

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

IN THE MATTER OF	*	
	*	_____
THE ELECTRONIC APPLICATION OF	*	
COLUMBIA GAS OF KENTUCKY, INC.	*	CASE NO. 2022-00049
FOR APPROVAL OF THE GREEN PATH	*	_____
RIDER PILOT PROGRAM	*	

**XOOM ENERGY KENTUCKY, LLC’S MOTION TO INTERVENE**

XOOM Energy Kentucky, LLC (“XOOM”), pursuant to 807 KAR 5:001 Section 4(11), by counsel, moves to intervene in the above-captioned proceeding based on its special interest in Columbia Gas of Kentucky, Inc. (“Columbia”) request for approval of its Green Path Rider Pilot Program. In support of this Motion, XOOM states as follows:

1. XOOM is a Kentucky limited liability company and an affiliate of NRG Energy, Inc. (“NRG”). Through its affiliates, XOOM operates in numerous jurisdictions throughout the Eastern U.S. in addition to Kentucky. XOOM is part of the NRG corporate family which includes other natural gas and electricity retail suppliers that collectively serve over six million electricity and natural gas customers across 24 states, the District of Columbia, and eight provinces in Canada. In 2020, the NRG retail companies supplied to their customers approximately 152 TWH of electricity and 914 MMDth of natural gas.

2. On or about December 29, 2022, Columbia filed an Application requesting that the Kentucky Public Service Commission (“Commission”) grant it permission to adopt a five-year

voluntary pilot program called the Green Path Rider where eligible customers can opt-in to a volumetric rate which would be used to offset the carbon emissions generated by customer usage.<sup>1</sup>

3. On June 6, 2023, the Commission entered an Order (“June 6 Order”) setting the procedural schedule for this matter. The deadline for intervention requests to be accepted was June 7, 2023

4. 807 KAR 5:001E, Section 4(11)(a) requires that a person requesting leave to intervene as a party to a case before the Commission to demonstrate either (1) a special interest in the proceeding that is not adequately represented in the case, or (2) that the person requesting permissible intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disputing the proceedings.

5. The Commission’s June 6 Order states that “any motion to intervene filed after the date established in the procedural schedule shall also show good cause for being untimely. If the untimely motion is granted, the movant shall accept and abide by the existing procedural schedule.”<sup>2</sup>

6. XOOM is a competitive service provider (“CSP”) who has been offering natural gas products of varying durations and serving residential and commercial customers in Columbia’s service territory since January 2013. XOOM and NRG 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 XOOM’s participation will not unduly complicate or disrupt the proceeding.

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<sup>1</sup> See Case No. 2022-00049, *In the Matter of the Electronic Application of Columbia Gas of Kentucky, Inc. for Approval of the Green Path Rider Pilot Program*, Application at ¶ 3 (Dec. 29, 2022).

<sup>2</sup> See Case No. 2022-00049, *In the Matter of the Electronic Application of Columbia Gas of Kentucky, Inc. for Approval of the Green Path Rider Pilot Program*, Order at ¶ 5 (Jun. 6, 2023).

7. As a CSP serving customers in Columbia's service territory, XOOM has a substantial interest in and will be directly affected by the outcome of this case. CSPs are already providing similar products in competitive choice markets to what Columbia proposes in this Application and it is unclear if Columbia will market this new product to XOOM's customers. Accordingly, the addition of the Green Path Rider as proposed by Columbia to Columbia's service offerings may significantly impact the competitive market and XOOM has a special interest in these proceedings.

8. There is no party that can represent XOOM's interest in this proceeding other than XOOM. XOOM and other NRG affiliates have participated in other jurisdictions where Columbia's distribution utility affiliates have proposed Green Path Rider schedules similar, if not identical to, the ones proposed in this case.

9. Additionally, as evidenced by Columbia's discovery responses in this case,<sup>3</sup> Columbia has acknowledged that CSPs are currently offering renewable products in its service territory that could be impacted by the proposed Green Path Rider. Accordingly, permitting XOOM's intervention in this proceeding is likely to develop facts that will assist the Commission in fully considering the matter. However, XOOM's review of the Application is ongoing and XOOM reserves the right to address any issues raised at any time during the course of the proceeding.

10. XOOM will accept and abide by the existing procedural schedule. XOOM did not anticipate the Commission entering a procedural order with a one-day deadline for intervention

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<sup>3</sup> Staff Set 1-12 asks Columbia to "Confirm that the Joint Stipulation and Settlement Agreement filed in Case No. 2022-00386 contemplated the offering of gas/carbon neutral products by Choice Program markets and discuss the possible impacts of the proposed Green Path Rider on Columbia Kentucky sales customers who might otherwise be interested in participating in Choice marketers' green product offerings." In its response, Columbia noted it was "generally aware of the fact that certain retail CHOICE marketers offer products but does not have specific details of each individual contract between retail CHOICE marketers and customers participating in that program."

requests. Since learning of this intervention deadline, XOOM has worked diligently to obtain local counsel for this matter. There is no prejudice to Columbia with the late intervention in light of the facts and issues which XOOM can provide.

11. Given the history of this case, adequate notice for intervention is questionable and should be considered with leniency to the intervenor, especially if it can assist the Commission as discussed above. On January 19, 2023, the Commission issued a notice of deficiency to Columbia informing Columbia of its requirement to provide public notice as well as customer notice, and ultimately rejected Columbia's application. Since that deficiency notice, Columbia has submitted three separate filings requesting that the Commission grant a deviation from its notice requirements.

12. The attorneys for XOOM authorized to represent it in this proceeding and to take service of all documents are:

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*\*pro hac vice admission pending*

WHEREFORE, XOOM respectfully requests that it be permitted to intervene as a party in the above-referenced matter, with all rights attendant thereto.

Respectfully submitted,

XOOM ENERGY KENTUCKY, LLC

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*Counsel for XOOM Energy Kentucky, LLC*

Dated: July 18, 2023

**CERTIFICATE OF SERVICE**

I hereby certify that XOOM's July 18, 2023 electronic filing is a true and accurate copy of the foregoing; that the electronic filing has been transmitted to the Commission on July 18, 2023 that pursuant to the Commission's July 22, 2021 Order in Case No. 2020-00085, an original and one copy of the filing are excused from being mailed to the Commission; that there are currently no parties excused from participation by electronic service; and that, on July 18, 2023 electronic mail notification of the electronic filing is provided to all parties of record.

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