

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| ELECTRONIC APPLICATION OF COLUMBIA |) | |
| GAS OF KENTUCKY, INC. FOR AN |) | CASE NO. |
| ADJUSTMENT OF RATES; APPROVAL OF |) | 2024-00092 |
| DEPRECIATION STUDY; APPROVAL OF TARIFF |) | |
| REVISIONS; AND OTHER RELIEF |) | |

ORDER

This matter arises upon the motion of the Interstate Gas Supply, Inc (IGS) and Constellation New Energy – Gas Division (CNGS) (collectively, Joint Movants) filed June 14, 2024, for full intervention. As a basis for its motion, IGS and CNEG stated that they bring a broad spectrum of experience to this proceeding which is not otherwise adequately represented by any other party or prospective party in this above-captioned case and their participation will not unduly complicate or disrupt the proceeding.¹ IGS and CNEG also stated that they have a special interest in the rates and services of Columbia Gas Kentucky, Inc. (Columbia Kentucky) in this specific proceeding.² On June 19, 2024, Columbia Kentucky filed a motion objecting to IGS and CNEG’s intervention.³ On June 21, 2024, IGS and CNEG filed a motion for leave to file data requests.⁴ On June 25, 2024, IGS and CNEG filed a reply to Columbia Kentucky’s response.⁵

¹ IGS and CNEG Motion to Intervene (filed June 14, 2024) at 3.

² IGS and CNEG Motion to Intervene at 2.

³ Columbia Kentucky’s Response to Motion to Intervene (filed June 19, 2024).

⁴ IGS and CNEG’s Motion for Leave to file Data Requests (filed June 21, 2024).

⁵ IGS and CNEG’s Reply to Columbia Kentucky’s Response (filed June 25, 2024).

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General), pursuant to KRS 367.150(8)(b). The Attorney General intervened as a party to this proceeding.⁶ Intervention by all others is permissive and is within the sole discretion of the Commission.⁷

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that 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.

DISCUSSION AND FINDINGS

As a basis for this request, IGS and CNEG stated that they are active suppliers in the Choice Program⁸ and together supply tens of thousands of customers through this program.⁹ IGS and CNEG stated that IGS is the largest, competitive supplier in the Choice Program and supplies natural gas to residential and small commercial customers in the Columbia Kentucky service territory.¹⁰ IGS and CNEG also stated that CNEG

⁶ Order (Ky. PSC June 5, 2024).

⁷ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

⁸ A Columbia Gas of Kentucky, Inc. (Columbia Kentucky) pilot program allowing customer choice of gas supplier.

⁹ IGS and CNEG Motion to Intervene at 1.

¹⁰ IGS and CNEG Motion to Intervene at 1.

comparably has a smaller market share in the Choice Program, but through its sister companies annually delivers 730 billion cubic feet of natural gas to customers making it one of the ten largest natural gas marketers in the United States.¹¹

IGS and CNEG pointed to the fact that Columbia Kentucky included the Gas Cost Uncollectible Rate (GCUR) within its forecasted test period in its application, and therefore, it is part of Columbia Kentucky's request for a rate adjustment which would permit Columbia Kentucky to collect from Choice customers uncollectible expenses exclusively related to commodity costs associated with default service.¹² IGS and CNEG also stated that Columbia Kentucky charges all customers including Choice Program customers for the GCUR within its Gas Cost Adjustment (GCA), and Columbia Kentucky pays the marketers with a 2 percent discount yet socializes the GCUR which generally increases costs to Choice Program participants.¹³

IGS and CNEG stated that the application, through its tariffs, will directly impact them as well as current and future Choice customers.¹⁴ IGS and CNEG stated that they offer different products to their customers in the Choice Program, sometimes locking in rates for significant time periods, and possible changes looming to the Choice Program tariffs impacts both marketers (IGS and CNEG) and their customers.¹⁵

¹¹ IGS and CNEG Motion to Intervene at 1–2.

¹² IGS and CNEG Motion to Intervene at 2.

¹³ IGS and CNEG Motion to Intervene at 2.

¹⁴ IGS and CNEG Motion to Intervene at 2.

¹⁵ IGS and CNEG Motion to Intervene at 2–3.

Columbia Kentucky stated that IGS and CNEG fundamentally mischaracterized the GCUR of the GCA.¹⁶ Columbia Kentucky stated that the GCUR only applies to sales tariff rates; it does not apply to the participants in the CHOICE program.¹⁷ Columbia Kentucky stated that IGS and CNEG's only interest in Columbia Kentucky's rates and services is that of a competitor and that IGS and CNEG are not customers of Columbia Kentucky.¹⁸

Columbia Kentucky argued that the Commission has previously held that IGS should not be granted intervention as it is a competitive suppliers of retail natural gas and has no special interest that should be protected or represented in these proceedings.¹⁹ Columbia Kentucky also argued that the Commission has previously denied intervention to competitors in other proceedings before the Commission.²⁰ Columbia Kentucky argued that even if IGS and CNEG's contention regarding the GCUR potentially raising costs for Choice customers was correct, they cannot represent the interests of current, or future, Choice program participants, as the Attorney General is the party responsible for

¹⁶ Columbia Kentucky's response to Motion to Intervene at 3.

¹⁷ Columbia Kentucky's response to Motion to Intervene at 3.

¹⁸ Columbia Kentucky's response to Motion to Intervene at 3.

¹⁹ Columbia Kentucky's Response to Motion to Intervene at 4, citing Case No. 2016-00162, *Application of Columbia Gas of Kentucky, Inc. For An Adjustment of Rates* (Ky. PSC. July 21, 2016), Order.

