

June 15, 2009

Mr. Jeff Derouen  
Executive Director  
Public Service Commission  
Commonwealth of Kentucky  
211 Sower Boulevard  
P. O. Box 615  
Frankfort, KY 40602

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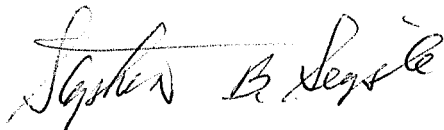
PUBLIC SERVICE  
COMMISSION

**RE: Case No. 2009-00141**

Dear Mr. Derouen,

Enclosed for docketing with the Commission is an original and ten copies of Columbia Gas of Kentucky, Inc.'s Memorandum Contra the Motion to Intervene filed by the Stand Energy Corporation Customer Group. Should you have any questions about this filing, please contact me at 614-460-4648. Thank you!

Sincerely,



Stephen B. Seiple  
Assistant General Counsel

Enclosures

cc: All Parties of Record  
Hon. Richard S. Taylor

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the matter of adjustment of rates of Columbia )  
Gas of Kentucky, Inc. ) Case No. 2009-00141

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COLUMBIA GAS OF KENTUCKY, INC.'S  
MEMORANDUM CONTRA TO  
THE MOTION TO INTERVENE OF THE  
STAND ENERGY CORPORATION CUSTOMER GROUP

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Now comes Columbia Gas of Kentucky, Inc. (“Columbia”), by and through its attorneys and replies to the Motion to Intervene filed by Stand Energy Corporation Customer Group (“Stand Customer Group”) in the above-captioned proceeding.

On June 9, 2009, Stand Customer Group filed with the Kentucky Public Service Commission (“Commission”) its Motion to Intervene (“Motion”) requesting full intervenor status in this action pursuant to 807 KAR 5:001 § 3(8). In its Motion, Stand Customer Group cites the following three reasons for its intervention: it has a unique and diverse customer base; it has differing commercial goals and direction relative to other parties in the case; and, its utility, Stand Energy Corporation, is a privately held marketer with experience in Commission proceedings.<sup>1</sup> Because of these reasons, Stand Customer Group believes it alone can adequately represent and protect its interests as an intervenor.<sup>2</sup>

The Commission’s Regulation 807 KAR 5:001 § 3(8) governs intervention in Commission proceedings. It provides in part: “If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention

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<sup>1</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Motion of the Stand Energy Corporation Customer Group to Intervene (June 9, 2009) at 2.

<sup>2</sup> *Id.* at 3.

by party 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, such person shall be granted full intervention.” The regulation requires a person seeking to intervene to establish either: (1) a special interest in the proceeding that is not already adequately represented; or, (2) that the person’s intervention is likely to develop facts and issues to assist the Commission without unduly complicating or disrupting the proceeding.<sup>3</sup> Pursuant to this regulation, the Commission granted on May 8, 2009, the Attorney General’s motion to intervene to adequately represent the interests of all consumers in the Commonwealth, as required by KRS § 367.150(8).<sup>4</sup>

Stand Customer Group fails to meet either of the Commission’s two criteria for intervention. To determine the adequacy of representation, the Commission must know the membership of Stand Customer Group. In its Motion, Stand Customer Groups fails to disclose the identity of its members moving to intervene because it believes “disclosure could lead to intimidation or retribution against individual members of (Stand Customer Group) by one or more of the regulated gas utilities involved in this proceeding or a loss of privacy to one of the unregulated gas marketers involved in this proceeding.”<sup>5</sup> This rationale is far from satisfactory. Consumers who intervene as individuals under 807 KAR 5:001 § 3(8) must disclose their identity, in accordance with the fundamental tenet of due process. Moreover, the Commission has required other organizations representing multiple customers to disclose their constituency members’ identities. In Case No. 2007-00477, the Commission ordered the Kentucky Industrial Utility Customers, Inc., which petitioned for intervention but failed to identify which customers it represented, to publicly supplement its application with the identities of the electric and gas customers which it was

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<sup>3</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Order (May 29, 2009) at 1.

<sup>4</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Order (May 8, 2009).

<sup>5</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Motion of the Stand Energy Corporation Customer Group to Intervene (June 9, 2009) at 2.

representing.<sup>6</sup> Similar to that case, the identities of the Stand Customer Group members should be disclosed to determine whether Stand Customer Group's interests are being adequately represented in this proceeding.

Even if the identities of the Stand Customer Group members are not disclosed, the representation of all individual customers is fulfilled by the Kentucky Attorney General. Similar to the denied motion to intervene of Representative Jim Stewart in this proceeding, Stand Customer Group fails to provide a factual basis to justify its request, as it does not demonstrate that the interests of its members will not be adequately represented by the Attorney General.

Stand Customer Group believes that because it "has a unique blend of public and private customers in Kentucky," no other participant, including the Attorney General, can adequately represent its interest.<sup>7</sup> Stand Customer Group's interpretation of the Attorney General's statutory role in Commission proceedings is incorrect. Under KRS § 367.150(8), the Attorney General does not solely represent one type of consumer, but represents *all* consumers in Kentucky, including the Stand Customer Group's private and public customers.

