

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY FRONTIER )	CASE NO.
GAS, LLC FOR APPROVAL OF FINANCING )	2008-00394
AND TRANSFER OF CONTROL )	

O R D E R

This matter is before the Commission on the joint motion of B & H Gas Company, Inc. ("B&H") and Johnson County Gas, Inc. ("Johnson County") (collectively, "Movants") to intervene in this proceeding and "if at all possible" to intervene in Case No. 2005-00348,<sup>1</sup> which the Commission incorporated, by reference only, into this proceeding. Kentucky Frontier Gas, LLC ("Kentucky Frontier") has filed an objection arguing that the motion is untimely and should be denied. For the reasons set forth herein, we deny the motion.

On September 24, 2008, Kentucky Frontier applied for Commission authorization to issue evidences of indebtedness. It subsequently amended its application to request Commission authorization to acquire control of six natural gas utilities – Belfry Gas, Inc. ("Belfry"); Floyd County Gas; Elam Utility Company, Inc. ("Elam"); Mike Little Gas Company ("Mike Little Gas"); B&H; and Johnson County. Finding that Kentucky Frontier was not a utility and that Commission approval of financing was not required,

---

<sup>1</sup> Case No. 2005-00348, The Application of Kentucky Frontier Gas, LLC, Belfry Gas, Inc., Floyd County Gas (East Kentucky Utilities, Inc.), Elam Utility Company, Inc., and Mike Little Gas Company for Approval of Transfer and Acquisition of Assets and Stock and Issuance of a Certificate of Public Convenience and Necessity, If Necessary (Ky. PSC Oct. 28, 2005).

the Commission dismissed Kentucky Frontier's request for financing on November 24, 2008. On November 25, 2008, the Commission issued its final decision in this case, authorizing the transfers of Belfry, Floyd County Gas and Mike Little Gas and denying, without prejudice, the transfers of Elam, B&H and Johnson County.

The Movants argue, in support of their request, that they are specifically named in the body of the application and that they will be directly affected by the Commission's decision in this proceeding.

Having considered the motion and the response and being otherwise sufficiently advised, the Commission finds that the motion should be denied as moot, as the decision on the merits of the case was rendered 15 days prior to the filing of the motion. Assuming, *arguendo*, that it is not moot, we find that the Movants have failed to satisfy the requirements of 807 KAR 5:001, Section 3. Administrative Regulation 807 KAR 5:001, Section 3(8), which governs intervention in Commission proceedings, provides that "any person who wishes to become a party to a proceeding before the commission may by *timely motion* request that he be granted leave to intervene" (emphasis added). It also provides that the Commission shall grant intervention if it determines that a "person has a *special interest* in the proceeding which is not otherwise adequately represented" (emphasis added). As previously stated, this proceeding was filed in September 2008 and a final decision was rendered in November 2008. The Movants did not move to intervene until 15 days after that decision. We find, therefore, that Movants' motion is untimely and should be denied. In addition, since Kentucky Frontier's request to acquire B&H and Johnson County was denied without prejudice,

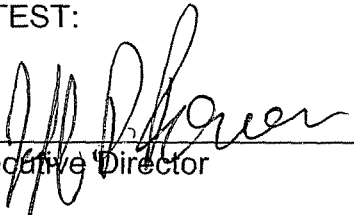
the Movants do not have a special interest in this proceeding. In the event that another application for acquisition of control of B&H or Johnson County is filed, the Movants will have the opportunity to move the Commission for intervention in that proceeding.

IT IS THEREFORE ORDERED that the Movants' motion to intervene is denied.

Done at Frankfort, Kentucky, this 13th day of February, 2009.

By the Commission

ATTEST:

  
\_\_\_\_\_  
Executive Director

Kim Ison Gevedon  
Attorney at Law  
579 Main Street, Suite 2  
P.O. Box 216  
West Liberty, KY 41472

Honorable John N Hughes  
Attorney at Law  
124 West Todd Street  
Frankfort, KY 40601

Robert Oxford  
Managing Partner  
Kentucky Frontier Gas, LLC  
4891 Independence Street, Suite 200  
Wheat Ridge, CO 80033