²⁰ Columbia Kentucky's Response to Motion to Intervene at 4, citing Case No. 2024-00092, *Joint Application of Duke Energy Corporation, Cinergy Corp., Duke Energy Ohio, Inc., Duke Energy Kentucky, Inc., Diamond Acquisition Corporation, and Progress Energy, Inc. for Approval of the Indirect Transfer of Control of Duke Energy Kentucky, Inc.* (Ky. PSC May 12, 2011), Order; and Case No. 2022-0027, *The Application of New Cingular Wireless PCS, LCC, A Delaware Company D/B/A AT&T Mobility and Harmoni Towers LLC, A Delaware Limited Liability Company for Issuance of a Certificate of Public Convenience and Necessity to Construct a Wireless Communications Facility in the Commonwealth of Kentucky in the County of Russell.* (Ky. PSC May 19, 2023).

protecting the consumers' interests in this proceeding.²¹ Columbia Kentucky argued that IGS and CNEG have no other grounds for intervention aside from a general assertion that as gas suppliers IGS and CNEG have a "broad spectrum of experience."²² Columbia Kentucky argued that IGS and CNEG failed to demonstrate that the companies have an interest in the proceeding that is not otherwise adequately represented in this case, or that intervention is likely to present issues or develop facts that will assist the Commission.²³

On June 25, 2024, IGS and CNEG filed a reply to Columbia Kentucky's response.²⁴ IGS and CNEG cited that the Commission has previously granted IGS intervention into several previous Columbia Kentucky base rate proceedings.²⁵ IGS and CNEG stated they are concerned regarding Kentucky Choice customers disproportionately paying for fixed labor expenses related to the uncollectible expenses mentioned above in addition to the actual GCUR expense.²⁶ IGS and CNEG argued that they are not competitors to Columbia Kentucky and that Columbia Kentucky is the monopoly distribution provider in charge of administering the natural gas Choice and transportation programs under which IGS and CNEG serve customers.²⁷ IGS and CNEG argued that Columbia Kentucky

²¹ Columbia Kentucky's response to Motion to Intervene at 4.

²² Columbia Kentucky's response to Motion to Intervene at 4–5.

²³ Columbia Kentucky's response to Motion to Intervene at 5.

²⁴ IGS and CNEG's Reply to Columbia Kentucky's Response.

²⁵ IGS and CNEG's Reply to Columbia Kentucky's Response at 1 *citing* Case No. 2007-00008, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*; 2009-00141, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*, Case No. 2009-00141 and 2013-00167, *Application of Columbia Gas of Kentucky, Inc. for An Adjustment of Gas Rates*.

²⁶ IGS and CNEG's Reply to Columbia Kentucky's Response at 2.

²⁷ IGS and CNEG's Reply to Columbia Kentucky's Response at 2–3.

delivers throughput of gas regardless of who supplies the gas and controls the gas delivery business whereas IGS and CNEG are in the commodity side of the business and that supply should not even be a profit center for Columbia Kentucky.²⁸ CNEG and IGS highlighted that they have a special interest in the rates or services presented in this matter, including their business interest pertaining to the possible duplication of expenses to Choice customers.²⁹

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that IGS and CNEG have demonstrated it is likely to present issues or develop facts that will assist the Commission in considering this matter without undue complication the proceedings, for the reasons discussed below. Furthermore, the Commission grants IGS and CNEG's motion for leave to file data requests.

IGS and CNEG can assist the Commission in developing facts specifically related to tariff impacts and the Choice Program, including revenue and expense tracking within the program; without unduly complicating the proceedings. Columbia Kentucky's parent company, NiSource Corporate Services Company's IT system upgrades have the potential to impact the Choice Program, and the changes to the GCUR could have an indirect impact on Choice Market participants because Columbia Kentucky is the supplier of last resort. While Joint Movants did not participate in the last rate case, they have been active participants in 2021-00385.³⁰ Since Joint Movants have met the second prong of

²⁸ IGS and CNEG's Reply to Columbia Kentucky's Response at 3.

²⁹ IGS and CNEG's Reply to Columbia Kentucky's Response at 4.

³⁰ 2021-00385, *Electronic Tariff Filing of Columbia Gas of Kentucky, Inc. to Extend its Small Volume Gas Transportation Service*.

807 KAR 5:001, Section 4(11), the Commission does not need to reach a conclusion as to the first prong.

Based on the above, the Commission finds that Joint Movants should be granted full rights of a party in this proceeding. The Commission directs Joint Movants to the Commission's July 22, 2021 Order in Case No. 2020-00085³¹ regarding filings with the Commission.

IT IS HEREBY ORDERED that:


1. Joint Movants' motion to intervene is granted.
2. Joint Movants' motion for leave to file data requests is granted.
3. Joint Movants are entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
4. Joint Movants shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
5. Joint Movants shall adhere to the procedural schedule set forth in the Commission's June 5, 2024 Order and as amended by subsequent Orders.
6. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of service of this Order, IGS and CNEG shall file a written statement with the Commission that:
 - a. Certifies that they, or their agents, possesses the facilities to receive electronic transmissions; and

³¹ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

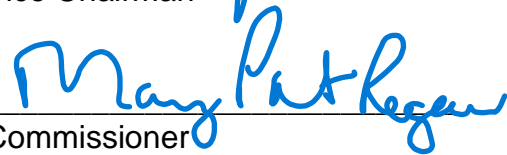
b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding shall be served.

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PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ENTERED
JUN 28 2024
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KENTUCKY PUBLIC
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