

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY FRONTIER)	
GAS, LLC FOR APPROVAL OF)	
CONSOLIDATION OF AND ADJUSTMENT OF)	
RATES, APPROVAL OF AMR EQUIPMENT)	CASE NO.
AND A CERTIFICATE OF CONVENIENCE AND)	2011-00443
NECESSITY FOR INSTALLATION OF AMR,)	
PIPELINE REPLACEMENT PROGRAM,)	
REVISION OF NON-RECURRING FEES AND)	
REVISION OF TARIFFS)	

ORDER

On September 17, 2012, Joe and Gloria Conley (hereinafter referred to collectively as "Petitioner") filed a letter, which will be treated as a petition, requesting authorization to intervene in this case. Petitioner recommends that Kentucky Frontier Gas, LLC's ("Frontier") request to increase rates, as it relates to former B.T.U. Gas Company's ("BTU") customers now served by Frontier, is unwarranted considering the recent rate increase, the cost of well-head gas, and the flat inflation rate.

The Attorney General ("AG"), who has not intervened in this case, is the only person with a statutory right to do so pursuant to KRS 367.150(8)(b). That statute authorizes the AG to participate "on behalf of consumer interests." Intervention by all others is permissive and is within the sound discretion of the Commission.¹

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. The statutory limitation, KRS

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

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.”² The regulatory limitation is set forth in 807 KAR 5:001, Section 3(8). That regulation requires a person seeking intervention to file a request in writing which “shall specify his interest in the proceeding.”³ That regulation further provides that:

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.⁴

It is under these statutory and regulatory criteria that the Commission reviews a motion for permissive intervention.

Based on a review of Petitioner’s request, the Commission would customarily find that Petitioner does not have a special interest in the proceeding which is not otherwise adequately represented, nor has Petitioner shown the likelihood to present issues or to develop facts that will assist the Commission in resolving this matter. Petitioner’s claims that (1) the rate increase is unwarranted when considering the recent rate increase; (2) the cost for well-head gas; and (3) the flat inflation rate are not sufficient to prove that the Petitioner has a special interest in these proceedings. There

² *EnviroPower, LLC v. Public Service Comm’n*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

³ 807 KAR 5:001, Section 3(8)(b).

⁴ *Id.*

are approximately 3,366⁵ Frontier customers, including approximately 462⁶ former BTU customers, with many of these customers having similar concerns as the Petitioner, which does not give Petitioner an interest different from or greater than other customers who may be affected in this matter.

Although the requisites of KRS 278.040(2) and 807 KAR 5:001, Section 3(8), have not been satisfied by the Petitioners in this case, in using our discretion to determine permissive intervention, the Commission has considered the fact that the AG has not intervened in this case “on behalf of consumer interests.” The Commission, being otherwise sufficiently advised, finds that the Petitioner should be granted intervention with the full rights of a party in this proceeding. The Commission also finds that the Petitioner’s participation should be relevant to Frontier’s application.

On September 19, 2012, the Commission adopted a procedural schedule in this case, prior to determining the Petitioners’ intervenor status. In order to afford Petitioner the opportunity to request information from Frontier and to file comments regarding Frontier’s application, the Commission finds that the procedural schedule adopted on September 19, 2012 should be modified going forward. Frontier’s application and all subsequent filings in this matter can be found at the Kentucky Public Service Commission’s Website at <http://psc.Ky.gov/Home/Library?type=Cases&folders=2011cases/2011-00443>.

IT IS THEREFORE ORDERED that:

1. Petitioner is granted full intervention.

⁵ Kentucky Frontier Gas, LLC’s Response to Commission Staff’s Second Request for Information filed November 7, 2012, Item 7.

⁶ *Id.*

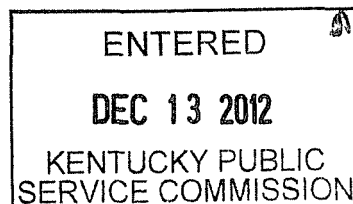
2. Petitioner shall direct its intervention participation to issues relevant to Frontier's application.

3. The procedural schedule established by the Commission on September 19, 2012 is modified going forward to conform to the procedural schedule set forth in the Appendix.

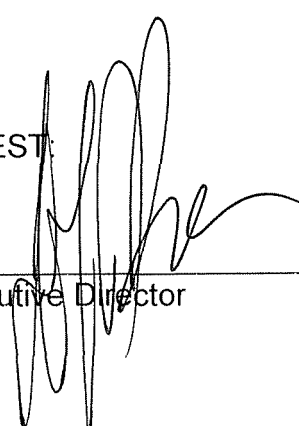
4. Petitioner shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.

5. Should Petitioner file documents of any kind with the Commission in the course of these proceedings, Petitioner shall also serve a copy of said documents on all other parties of record.

By the Commission



ATTEST:



Executive Director

Case No. 2011-00443

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 2011-00443 DATED DEC 13 2012

Intervenor's requests for information to Frontier shall be filed
no later than 12/27/12

Frontier shall file responses to requests for information
from Intevenors no later than 01/10/13

Intevenors shall file comments relating to Frontier's
application, including responses to requests for information,
no later than 01/23/13

Frontier shall file a reply to Intervenor's comments
no later than 02/06/13

Last day for Frontier to publish notice of hearing To be scheduled

Public Hearing to be held in Hearing Room 1
of the Commission's offices at 211 Sower Boulevard,
Frankfort, Kentucky, for the purpose of cross-examination
of witnesses of Frontier and Intervenors To be scheduled

Simultaneous Briefs, if any, shall be filed To be scheduled

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