

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

IN THE MATTER OF AN ADJUSTMENT )  
OF GAS RATES OF COLUMBIA GAS )  
OF KENTUCKY, INC. )

CASE NO. 2007-00008

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PUBLIC SERVICE  
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**COLUMBIA GAS OF KENTUCKY, INC.'s**  
**REPLY TO**  
**THE MOTION TO INTERVENE OF**  
**CONSTELLATION NEWENERGY – GAS DIVISION**

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Now comes Columbia Gas of Kentucky, Inc. (“Columbia”), by and through its attorneys and replies to the Motion to Intervene filed by Constellation NewEnergy – Gas Division (“Constellation”) in the above-captioned proceeding.

On April 10, 2007 Constellation filed its Motion to Intervene requesting full intervenor status in this action pursuant to 807 KAR 5:001 §3(8) (“Motion”). In its Motion, Constellation cites only three reasons for its intervention:

“(1) CNEG is a gas marketer that serves a large number of commercial and industrial customers located in the service area of Columbia Gas of Kentucky, Inc. (“Columbia Gas”);

(2) CNEG and its customers transport large amounts of natural gas under various Columbia Gas rates and tariffs;

(3) This proceeding involves issues which could affect natural gas transportation costs and availability, capacity costs and availability and other questions of critical importance to CNEG and its customers;”

*Motion at 1*

It is important to note that Constellation provided no further explanation beyond these three stated reasons, and each of the reasons stated by Constellation rely in large part on Constellation's customers and how Columbia's rate case may affect *them*. Constellation provided no reason or explanation as to how Columbia's rate case would affect *it* in *its* individual capacity as a marketer. It goes without saying that Constellation's customers are also Columbia's customers. To the extent the rate case will have an impact on customers, the customers are already adequately represented by the Attorney General, which pursuant to KRS 367.150(8), has the right and obligation to appear before regulatory bodies of the Commonwealth of Kentucky to represent consumers' interests<sup>1</sup>. And, in addition, the Kentucky Industrial Utility Customers ("KIUC") have been granted intervention as ratepayers of Columbia<sup>2</sup> and like Constellation, it cited issues of transportation costs and availability, capacity costs and availability<sup>3</sup>. These are the same issues which Constellation cites in its petition to intervene.

The Commission's Regulation 807 KAR 5:001, Section 3(8) governs intervention in Commission proceedings. It 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."

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1 The Commission granted the Attorney General's motion to intervene on February 26, 2007.

2 The Commission granted KIUC's motion to intervene on March 13, 2007.

3 Petition to Intervene of Kentucky Industrial Utility Customers, page 1 (3),

The Commission has previously applied this regulation to situations in which marketers sought to intervene in gas utility rate cases based on their relationship to commercial and industrial customers. In the Matter of the Adjustment of Gas Rates of Union Light, Heat and Power, Stand Energy Corporation (“SEC”) sought to intervene. The Commission denied SEC’s motion to intervene because: “The Commission [found] that the interest claimed by SEC is actually that of ULH&PS’s IT customer and that it cannot be asserted by SEC.” and “The Commission further [found] that the interest of all customers of ULH&P, including its IT customers, [was] adequately represented by the Attorney General of the Commonwealth of Kentucky”. The Commission also relied heavily upon the fact that “SEC did not seek intervention in this case until July 24, 2001 -- approximately 80 days after ULH&P gave notice and submitted the application.” The Commission reasoned that “Granting intervention to SEC would require amending the procedural schedule to allow SEC adequate time to participate fully in the proceeding and thus would unduly disrupt and delay the case.” The Commission concluded that “SEC has failed to demonstrate how its general experience in the industry and its experience with Cincinnati Gas & Electric Company will assist the Commission in this matter”. Case No. 2001-092, Order dated September 13, 2001.

Columbia submits that Constellation’s motion should be denied for the same reasons the Commission denied SEC’s motion to intervene. Constellation, like SEC in the UHL&P rate case, failed to demonstrate that it has an interest in this case that is separate and apart from its customers. Since Constellation is arguing concerns of its customers, and the Attorney General and KIUC have been granted full intervention status in Columbia’s case, the interests of Constellation’s customers are already adequately represented. Likewise, while Columbia provided no-

tice of its Case on January 2, 2007 and it filed its case on February 1, 2007 Constellation made no attempt to intervene until April 10, 2007 – a full 69 days after the case was filed and a full 98 days after Columbia gave notice of its intent to file a rate case. On March 16, 2007, the Commission issued its order containing its procedural schedule in this matter. Pursuant to that order, parties have served discovery on Columbia, and Columbia responded to that discovery on April 24, 2007. Constellation’s intervention would be disruptive to the procedural schedule. In recognition that the interests raised by Constellation in its motion are already adequately represented and because Constellation’s motion was made so late that its participation would be disruptive to this proceeding, its motion to intervene should be denied.

In the alternative, if the Commission should find that Constellation has demonstrated an interest of its own and that its intervention would not be disruptive, the Commission should limit Constellation’s intervention to only the issues raised in its motion to intervene as the Commission recently ruled with regard to the motion to intervene of Interstate Gas Supply (“Interstate”). In Interstate’s motion to intervene in Columbia’s rate case, Interstate raised issues similar to those raised by Constellation although Interstate explained its reasons to a greater degree. On April 2, 2007, the Commission granted intervention to Interstate, however in its order the Commission limited Interstate’s participation “to those areas it has identified in its request, in that the proposed rate adjustment may be unequally allocated between Choice Program customers and those not participating in the Choice Program.” If the Commission grants Constellation’s motion, it should prescribe specific limits as to the issues it may pursue.

**WHEREFORE**, Columbia hereby respectfully requests the Commission deny Constellation's Motion because Constellation's interests are already adequately represented by the Attorney General and KIUC in this proceeding, and because Constellation's late-filed motion would unduly disrupt the procedural schedule of this case. In the alternative, if the Commission finds that Constellation has standing to intervene, Columbia respectfully requests that the Commission prescribe specific limitations as to the issue Constellation may pursue.

Dated at Canonsburg, Pennsylvania, this 30<sup>th</sup> of April 2007.

Respectfully submitted,  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Reply of Columbia Gas of Kentucky, Inc. were served via either personal hand delivery, First Class U.S. Mail postage prepaid or overnight mail on the following parties, all on this 2<sup>nd</sup> day of May, 2007.

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