Stand Customer Group also tries to assert a special interest in the proceeding because its commercial goals and direction differentiate it from the other parties to this proceeding; however, Stand Customer Group neither cites its specific goals, nor contrasts other parties' goals with those of Stand Customer Group. Therefore, because the Attorney General is an intervenor in this proceeding, the interests of Stand Customer Group are adequately represented.

Likewise, Stand Customer Group also fails to demonstrate it will likely assist the Commission in rendering its decision by identifying issues and developing facts. Stand Customer

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<sup>6</sup> *In the Matter of an Investigation of the Energy and Regulatory Issues in Section 50 of Kentucky's 2007 Energy Act*, PSC Case No. 2007-00477, Order (December, 3, 2007).

<sup>7</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Motion of the Stand Energy Corporation Customer Group to Intervene (June 9, 2009) at 2-3.

Group impliedly asserts that it will assist the Commission because Stand Energy Corporation, a privately held marketer with no connection to a regulated utility, has “previously participated in gas regulatory cases before the (Commission).”<sup>8</sup> Unfortunately, experience in past Commission proceedings and independence from a regulated utility is not germane or sufficient to prove that Stand Customer Group’s intervention will assist the Commission as required by 807 KAR 5:001 § 3(8). Finally, Stand Customer Group provides no additional proof that its intervention will not cause an additional complication in the already burdensome, multi-party rate case proceeding. Therefore, Stand Customer Group fails to provide adequate rationale for its intervention as required by 807 KAR 5:001 § 3(8).

The Commission has previously applied this regulation to deny Stand Energy Corporation’s intervention in another rate case proceeding.<sup>9</sup> In the 2001 Union Light, Heat and Power Company (“ULH&P”) rate case, Stand Energy Corporation petitioned to intervene.<sup>10</sup> The Commission denied Stand Energy Corporation’s petition because “the interest claimed by (Stand Energy Corporation) is actually that of ULH&P’s (Interruptible Transportation) customer and that it cannot be asserted by (Stand Energy Corporation).”<sup>11</sup> The Commission further found that “the interest of all customers of ULH&P, including its IT customers, is adequately represented by the Attorney General of the Commonwealth of Kentucky.”<sup>12</sup> Analogous to the ULH&P rate case, Stand Customer Group’s interest can be adequately represented by the Attorney General in this proceeding, and, therefore, its petition to intervene lacks merit.

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<sup>8</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Motion of the Stand Energy Corporation Customer Group to Intervene (June 9, 2009) at 2.

<sup>9</sup> *In the Matter of Adjustment of Gas Rates of the Union Light, Heat and Power Company*, PSC Case No. 2001-00092, Order (September 13, 2001) at 1.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 2.

<sup>12</sup> *Id.*

Finally, Stand Customer Group lacks standing to request confidential protection of its members' identities under KRS § 61.878(1)(c)(1). Stand Customer Group refuses to disclose its membership because "that information is competitively sensitive information – the disclosure of which would injure Stand Energy (Corporation)."<sup>13</sup> However, Stand Customer Group members will not be competitively disadvantaged by the disclosure of its members' identities. Moreover, Stand Customer Group does not have standing to raise the issue of competitive sensitivity on behalf of Stand Energy Corporation or other individual group members. If Stand Energy Corporation believes disclosure of the petitioning intervenors' identities will be detrimental to its business, Stand Energy Corporation should have filed a petition for confidentiality to protect this information. Otherwise, the Commission cannot consider Stand Customer Group's legal argument. If the members of the Stand Customer Group wish to raise issues in this case, and if their interests should not be fully represented by the Attorney General, then fairness dictates that the Commission, Columbia and the other parties know who these members are.

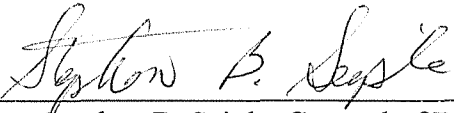
WHEREFORE, Columbia hereby respectfully requests the Commission deny Stand Customer Group's Motion because Stand Customer Group's interests are already adequately represented by the Attorney General in this proceeding. In the alternative, if the Commission finds that Stand Customer Group has standing to intervene, Columbia respectfully requests that the Commission require that Stand Customer Group disclose the identity of its members, and that the Commission prescribe specific limitations as to the issues that Stand Customer Group may pursue.

Dated at Columbus, Ohio, this 15<sup>th</sup> of June 2009.

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<sup>13</sup> *In the Matter of an Adjustment of Gas Rates of Columbia Gas of Kentucky, Inc.*, PSC Case No. 2009-00141, Motion of the Stand Energy Corporation Customer Group to Intervene (June 9, 2009) at 2.

Respectfully submitted,  
**COLUMBIA GAS OF KENTUCKY, INC.**

By:   
Stephen B. Seiple, Counsel of Record

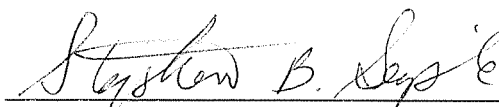
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Memorandum Contra of Columbia Gas of Kentucky, Inc., to the Motion to Intervene of the Stand Energy Corporation Customer Group was served upon all parties of record by regular U. S. mail this 15th day of June, 2009.



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Attorney for  
**COLUMBIA GAS OF KENTUCKY INC.**

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