

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 Kentucky Industrial Utility Customers, Inc. (“KIUC”), filed July 8, 2016, for full intervention in this case. The Commission’s June 10, 2016 Order included a procedural schedule in this matter which established June 27, 2016, as the deadline for requesting intervention. In its motion, KIUC acknowledges that it missed the deadline for requesting intervention due to various work-related reasons and requests to intervene out-of-time. KIUC describes itself as a “group of large manufacturing companies located in the service area of Columbia Gas of Kentucky, Inc. (‘Columbia Gas’)”¹ who “as ratepayers of Columbia Gas, transport large amounts of gas under various Columbia rates and tariffs.” KIUC claims that “[t]his proceeding involves issues which could effect [sic] gas transportation costs and availability, capacity costs and availability and other questions of critical importance to KIUC companies.”² KIUC asserts that it has a “substantial interest in the fairness and

¹ KIUC’s Motion to Intervene at 1 (filed July 8, 2016).

² *Id.*

reasonableness of the rates and charges proposed by Columbia Gas.”³ Columbia Gas did not file a response to KIUC’s motion to intervene.

807 KAR 5:001, Section 4(11)(b), requires a person seeking intervention in a Commission proceeding to demonstrate a special interest that is not otherwise adequately represented, or that intervention 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.

The only person with a statutory right to intervene is the Attorney General (“AG”), 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.⁴

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. 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 who wishes to become a party to a case before the commission may, by timely motion, request leave to intervene . . . and shall state his or her interest in the case and how intervention is likely to present issues or develop facts that will assist the commission in fully considering the matter without unduly

³ *Id.*

⁴ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁵ *EnviroPower, LLC v. Public Service Comm’n*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

complicating or disrupting the proceedings.”⁶ It is under these statutory and regulatory criteria that the Commission reviews a motion for permissive intervention.

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that KIUC is neither a customer of Columbia Gas, nor has it demonstrated that it represents a specific Columbia Gas ratepayer in this matter, or demonstrated that it has a special interest or will develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission also finds that KIUC should be granted additional time to amend its motion to address the above concerns. Finally, the Commission finds that no objections have been made to the timeliness of KIUC’s motion and that this issue should be held in abeyance pending KIUC’s amendment of its motion in compliance with this Order.

IT IS THEREFORE ORDERED that:

1. The motion of KIUC to intervene is denied.
2. KIUC shall have four days from the date of this Order to amend its motion and identify a specific Columbia Gas ratepayer that it represents in this matter.
3. The timeliness of KIUC’s motion to intervene out-of-time is held in abeyance.

⁶ 807 KAR 5:001, Section 4(11)(b).

By the Commission

ENTERED
JUL 21 2016
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

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Executive Director

Case No. 2016-00162

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