

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

In the Matter of:

THE JOINT APPLICATION OF PNG)	
COMPANIES LLC, DRAKE MERGER SUB)	
INC., AND DELTA NATURAL GAS)	
COMPANY, INC. FOR APPROVAL OF AN)	CASE NO. 2017-00125
ACQUISITION OF OWNERSHIP AND)	
CONTROL OF DELTA NATURAL GAS)	
COMPANY, INC.)	

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**OBJECTION AND RESPONSE OF
DELTA NATURAL GAS COMPANY, INC. TO MOTION
TO INTERVENE OF KENTUCKY LABORERS DISTRICT COUNCIL**

Delta Natural Gas Company, Inc. (“Delta”) hereby submits its objection and response to the motion to intervene of Kentucky Laborers District Council (“KLDC”) in this proceeding. Delta respectfully requests that the Commission deny the motion of KLDC to intervene in this proceeding for the following reasons: (i) KLDC does not have a special interest in this proceeding; (ii) KLDC will not assist the Commission in fully considering this matter; and (iii) KLDC’s intervention will unduly complicate and disrupt this proceeding. KLDC does not satisfy the requirements of 807 KAR 5:001, Section 4(11)(b) and its motion to intervene should be denied.

Standard for Intervention.

807 KAR 5:001, Section 4(11)(b) defines when the Commission exercises discretion to permit intervention in a proceeding: “The commission shall grant a person leave to intervene if the commission finds that he or she has made a timely motion for intervention and that he or she

has a special interest in the case that is not otherwise adequately represented or that his or her intervention is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings.” KLDC has failed to satisfy these predicates.

KLDC Does Not Have a Special Interest.

KLDC alleges that it is a labor organization representing five unnamed local unions in the state of Kentucky and that it is affiliated with the Laborers International Union of North America (“LIUNA”). KLDC does not identify how it is affiliated with LIUNA or explain the significance of that affiliation. Neither KLDC, LIUNA nor any other labor union represents any Delta workers. In fact, Delta has no union employees. In addition, KLDC has not alleged that any of its members are even customers of Delta. The motion fails to explain KLDC’s interest in the rates or service of Delta, which, as affirmed by the Kentucky Court of Appeals, are the jurisdictional limits of when intervention may be granted. *EnviroPower, LLC v. Kentucky Public Service Commission*, 2007 Ky. App. Unpub. LEXIS 121, at *4 (Ky. App. 2007) (not to be published). Therefore, KLDC not only fails to identify a special interest that it has in this proceeding, it fails to identify **any** interest it has in this proceeding.

Delta is aware that this Commission permits the intervention by labor unions in Commission proceedings when the unions represent workers of the utility that is the subject of the proceeding.¹ Here, however, KLDC does not represent any of Delta’s workers and its interest in this proceeding is academic at best. This situation is similar to the situation when Bluegrass FLOW, Inc. (“FLOW”) sought to intervene in the case in which Kentucky-American Water Company (“KAWC”) sought approval for the transfer of control and ownership of

¹ See, e.g., Case No. 2004-00507, *Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and Site Compatibility Certificate for the Expansion of the Trimble County Generating Station*, (Ky. PSC Mar. 4, 2005) .

Jacobson Park to the Lexington-Fayette Urban County Government (“LFUCG”). The Commission denied FLOW’s motion for full intervention and said,

FLOW has failed to demonstrate any special interest in this proceeding. It is not merely enough that a party articulate or espouse a position on an issue that is before the Commission. The party must be directly affected by the requested relief. FLOW has not identified the effects of the proposed transfer of ownership of Jacobson Park on its members. As FLOW fails to identify in its motion the persons or groups that comprise its membership, we are unable to determine if those persons are affected by the proposed transfer.²

KLDC alleges that at least one-third of the 3600 employees it represents in the state of Kentucky are involved in pipeline and power plant work,³ but none of them work for Delta or could possibly be affected by the transaction that is the subject of this proceeding. It also alleges that members of the unions it represents reside and work in Kentucky and regions “impacted by the merger,”⁴ but that is not a description of a special interest in this proceeding. Many workers (and other individuals) reside in Delta’s service territory, but that does not give them a special interest in this proceeding. KLDC describes “energy-related work” by members of LIUNA in paragraphs 10, 11, 13, 14, 15 and 16 of the motion to intervene, but such information is irrelevant because LIUNA is not seeking to intervene and none of LIUNA’s members are employees of Delta.

