

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of

Adjustment of Rates of Columbia Gas of)
Kentucky, Inc.) Case No. 2016-00162

**OBJECTION AND RESPONSE OF COLUMBIA GAS
OF KENTUCKY, INC. TO MOTION OF STAND
ENERGY CORPORATION TO INTERVENE**

Columbia Gas of Kentucky, Inc. (“Columbia”) hereby submits its objection and response to the motion of Stand Energy Corporation (“Stand”) to intervene in this proceeding. Columbia respectfully requests that the Commission deny the motion of Stand to intervene in this proceeding for the following reasons: (i) Stand’s Motion to Intervene was not timely filed; (ii) Stand does not have a special interest that should be protected or represented; (iii) Stand will not assist the Commission in fully considering this matter; and (iv) Stand’s intervention will unduly complicate and disrupt this proceeding. Stand does not satisfy the requirements of 807 KAR 5:001, Section 4(11)(b) and its Motion to Intervene should be denied.

The Motion To Intervene Was Not Timely Filed.

Stand filed its Motion to Intervene on July 1, 2016. In its order of June 10, 2016, the Commission required that requests for intervention shall be submitted no later than June 27, 2016. Stand made no effort to demonstrate any extenuating circumstances that would excuse its failure to comply with the procedural order. Stand did not file a motion for extension of time to file its Motion to Intervene. Therefore, its Motion to Intervene should be denied.

Stand Does Not Have a Special Interest.

Stand seeks intervention to advocate for changes in Columbia's CHOICE Program and for lower transportation thresholds. It does so not as a customer, but as a competitor of Columbia. Stand proposes the changes to enhance its competitive position.

The regulation, 807 KAR 5:001, Section 4(11)(b), requires that one seeking intervention in a Commission proceeding demonstrate that it has a special interest that is not otherwise adequately represented. The Commission has found on several occasions that Stand does not have such a special interest. In 2001, when denying Stand's motion to intervene in a Union Light, Heat and Power Company gas rate case, the Commission found that Stand had "failed to demonstrate how its differing

commercial goals indicate that it has a special interest in the proceeding.”¹ The Commission also affirmed this position when denying Stand’s subsequent motion for reconsideration and further noted that the Stand’s original motion to intervene was untimely filed.² The Commission denied Stand’s request for intervention in two cases involving Louisville Gas and Electric Company in 2000 and 2003 because Stand lacked a special interest not otherwise adequately protected (in addition to an untimely filed motion in the 2003 case).³ The Commission found in 2011 that Stand’s interest as a competitive supplier of commodity gas to a limited number of customers in a local distribution company’s service territory was not sufficient to obtain intervenor status.⁴ In that case, Stand sought to intervene in a Duke Energy Kentucky merger proceeding. The Commission denied Stand’s motion for lack of a sufficient interest in Duke’s rates or service:

Thus, the only interest that Stand Energy arguably has in the natural gas rates and service of Duke Kentucky is as a competitor, and even that interest is too remote to justify

¹ *Adjustment of Gas Rates of The Union Light, Heat & Power Company*, Case No. 2001-092, Order dated August 6, 2001, pp.1-2.

² *Id.*, Order dated September 13, 2001, at p. 2.

³ *Application of Louisville Gas and Electric Company for an Adjustment of the Gas and Electric Rates, Terms and Conditions*, Case No. 2003-00433, Transcript Vol. I, page 51-52 (May 4, 2004) (“[I]t is the Commission’s ruling that Stand’s position with regard to intervention in this matter is too remote for intervention to be granted. ... [I]t is the Commission’s position, at this point, that a timely motion is certainly not a motion that’s filed on the morning of a major rate case hearing that has been before the Commission for four or five months.”); *Joint Application of Powergen Plc, LG&E Energy Corp., Louisville Gas and Electric Company, and Kentucky Utilities Company for Approval of a Merger*, Case No. 2000-00095, Order (Apr. 5, 2000) (finding that Stand had “failed to sufficiently allege an interest in this proceeding”).

⁴ *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.*, Case No. 2011-00124, Order dated May 12, 2011.

intervention here. There is nothing in the Joint Application, including the voluminous exhibits and prepared testimony, to suggest that Duke Kentucky is now requesting, or will at some definitive time in the future request, authority to establish a fully competitive natural gas market within its service area or for Duke Retail to sell natural gas in Kentucky.

The Commission further finds that an investigation of expanding retail natural gas competition in Kentucky markets was recently concluded in Administrative Case No. 2010-00146, a case in which Stand Energy was granted intervention and fully participated. The Commission's decision in that investigation was to not mandate competitive retail natural gas programs in Kentucky without additional statutory authority and consumer protections. Consequently, the Commission will not revisit those issues in this merger case, and Stand Energy's status as a competitive supplier of natural gas does not justify its intervention in this case.⁵

In 2012, the Commission rejected Stand's attempt to intervene in a Delta Natural Gas Company, Inc. proceeding with similar reasoning.⁶ Columbia objects to Stand's Motion to Intervene here for all the reasons the Commission cited in denying intervention to Stand in the ULH&P, LG&E, Duke and Delta proceedings.

