

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

Application of Columbia Gas of Kentucky, :
Inc. for an Adjustment of Rates : Case No. 2016-00162
:

**REPLY IN SUPPORT OF MOTION OF DIRECT ENERGY
BUSINESS MARKETING, LLC FOR FULL INTERVENTION**

Pursuant to 807 KAR 5:001 §§ 4(11), 5(3) and the Order of the Kentucky Public Service Commission (“Commission”) entered June 10, 2016, Direct Energy Business Marketing, LLC (“Direct Energy”) hereby replies to the Objection and Response of Columbia Gas of Kentucky, Inc. (“Columbia”) to the Motion of Direct Energy Business Marketing, LLC for Full Intervention (“Opposition”).

Direct Energy has a direct and special interest in the outcome of this proceeding as a natural gas supplier serving a number of customers in Columbia’s service territory and who is actively working to provide savings and innovative services to customers in Columbia’s service territory. No other party has the same business model and goals. Accordingly, Direct Energy meets all of the requirements for intervention in this proceeding.

In support of its intervention, Direct Energy states as follows:

1. In the past, the Kentucky Court of Appeals noted that the PSC has some discretion to grant or deny a motion for intervention, but it also stressed that this discretion is not unlimited. *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. February 2, 2007).
2. 807 KAR 5:001, Section 3(8), governs intervention in Commission proceedings and specifies that a person shall be granted full intervention in any proceeding in which it has

a special interest if that interest is not otherwise adequately protected or that person is likely to present issues or develop facts that will assist the Commission in fully considering the matter. *In Re Jackson Purchase Energy Corp.*, 2004-00319, 2004 WL 3235807, at *2 (Dec. 23, 2004).

3. In its Opposition, Columbia artfully misrepresents Direct Energy's standing with respect to this proceeding. Columbia does not explicitly deny that Direct Energy has customers in its territory; instead, it argues that Direct Energy's Motion to Intervene does not mention whether Direct Energy has any such customers. Opposition, p. 2.
4. However, and as Columbia was well aware, Direct Energy has a number of customers in Columbia's service territory, including two hospital systems and several high profile industrial accounts. Direct Energy is the natural gas supplier for over 12 large customers and provide service using Columbia's transportation service, set forth in Columbia's tariff. As such, Direct Energy is currently subject, both directly and on behalf of its customers, to the rates, terms and conditions that are reflected in the tariff at issue in this proceeding. In addition, Direct Energy is actively interested in expanding its presence in Columbia's service territory, and is concerned about rules changes that might harm its ability to do so.
5. Columbia's proposed revisions to its tariffs will directly affect both Direct Energy and its customers. One of the most important and relevant provisions is underlined and emphasized below as follows:

Subject to the limitations of Company's pipeline capacity in its system, Company will accept deliveries of Customer's gas at the point(s) of receipt, less applicable retainage, for redelivery to Customer's facilities, in Mcf. Such gas volumes delivered to Company and redelivered to Customer shall be limited to the annual and maximum daily transportation volumes for each facility or, at Company's discretion,

lesser volumes if Customer's expected requirements are projected to be less than stated contract quantities. These volume levels shall represent the actual expected requirements of Customer's facilities and may be exceeded only with the prior consent of Company. **Notwithstanding anything herein to the contrary, in order to support reliable service on Company's system, Company may require Customer deliveries at other point(s) of receipt as designated by Company from time to time. It is the Customer's obligation to deliver sufficient gas supplies at the points of receipt to Company for redelivery to Customer's facilities.**

If for a period of at least five (5) consecutive days in one billing period, the Company: (1) has not received gas supply for Customer's account, and (2) the account's bank balance is insufficient to cover the consumption or the customer did not have access to its bank balance due to the Company's issuance of a Balancing Service Interruption, and (3) the customer consumed gas on one or more days during such five (5) day period, the account may be returned to the applicable Sales Service rate at the end of the billing period. The volumes of Customer-owned gas transported by Company, including banked volumes, to Customer at its facilities during each monthly billing cycle will be considered the first gas through the meter, as explained in Section 4, herein.¹

6. This language will affect not just Columbia's choice customers but rather the cost of delivery for all entities that rely on Columbia's transportation of natural gas. The proposed changes could be highly disruptive to the business practices of energy suppliers such as Direct Energy, and the financial consequences of any changes to Columbia's tariff provisions will likely be passed onto the end user customers of Direct Energy and other energy suppliers. In addition, Columbia proposes changes to its cash-out mechanism for transportation customers that are served by suppliers which will directly impact Direct Energy and its customers. Accordingly, Direct Energy clearly has a special interest in the proceeding.

