commission, is moot, and Columbia is relieved of any obligation to file responses thereto.

By the Commission

ENTERED
JUL 21 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2016-00162

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