



July 8, 2009

**SENT VIA FAX AND
OVERNIGHT DELIVERY**

Mr. Jeff Derouen
Executive Director
Public Service Commission
Commonwealth of Kentucky
211 Sower Boulevard
P. O. Box 615
Frankfort, KY 40602

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JUL 08 2009

PUBLIC SERVICE
COMMISSION

RE: Case No. 2009-00141

Dear Mr. Derouen,

Enclosed for filing is Columbia Gas of Kentucky's Memorandum Contra Interstate gas Supply Inc.'s Motion to Reconsider. One copy is being faxed, and the original and eleven (11) copies are being sent by overnight delivery. Please docket the fax copy, and upon receipt of the overnight delivery please docket the original and ten (10) copies and return the extra copy to me in the self addressed stamped envelope enclosed. Should you have any questions about this filing, please contact me at 614-460-4648. Thank you!

Sincerely,

A handwritten signature in cursive script that reads "Stephen B. Seiple".

Stephen B. Seiple
Assistant General Counsel

Enclosures

cc: All Parties of Record
Hon. Richard S. Taylor

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE
COMMISSION

In the Matter of: Application of Columbia Gas)
of Kentucky, Inc. for an Adjustment in Rates.) Case No. 2009-00141

**COLUMBIA GAS OF KENTUCKY, INC.'S
MEMORANDUM CONTRA
INTERSTATE GAS SUPPLY, INC.'S MOTION TO RECONSIDER**

Now comes Columbia Gas of Kentucky, Inc. ("Columbia"), by and through its attorneys, and files its Memorandum Contra the Motion to Reconsider of Interstate Gas Supply, Inc. ("IGS"), in the above-captioned proceeding.

On May 27, 2009, IGS filed with the Kentucky Public Service Commission ("Commission") its Motion to Intervene requesting full intervenor status in this action pursuant to 807 Ky. Admin. Regs. 5:001 § 3(8). By Order dated June 26, 2009, the Commission denied IGS' Motion to Intervene. IGS then filed its Motion to Reconsider its Motion for Intervention ("Motion") on July 1, 2009.

Initially, the Commission correctly determined that IGS failed to meet the Commission's intervention criteria. In its June 26, 2009 Order, the Commission specifically cited four failings of IGS' original Motion to Intervene. The Commission held:

IGS has failed to provide a factual basis for its assertion that it has a special interest, failed to provide a basis for its authority to represent any interest belonging to its customers, and failed to provide fact sufficient to show that its interest or the interest of its customers is distinguishable from that of other Columbia Gas customers that are being represented by the Attorney General. Since Columbia Gas has not proposed a change in its Choice Program, IGS has failed to explain how its intervention is likely to present issues or develop facts that will assist the

Commission in this matter without unduly complicating or disrupting the proceedings.¹

In order for IGS to satisfy the deficiencies that the Commission noted, IGS should have: (1) provided a factual basis to justify its assertion of a special interest in the proceeding; (2) provided authority for its representation of its customers' interests; (3) provided facts to demonstrate its customers interests are distinguishable from Columbia Gas's customer interests, already represented by the Attorney General; and, (4) explained how its intervention will present issues or develop facts to assist the Commission.² However, IGS fails to meet or address the Commission's criticisms in its Motion, thus the Commission should reaffirm its denial of IGS' intervention in this proceeding.

IGS first fails to provide a factual basis to justify its assertion of a special interest in the proceeding that is not otherwise adequately represented.³ In its Motion, IGS simply concludes that, "because the services proposed by Columbia will directly impact IGS, and IGS' interests are not adequately represented," it has a special interest in this proceeding.⁴ IGS does not support its conclusion by arguing why other granted intervenors in this proceeding do not adequately represent its interest. IGS believes its special interest in this proceeding is based upon it having "no control over Columbia's general advertising or Columbia's internal call centers" and thus, "IGS will be at a clear disadvantage to market its services compared to Columbia's [proposed] PPS and NSS services."⁵ However, if IGS' sole concern is marketing and advertising of the proposed PPS and NSS services, then IGS should have requested intervention for that particular issue. Moreover, Columbia's advertisement of its and its affiliates' services is already regulated by the

¹ *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, PSC Case No. 2009-00141, Order (June 26, 2009) at 2.

² *Id.*

³ *Id.*; See also 807 Ky. Admin. Regs. 5:001 § 3(8).

⁴ *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, PSC Case No. 2009-00141, Interstate Gas Supply, Inc.'s Motion to Reconsider Its Motion for Intervention (July 1, 2009) at 3.

⁵ *Id.*

Commission Rules and Kentucky Law.⁶ Therefore, because IGS' cited interests are already statutorily prescribed, and because IGS fails to distinguish its interests from those of the granted intervenors, IGS should not be permitted to intervene in this proceeding.

