

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

TARIFF FILING OF COLUMBIA GAS OF)
KENTUCKY, INC. TO EXTEND ITS SMALL) CASE NO. 2017-00115
VOLUME GAS TRANSPORTATION SERVICE)

ORDER

On March 17, 2017, Retail Energy Supply Association, Inc. (“RESA”) filed a motion requesting full intervention in this proceeding. RESA is a national non-profit trade association of retail suppliers of natural gas and electricity. As a basis for its request to intervene, RESA states that it “represents the interest of national retail gas and electricity suppliers,” and that its knowledge and experience based upon “other states’ successes and failures” would assist the Commission in fully considering the reasonableness of Columbia Gas of Kentucky, Inc.’s (“Columbia”) proposed tariffs to extend the Choice program.¹ RESA asserts that it has a special interest in this proceeding because potential changes to the Choice program directly affect RESA members.

Based on the motion to intervene and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.² The Court of Appeals has held that the Commission’s discretion to grant or deny a motion

¹ RESA Motion to Intervene (filed Mar. 17, 2017), pages 2–3.

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

for intervention is not unlimited, and has enumerated the limits on the Commission's discretion with one arising under statute, the other under regulation.³ 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."⁴

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that RESA does not receive natural gas service from Columbia, is not a customer of Columbia, does not pay any rates charged by Columbia, does not represent ratepayers of Columbia, and does not participate in the Choice program. Thus, RESA lacks the necessary interest in the natural gas rates or natural gas service provided by Columbia sufficient to justify intervention.

The only interest that RESA has in the natural gas rates and service of Columbia is as a trade association of national retail energy providers with a generalized interest in the Choice program. That interest is too remote to justify intervention here.

The Commission further finds that an investigation of expanding retail natural gas competition in Kentucky markets was conducted in Administrative Case No. 2010-00146 at the specific direction of the Kentucky General Assembly. Due to the generic

³ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁴ *Id.* at 3.

nature of that issue on the gas industry in general, RESA was granted intervention and fully participated. In that matter, the Commission decided not to mandate competitive retail natural gas programs in Kentucky without additional statutory authority and consumer protections. There have been no statutory changes since that investigation was concluded, and this case was initiated to examine the specific provisions of Columbia's existing Choice program, not to reexamine the generic issue of choice for gas customers. For these reasons, RESA's status as a trade association of retail energy suppliers does not justify its intervention in this case.

IT IS HEREBY ORDERED that RESA's motion to intervene is denied.

By the Commission



ATTEST:


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