

**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

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**OBJECTION AND RESPONSE OF COLUMBIA GAS  
OF KENTUCKY, INC. TO MOTION OF DIRECT ENERGY  
BUSINESS MARKETING, LLC TO RECONSIDER**

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Columbia Gas of Kentucky, Inc. (“Columbia”) hereby submits its objection and response to the motion of Direct Energy Business Marketing, LLC (“Direct”) to reconsider the Commission’s order denying intervention in this proceeding. Columbia respectfully requests that the Commission deny the motion of Direct to reconsider because Direct has raised no new issues that would justify the Commission’s granting its request for intervention and the Commission’s order denying intervention was correct.

**Direct Is Not a Customer, But Rather a Competitor.**

In the order denying Direct’s Motion for Full Intervention, the Commission made the following finding:

. . . [W]e find that Direct Energy does not receive natural gas service from Columbia and is not a customer of

Columbia. Rather, Direct Energy is a competitive supplier of retail natural gas service.<sup>1</sup>

Direct agrees that it is not a customer of Columbia, but disputes the Commission's finding that it is a competitor of Columbia. It offers no new facts supporting this assertion. Rather, it argues it is not a competitor because Columbia is prohibited from making a profit on the supply of natural gas, but rather makes a profit on the distribution of gas<sup>2</sup> while Direct earns profits on the purchase and resale of the natural gas commodity. Direct implies that Columbia and Direct are not competitors because they have different business models. Direct's argument is irrelevant because Direct is supplying gas to end users that would otherwise be receiving their supply of gas from Columbia. Columbia and Direct are competitors irrespective of the business model of the two entities.

Moreover, the Commission, on August 17, 2016, in its order denying the motion for reconsideration of Interstate Gas Supply, Inc. in this proceeding, reaffirmed two prior rulings<sup>3</sup> of the Commission and specifically found that gas marketers are competitive suppliers of natural gas. Thus, the Commission was correct in its finding that Direct is a "competitive supplier of retail natural gas service" in the order denying

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<sup>1</sup> Order dated July 21, 2016, p. 3.

<sup>2</sup> Columbia is not guaranteed a particular rate of return as Direct argues.

<sup>3</sup> *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; *An Adjustment of the Pipeline Replacement Rider of Delta Natural Gas Company, Inc.*, Case No. 2012-00136, Order dated June 25, 2012.

Direct's Motion to Intervene and the Motion for Reconsideration provides no new information to disturb that finding.

**Direct Has No Special Interest.**

Direct offers one new argument in support of its Motion for Full Intervention. It claims that it is the agent for its customers who are affected by Columbia's proposed transportation changes and, thus, has a special interest entitling it to intervene. While making this argument, Direct admits that the proposed transportation tariff changes will not affect Direct, but will affect only its customers. For example, at page 4 of its motion, Direct states, "These changes will impact the costs that Direct Energy incurs to serve its transportation customers and will likely be passed onto the end user customers." At page 5 of its motion, Direct states, "The result is that, as written, existing GDS<sup>4</sup> customers might find themselves suddenly thrust back onto sales service, losing benefit of their contract price as well as potentially favorable terms and conditions they have negotiated with their marketer."<sup>5</sup> Examples of alleged impact on Direct's customers do not demonstrate that Direct has a special interest in this proceeding.

Direct does not enhance its argument by claiming that it intends to represent ColorPoint in this case. The Commission was faced with the identical argument by

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<sup>4</sup> Columbia does not have GDS customers in Kentucky; Direct is likely referring to a customer class on Columbia's Pennsylvania system.

<sup>5</sup> Direct misinterprets Columbia's balancing provision. If a customer is not using gas, the provision is inapplicable.

Stand Energy Corporation (“SEC”) in the 2001 rate case of The Union Light, Heat and Power Company and rejected it.<sup>6</sup> There the Commission said,

SEC first states that it has an industrial natural gas customer that is currently served under ULH&P’s Interruptible Transportation (“IT”) tariff and it seeks to protect the interests of this industrial customer. SEC asserts that its interest in representing its industrial customer is unique and thus that it has an interest in these proceedings that is not otherwise adequately represented. The Commission finds that the interest claimed by SEC is actually that of ULH&P’s IT customer and that it cannot be asserted by SEC. The Commission further finds that the interest of all customers of ULH&P, including its IT customers, is adequately by the Attorney General of the Commonwealth of Kentucky, by and through his Office of Rate Intervention (“Attorney General”), who has intervened as a party for that purpose.<sup>7</sup>

ColorPoint is likewise adequately represented by the Attorney General in this proceeding and does not need to be represented by Direct.

Direct attempts to compare itself to Kentucky Industrial Utility Customers, Inc. (“KIUC”) to convince the Commission that it has a special interest in this proceeding. It claims that since the Commission permitted KIUC to intervene to represent AK Steel Corporation (Ashland Works) and Toyota Motor Manufacturing, Kentucky, Inc., it should also permit Direct to intervene to represent its customers. KIUC and Direct are not similarly situated. As the Commission knows, KIUC is a Kentucky non-profit corporation and AK Steel and Toyota are members of KIUC. It is only natural that

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<sup>6</sup> *Adjustments of Gas Rates of The Union Light, Heat and Power Company*, Case No. 2001-092, Order dated September 13, 2001.

<sup>7</sup> *Id.*, p. 2.

KIUC would be permitted to represent its members. Direct is a for profit foreign limited liability company and there is no indication that its customers are among its members. As in the 2001 ULH&P rate case, Direct should not be permitted to represent its customers in this proceeding.

**The Order Denying Intervention Was Correct.**

The order denying intervention by Direct was correct in all respects and supported by ample authority. Base rate cases are not proper proceedings for gas marketers to advocate for tariff changes that enhance their competitive positions unless the Commission specifically authorizes examination of such tariffs as it did in Case No. 2010-00146. The Commission has denied intervention by gas marketers in cases involving Columbia<sup>8</sup>, Louisville Gas and Electric Company<sup>9</sup>, The Union Light, Heat and Power Company<sup>10</sup>, Duke Energy Kentucky, Inc.<sup>11</sup> and Delta Natural Gas Company, Inc.<sup>12</sup> The Commission properly denied the motions by all three gas marketers, including Direct, that sought intervention in this proceeding.

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<sup>8</sup> *Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Case No. 2007-00008, Order dated May 3, 2007.

<sup>9</sup> *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); *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 dated April 5, 2000.

<sup>10</sup> *Adjustment of Gas Rates of The Union Light, Heat & Power Company*, Case No. 2001-092, Order dated August 6, 2001, pp.1-2; Order dated September 13, 2001, at p. 2.

<sup>11</sup> *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.

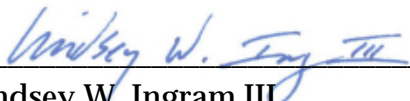
<sup>12</sup> *An Adjustment of the Pipe Replacement Rider of Delta Natural Gas Company, Inc.*, Case No. 2012-00136 Order dated June 25, 2012, rehearing denied by Order dated July 12, 2012.

The Commission should affirm its orders of July 21, 2016, in this proceeding denying intervention by the gas marketers by denying the motion of Direct for reconsideration.

Dated August 18, 2016

Respectfully submitted,

**COLUMBIA GAS OF KENTUCKY,  
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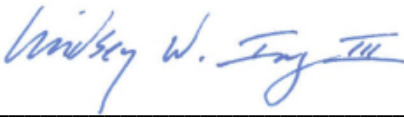
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**CERTIFICATE**

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 August 18, 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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