Stand cites the order in Administrative Case No. 2010-00146 as authority supporting its Motion to Intervene at pages 3-4 of its motion. Specifically, Stand alleges that Columbia "has not been excused from the scrutiny, requested by the Kentucky Legislature and ordered by the Commission, to review transportation thresholds in

⁵ *Id.*, pp. 4-5.

⁶ *An Adjustment of the Pipe Replacement Rider of Delta Natural Gas Company, Inc.*, Case No. 2012-00136 Order dated June 25, 2012, rehearing denied by Order dated July 12, 2012.

subsequent general rate cases . . .”⁷ The statement is incorrect. In fact, the Commission said,

The Commission believes that existing transportation thresholds bear further examination, and the Commission will examine each LDC’s tariffs and rate design in each LDC’s **next general rate proceeding**.⁸

The Commission reviewed Columbia’s transportation thresholds in Case No. 2013-00167, Columbia’s last base rate case.⁹ However, the Commission did not direct review of transportation thresholds in *all* subsequent general rate cases. The goal that the Commission announced in Administrative Case No. 2010-00146 has been accomplished as to Columbia in Case No. 2013-00167 and no further examination of transportation thresholds is necessary or appropriate in this case.

Stand Will Not Assist the Commission and Will Unduly Complicate and Disrupt the Proceeding.

Stand claims its presence in this proceeding will assist the Commission because of its “unique and extensive knowledge of the Columbia Gas system and the Columbia Gas Transportation and Columbia Choice rules.”¹⁰ Unfortunately, it proposes to use that “knowledge” to advocate for changes in certain of Columbia’s tariffs: its CHOICE Program tariff and its transportation tariffs. Columbia is proposing no changes in its

⁷ Motion to Intervene, p. 4.

⁸ *An Investigation of Natural Gas Retail Competition Programs*, Case No. 2010-00146, Order dated December 28, 2010, Report, p. 16. Emphasis added.

⁹ *Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service*, Case No. 2013-00167. Stand was permitted to intervene in that proceeding for the limited purpose of participating on the issues of Columbia’s Customer CHOICE Program (to which changes were proposed) and Columbia’s transportation thresholds. Order dated August 23, 2013, p. 5.

¹⁰ Motion to Intervene, p. 2.

CHOICE Program in this proceeding and Stand's view of that program is not relevant. Columbia's transportation tariffs were examined in its last base rate case and do not need re-examination here. Rather than assisting the Commission, Stand's activities are designed only to enhance its competitive position.

In addition, Stand's knowledge of the Columbia Gas system is not what it claims to be. In advocating for changes to the CHOICE Program, Stand argues that Columbia's CHOICE Program partially subsidizes Columbia's pipeline companies.¹¹ However, Stand is apparently unaware that Columbia's parent, NiSource Inc., separated its regulated utility companies and its segment of pipeline companies on July 1, 2015, and the pipeline companies are now a separate publicly traded entity called Columbia Pipeline Group in which NiSource Inc. retains no interest. This misinformation sponsored by Stand cannot assist the Commission.

Stand's legal expertise is equally unhelpful. As indicated above, it misquotes the Commission's Report in Case No. 2010-00146. It cites as legal authority for its Motion to Intervene KRS 278.310 and 807 KAR 5:001, Sections 4(11) and 3(8).¹² KRS 278.310 relates to rules for hearings and investigations and has nothing to do with intervention. 807 KAR 5:001, Section 3(8) no longer exists.

The injection by Stand of proposed changes to tariffs supported by inaccurate factual arguments and inapposite or misquoted legal authorities can do nothing but

¹¹ Motion to Intervene, p. 5.

¹² Motion to Intervene, p. 1.

unduly complicate and disrupt this rate proceeding. The Commission recognized this in its order of September 13, 2001, in Case No. 2001-092:

Secondly, [Stand] argues that its experience in the natural gas industry “gives it a unique perspective, both historically and looking forward towards further competition, which it can lend to the proceedings on behalf of its industrial customer and itself.” It further states that it does not intend to unduly complicate or disrupt the proceedings. The Commission is not persuaded by these arguments.¹³

* * *

Second, [Stand] 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.¹⁴

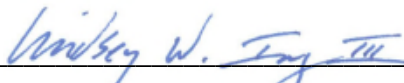
Stand’s ability to assist the Commission in rate cases has not changed in the fifteen years since that order was written. Rather than assist the Commission, Stand is likely to disrupt and unduly complicate this proceeding.

For all of the foregoing reasons, Stand’s Motion to Intervene should be denied.

Dated July 8, 2016

Respectfully submitted,

**COLUMBIA GAS OF KENTUCKY,
INC.**

By 
Lindsey W. Ingram III

¹³ *Adjustment of Gas Rates of The Union Light, Heat & Power Company*, Case No. 2001-092, Order dated September 13, 2001, p. 2.

¹⁴ *Id.*, p. 3.

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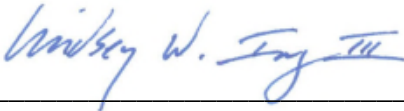
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CERTIFICATE

This certifies that Columbia Gas of Kentucky, Inc.'s electronic filing is a true and accurate copy of the documents to be filed in paper medium; that the electronic filing has been transmitted to the Commission on July 8, 2016; that a paper copy of the filing will be delivered to the Commission within two business days of the electronic filing; and that no party has been excused from participation by electronic means.

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By: 

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