

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF DELTA)	
NATURAL GAS COMPANY, INC. FOR AN)	CASE NO. 2024-00346
ADJUSTMENT OF RATES)	

**DELTA NATURAL GAS COMPANY, INC.'S
OBJECTION TO REQUEST FOR INTERVENTION**

Delta Natural Gas Company, Inc. (“Delta”) respectfully requests that the Commission deny the request of David O. Smith (“Mr. Smith”) for intervention. Mr. Smith’s request should be denied for three principal reasons: (1) the request fails to show that Mr. Smith will identify any issues or develop facts that will assist the Commission in the resolution of this matter without unduly complicating and disrupting the proceeding; (2) the request does not demonstrate a special interest in the proceeding because Mr. Smith’s stated interest is common to all customers and is adequately represented by the Attorney General; and (3) the request fails to include Mr. Smith’s electronic mail address as required by 807 KAR 5001 § 4(11)(a)(1). Because Mr. Smith has not satisfied the requirements for intervention under 807 KAR 5:001 § 4(11), Delta respectfully requests that the Commission deny Mr. Smith’s request for intervention.

Mr. Smith Does Not Have a Special Interest in This Proceeding

The Commission may grant Mr. Smith’s request for intervention only if it meets the requirements of 807 KAR 5:001 § 4(11)(b). Mr. Smith does not satisfy the first basis for permissive intervention, which requires the movant to demonstrate a special interest in the proceeding that is not already represented by another party to the action. Mr. Smith’s *only* claimed special interest in this proceeding is his general status as a residential and commercial customer. The Commission has consistently held that a person’s status as a customer is *not* a special interest

meriting full intervention.¹ Therefore, the Commission has denied many individual customers' petitions to intervene in rate cases.²

Instead, the Attorney General has a statutory right, pursuant to KRS 367.150(8)(b), to represent customers' interests in proceedings such as this one. The Attorney General's motion to intervene in this case was filed on November 26, 2024. The Attorney General has significant expertise and years of experience in representing ratepayers' interests in rate proceedings, including prior Delta rate cases.³ In an order denying intervention, the Commission reaffirmed that the Attorney General represents the generalized interest Mr. Smith claims in this case:

The Commission further finds that Petitioner has failed to establish that it has a special interest in this matter that is not otherwise adequately represented, notwithstanding Petitioner's generalized representation that its current members would be impacted by Big Rivers' application. Big Rivers provides power to approximately 112,000 customers, and each one of those customers will be impacted financially by the issues in this rate case.⁴

The same analysis merits denying intervention to Mr. Smith.

¹ *Application of Louisville Gas and Electric Company for a Certificate of Public Convenience and Necessity and Approval of Its 2009 Compliance Plan for Recovery by Environmental Surcharge*, Case No. 2009-00198, Order (Ky. PSC Aug. 28, 2009) (denying intervention to customer Tammy Stewart on ground she lacked a special interest meriting intervention, as well as expertise that would assist the Commission); *Application of Kentucky Utilities Company for an Order Approving the Establishment of a Regulatory Asset*, Case No. 2009-00174, Order (Ky. PSC June 26, 2009) (denying Rep. Jim Stewart's Motion to Intervene because he had neither a special interest in the proceeding nor was he likely to assist the Commission to render a decision); *Joint Application of Louisville Gas and Electric Company, Association of Community Ministries, Inc., People Organized and Working for Energy Reform, and Kentucky Association for Community Action, Inc. for the Establishment of a Home Energy Assistance Program*, Case No. 2007-00337, Order (Ky. PSC Sept. 14, 2007) ("[H]old[ing] a particular position on issues pending in ... [a] case does not create the requisite 'special interest' to justify full intervention under 807 KAR 5:001, Section 3(8)(b).").

² *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Bruce Nunn's request for intervention); *Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2012-00221, Order (Ky. PSC Aug. 9, 2012) (denying customer Michael Whipple's request for intervention); *Application of Kentucky Utilities Company for an Adjustment of Base Rates*, Case No. 2009-00548 (Ky. PSC June 2, 2010) (denying customer Geoffrey M. Young's request for intervention); *An Adjustment of the Electric Rates, Terms, and Conditions of Louisville Gas and Electric Company*, Case No. 2003-00433, Order (Ky. PSC Jan. 21, 2004) (denying customer Robert L. Madison's request for intervention).