IGS also fails to provide any Commission or statutory authority supporting its representation of any interest belonging to its customers, and any facts sufficient to show that its interest and its customers' interests are not currently being adequately represented by the Attorney General.⁷ IGS' Motion is silent as to the adequacy of the Attorney General to represent its interest and its customers' interests and any authority for it to assert its customers' interests. Commission precedent supports the Commission's denial of IGS' motion to intervene. In the 2001 Union Light, Heat and Power Company ("ULH&P") rate case, Stand Energy Corporation, a marketer similar to IGS, petitioned to intervene to represent the interests of its customers.⁸ The Commission denied Stand Energy Corporation's petition because "the interest claimed by [Stand Energy Corporation] is actually that of ULH&P's [Interruptible Transportation ("IT")] customer and that it cannot be asserted by [Stand Energy Corporation]."⁹ The Commission further found that "the interest of all customers of ULH&P, including its IT customers, is adequately represented by the Attorney General of the Commonwealth of Kentucky."¹⁰ Similar to Stand Energy Corporation, IGS is trying to assert an interest of its customers, which is already being represented by the Attorney General, and IGS therefore lacks standing to intervene. Therefore, because IGS fails to address both of these issues raised by the Commission in its June 26, 2009 Order, the Commission should reaffirm its decision to deny IGS intervention.

⁶ See Ky. Rev. Stat. § 278.2213(2), (13). See also 807 Ky. Admin. Regs. 5:080 § 6(4).

⁷ *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, PSC Case No. 2009-00141, Order (June 26, 2009) at 2.

⁸ *In the Matter of Adjustment of Gas Rates of the Union Light, Heat and Power Company*, PSC Case No. 2001-092, Order (September 13, 2001) at 1.

⁹ *Id.* at 2.

¹⁰ *Id.*

Finally, IGS fails to explain how its intervention is likely to present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceedings since Columbia has not proposed a change to its Choice Program, in which IGS is a participant marketer. IGS does not explain how it will likely present issues or facts in this proceeding. Finally, to prove it will not unduly complicate the proceedings, IGS concludes, without providing any factual basis, "full intervention by IGS will assist the Commission in considering this matter without unduly complicating these proceeds [sic]."¹¹ The Commission should not rely on such a blanket statement. IGS has the burden to prove it will not unduly complicate these proceedings, which already have a plethora of intervenors representing a multitude of interests.

Instead, IGS has already unduly complicated this proceeding. Along with its Motion IGS filed data requests on July 1, 2009. However, the Commission-established deadline for such intervenor data requests was June 30, 2009. Columbia does not intend to respond to these data requests given the Commission's rejection of IGS's motion to intervene, and given the late filing of the data requests.

Because IGS' Motion lacks an explanation for its intervention to provide issues and develop facts and to not unduly complicate the proceedings, then the Commission should reaffirm its Order to deny IGS intervention.

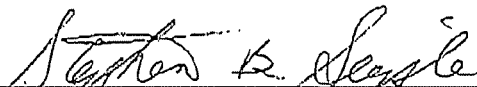
WHEREFORE, Columbia hereby respectfully requests that the Commission deny Interstate Gas Supply, Inc.'s Motion to Reconsider its Motion to Intervene for the reasons explained herein. In the alternative, if the Commission finds that Interstate Gas Supply, Inc. should intervene, Columbia respectfully requests that the Commission prescribe specific limitations as to the issues Interstate Gas Supply, Inc. may pursue.

¹¹ *In the Matter of: Application of Columbia Gas of Kentucky, Inc. for an Adjustment in Rates*, PSC Case No. 2009-00141, Interstate Gas Supply, Inc.'s Motion to Reconsider Its Motion for Intervention (July 1, 2009) at 3.

Dated at Columbus, Ohio, this 8th day of July 2009.

Respectfully submitted,

COLUMBIA GAS OF KENTUCKY, INC.

By: 
Stephen B. Seiple (Counsel of Record)

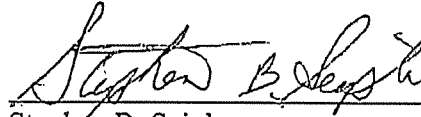
Stephen B. Seiple, Assistant General Counsel
200 Civic Center Drive
P.O. Box 117
Columbus, Ohio 43216-0117
Telephone: (614) 460-4648
Fax: (614) 460-6986
Email: sseiple@nisource.com

Richard S. Taylor
225 Capital Avenue
Frankfort, Kentucky 40601
Telephone: (502) 223-8967
Fax: (502): 226-6383

Attorneys for
COLUMBIA GAS OF KENTUCKY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply of Columbia Gas of Kentucky, Inc., was served upon all parties of record by regular U. S. mail this 8th day of July, 2009.



Stephen B. Seiple
Attorney for
COLUMBIA GAS OF KENTUCKY INC.

SERVICE LIST

Tom Fitzgerald
Liz D. Edmondson
Kentucky Resources Council, Inc.
P.O. Box 1070
Frankfort, Kentucky 40602-1070

Iris G. Skidmore
Bates & Skidmore
415 W. Main Street, Suite 2
Frankfort, Kentucky 40601

David F. Boehm
Boehm, Kurtz & Lowry
36 E. Seventh Street, Suit 1510
Cincinnati, Ohio 45202

W. L. Wilson
Leslye M. Bowman
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507

Dennis G. Howard, II
Lawrence W. Cook
Office of the Attorney General
1024 Capitol Center Drive, Suite 200
Frankfort, Kentucky 40601-8204

William H. May, III
Matthew R. Malone
Hurt, Crosbie & May PLLC
127 West Main Street
Lexington Kentucky 40507

Vincent A. Parisi
Interstate Gas Supply, Inc.
5020 Bradenton Avenue
Dublin, Ohio 43017