As with FLOW in the KAWC case, KLDC and its members⁵ will not be directly affected by the requested approval of the proposed change of control of Delta.⁶ Therefore, KLDC does not have a special interest in the proceeding sufficient to warrant intervention.

² Case No. 2005-00214, *The Petition of Kentucky-American Water Company for Approval of the Transfer of Control and Ownership of Jacobson Park*, p. 2 (Ky. PSC Dec. 16, 2005).

³ Motion to Intervene, par. 1, 2.

⁴ Motion to Intervene, par. 5.

⁵ Since KLDC does not identify its members in the motion to intervene, one cannot determine how its members might be affected by the proposed transaction.

KLDC Will Not Assist the Commission And Will Unduly Complicate and Disrupt the Proceeding.

KLDC alleges that it will assist the Commission with its experience regarding workforce development and worker safety.⁷ This information would be cumulative of information that can be provided by Delta and PNG Companies LLC (“PNG”) as both entities have significant experience conducting regulated utility operations. Workforce development and worker safety are certainly components of regulated utility operations. Moreover, the Commission staff has significant expertise in evaluating proposed mergers and may evaluate this proposed transaction without redundant information from KLDC.

Prior Commission rulings are instructive on this point. This Commission ruled time and again that EnviroPower should not be permitted to intervene in the East Kentucky Power Cooperative cases and rejected EnviroPower’s claimed offers to assist the Commission. The Commission’s orders were consistently affirmed by the Franklin Circuit Court, the Kentucky Court of Appeals and the Kentucky Supreme Court. In at least one case, the Commission found that EnviroPower’s alleged “direct knowledge and unique expertise which has a direct and material bearing on the investigation of [this case]” did not justify intervention.⁸ Similarly, KLDC’s alleged experience in workforce development and worker safety do not justify its intervention in this case.

Because KLDC has no special interest in this proceeding and has nothing to offer to assist the Commission, its participation in this case will unduly complicate and disrupt the proceeding.

⁶ See also Case No. 99-149, *The Joint Application of Kentucky Power Company, American Electric Power Company, Inc. and Central and South West Corporation Regarding a Proposed Merger* (Ky. PSC May 20, 1999) (finding that the Kentucky Association of Plumbing-Heating-Cooling Contractors, Inc. and the Kentucky Propane Gas Association lacked a sufficient special interest in the proceeding to warrant intervention).

⁷ Motion to Intervene, p. 4.

⁸ Case No. 2006-00455, *An Investigation of the Financial Condition of East Kentucky Power Cooperative, Inc.*, p. 2 (footnote omitted) (Ky. PSC Jan. 30, 2007)

In Case No. 2011-00161, the Commission denied a motion to intervene by the Central Kentucky Building & Construction Trades Council, which alleged that it represented more than 20 construction trade unions, on the grounds that it had no special interest in the proceeding, would not assist the Commission and would complicate and disrupt the proceeding.⁹ The Commission should take the same action here.

For all of the foregoing reasons, Delta respectfully requests that KLDC's motion to intervene be denied.

Dated: April 10, 2017.

Respectfully submitted,



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⁹ Case No. 2011-00161, *Application of Kentucky Utilities Company for Certificates of Public Convenience and Necessity and Approval of Its 2011 Compliance Plan for Recovery by Environmental Surcharge* (Ky. PSC July 15, 2011).

CERTIFICATE OF COMPLIANCE

This is to certify that Delta Natural Gas Company, Inc.'s April 10, 2017, electronic filing of the Objection and Response is a true and accurate copy of the same document being filed in paper medium; the electronic filing has been transmitted to the Commission on April 10, 2017; that an original and six copies in paper medium of the Objection and Response will be hand delivered to the Commission within two business days.

A copy of the Objection and Response was also sent via U.S. mail, postage prepaid, on April 10, 2017 to the following:

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