³ See, e.g., *Electronic Application of Delta Natural Gas Company, Inc. for an Adjustment of its Rates and a Certificate of Public Convenience and Necessity*, Case No. 2021-00185, Attorney General's Motion to Intervene and Notice (Ky. PSC filed June 3, 2021).

⁴ *Application of Big Rivers Electric Corporation for a General Adjustment in Rates Supported by Fully Forecasted Test Period*, Case No. 2013-00199, Order (Ky. PSC Nov. 12, 2013).

Additionally, while Mr. Smith alleges the rate increase “is only to recoup the cost of purchase by Peoples an Essential Company,” this statement is without merit. The Commission approved the acquisition of Delta by Essential Utilities in Case No. 2018-00369, finding the proposed transaction in accordance with law, for a proper purpose, and consistent with the public interest so long as the parties adhered to the commitments discussing in the proceeding. As part of that proceeding, Essential committed that “the costs associated with the proposed transaction would not have the effect of increasing Delta’s . . . rates for gas service because it would not seek to recover in rates, now or in the future, any costs directly or indirectly associated with the proposed transaction or transition.”⁵ Further, the Commission has reviewed Delta’s post-acquisition costs in Delta’s last rate case, Case No. 2021-00185.

**The Commission Should Deny Mr. Smith’s Request to Intervene
Because Mr. Smith Has Not Demonstrated That He Will Present Issues
or Develop Facts That Would Assist the Commission**

Because Mr. Smith lacks an interest in this proceeding that is not adequately represented by other parties, Mr. Smith may intervene only if he can show that he will present issues or develop facts that will assist the Commission without unduly complicating or disrupting the proceeding.⁶ The request fails to do so. Mr. Smith does not appear to have ever intervened in a Commission proceeding and the request does not allege any expertise or experience with ratemaking. Mr. Smith’s request does not identify any specific issue or component of the case that he will present, or the facts he intends to develop. It does not allege he will file expert testimony. In short, Mr. Smith has not shown he will present issues or develop facts that will assist the Commission.

⁵ *Electronic Joint Application of Aqua America, Inc., Steelriver Infrastructure Fund North America LP, Steelriver LDC Investments LP, LDC Parent LLC, LDC Funding LLC, LDC Holdings LLC, PNG Companies LLC, Peoples Gas KY LLC, and Delta Natural Gas Company, Inc. for Approval of an Acquisition of Ownership and Control of PNG Companies LLC and Delta Natural Gas Company, Inc.*, Case No. 2018-00369, Order at 6 (Ky. PSC Mar. 3, 2019).

⁶ 807 KAR 5:001 § 4(11)(b).

Having individual customers intervene in this case, especially those without expertise or experience in rate cases, will unduly complicate and disrupt this proceeding. The proper means for Mr. Smith to participate in this case is through filing public comments. He has filed what appears to be public comment in the record. Moreover, Mr. Smith may also provide oral comments at the public hearing in this matter. These mechanisms ensure that Mr. Smith is given an opportunity to present his comments without unduly complicating the pending action.

Mr. Smith's Request Fails to Include an Electronic Mailing Address

The Commission's regulations require that a person who wishes to intervene must include in the motion requesting leave to intervene the movant's full name, mailing address, and electronic mail address. Mr. Smith's request to intervene fails to include an electronic mail address. Because Mr. Smith's request for intervention fails to meet the requirements of 807 KAR 5:001 § 4(11)(a)(1), it should be denied.

Conclusion

Mr. Smith has not satisfied either of the bases for permissive intervention set forth in 807 KAR 5:001 §4(11)(b). Mr. Smith does not have a special interest that is not already adequately represented by other parties, and he has not shown an ability to present issues or develop facts that will assist the Commission in considering Delta's proposed rates without unduly complicating and disrupting this proceeding.

WHEREFORE, Delta Natural Gas Company, Inc. respectfully requests the Kentucky Public Service Commission deny Mr. David O. Smith's request to intervene.

Dated: December 18, 2024

Respectfully submitted,


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CERTIFICATE OF SERVICE

In accordance with the Commission's Order of July 22, 2021 in Case No. 2020-00085 (Electronic Emergency Docket Related to the Novel Coronavirus COVID-19), this is to certify that the electronic filing has been transmitted to the Commission on December 18, 2024; and that there are currently no parties in this proceeding that the Commission has excused from participation by electronic means.



Counsel for Delta Natural Gas Company, Inc.