¹ Columbia Gas of Kentucky, Inc. of Lexington, Kentucky, Rates, Rules and Regulations for Furnishing Gas for the Entire Service Area of the Company, Second Revised Sheet No. 89 Superseding First Sheet No. 89 (Date of Issue: May 27, 2016) (Date Effective: June 27, 2016)(Emphasis and underline added).

7. Furthermore, the Commission has previously recognized that natural gas suppliers can have a direct and special interest in a gas distribution company's rate proceeding. In granting intervention (albeit limited intervention) to Hess, Inc. in Louisville Gas and Electric Company's rate proceeding, the Commission concluded that Hess was "likely to present issues or to develop facts that assist the Commission in our investigation of that [gas transportation] issue."²
8. Moreover, Direct Energy's interests are not otherwise adequately protected and no other person is likely to present issues or develop facts that will assist the Commission in fully considering the matter. No other supplier or party has the same business model or goals. Direct's interest in assuring and promoting a competitive natural gas supply market, so that customers may avail themselves of the lower prices and innovative services available from Direct is unique and will clearly assist the commission in reaching a decision in the best interest of customers and in the public interest.
9. Finally, the inclusion of Direct Energy in this matter will not complicate and disrupt the proceeding as Direct Energy does not anticipate requesting extensions to any of the remaining deadlines in this matter. In fact, Direct Energy has already been granted intervenor status in similar proceedings involving Columbia Gas of Maryland, Inc. and Columbia Gas of Pennsylvania, Inc. in which Columbia did not even bother to object to Direct Energy's request to intervene.³ Thus, the Commission should reject Columbia's

² *Application of Louisville Gas and Electric Company for an Adjustment of its Electric and Gas Rates, a Certificate of Public Convenience and Necessity, Approval of Ownership of Gas Service Lines and Riser, and a Gas Line Surcharge*, Kentucky Public Service Commission Case No. 2012-00222 (Order entered October 2, 2012).

³ *Pennsylvania Public Utility Commission, et al. v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2016-2529660, Pre-hearing Order (Entered April 29, 2016); *In the Matter of the Application of Columbia Gas of Maryland, Inc. for Authority to Increase Rates and Charges*, Case No. 9417, Public Utility Law Judge Division - Ruling on Direct Energy Business, LLC and Direct Energy Business Services, LLC's its late filed Petition to Intervene and for Leave to File (June 29, 2016)(Mail Log No. 194126).

unsupported conclusory statements regarding the alleged prejudice it will experience as a result of Direct Energy's intervention.

WHEREFORE, for the forgoing reasons and the reasons provided in its Motion to Intervene, Direct Energy respectfully requests that the Commission grant Direct Energy full intervenor status.

Respectfully submitted,

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Date: July 6, 2016

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FILING NOTICE AND CERTIFICATE

I hereby certify that this Reply in Support of Motion of Direct Energy Business Marketing, LLC for Full Intervention is a true and accurate copy of the document(s) to be filed in paper medium with the Public Service Commission (which include a cover letter serving as the required Read1st document); that the electronic submission of these documents to the Commission was performed on July 6, 2016; that copies of these documents will be sent via federal express to the Kentucky Public Service Commission on July 7, 2016; and that currently, no party has been excused from participation by electronic service.

Dated: July 6, 2016

/s/ Gabriella Cellarosi Daniel
Gabriella Cellarosi Daniel, Esq.

Counsel for Direct Energy Business Marketing, LLC