

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF )  
KENTUCKY, INC. FOR AN ADJUSTMENT IN ) CASE NO.  
RATES ) 2009-00141

O R D E R

Pending before the Commission is Constellation NewEnergy-Gas Division, LLC's ("Constellation") motion for full intervention in this proceeding. On July 10, 2009, Columbia Gas of Kentucky, Inc. ("Columbia") filed a response objecting to Constellation's motion, and the Office of the Attorney General's Rate Intervention Division ("Attorney General") filed a response supporting Constellation's motion on July 14, 2009.

807 KAR 5:001, Section 3(8), which governs intervention in Commission proceedings, provides:

If the commission determines that a person has a special interest in the proceeding which is not otherwise adequately represented or that full intervention by the party is likely to present issues or to develop facts that will assist the commission in fully considering the matter without unduly complicating or disrupting the proceedings, such person shall be granted full intervention.

Constellation states that it is a Kentucky limited liability company that provides natural gas service to commercial and industrial customers on Columbia's system. Constellation further states that Columbia is proposing two new services that are similar or identical to the services Constellation offers. It expresses concern that, while Columbia is proposing that these new services be largely unregulated, it appears that

they will be subsidized by the regulated utility. Based on these two new service proposals, Constellation asserts that it meets both criteria for intervention set forth in 807 KAR 5:001, Section 3(8)(b).

Columbia claims that Constellation fails to meet either criterion. It advances three arguments to support its request that the Commission deny Constellation's motion and pleads, in the alternative, that it limit Constellation's intervention to addressing only Columbia's new service offerings at issue – the Price Protection Service ("PPS") and Negotiated Sales Service ("NSS"). First, Columbia asserts that Constellation's interest as a marketer is being adequately represented by the Attorney General, as he is charged with representing the interests of all consumers. Second, it asserts that Constellation has failed to explain explicitly how it will identify issues or develop facts that will assist the Commission. Third, it contends that Constellation's motion fails to provide evidence that its intervention will not cause additional complication in the proceeding.

The Attorney General states that Constellation, as a marketer, is not a consumer and that he does not represent Constellation's interest in this matter. He further states that he is not capable of providing the same perspective and representation as Constellation on Columbia's proposed PPS and NSS. He requests that the Commission grant Constellation's motion for full intervention.

Columbia proposes to offer its new PPS tariff as a fixed price sales service to its residential, commercial, and industrial customers with usage less than 25,000 Mcf per year and to offer, through contracts, its new NSS tariff as an optional firm and interruptible sales service to customers whose annual usage is greater than 25,000 Mcf

per year. The Commission finds that Constellation, as a marketer providing services to Columbia customers that are similar to those Columbia proposes to offer under its new service tariffs, has a unique interest in this proceeding that is not otherwise adequately represented and that Constellation's intervention is likely to assist the Commission in rendering its decision. While Columbia argues that Constellation's intervention will additionally complicate the proceeding, "additional complication" is not the standard. The standard is whether the requested intervention will "unduly" complicate the proceedings, and the Commission does not believe such finding is warranted.

The Commission has reviewed Constellation's motion and the pleadings filed in response thereto and finds that Constellation should be granted full intervention without limitation as to the issues it may address or raise.


On the date that Constellation filed its motion for intervention, it also filed data requests propounded to Columbia. The Commission finds that Columbia should respond to these data requests no later than 10 days from the date of this Order.

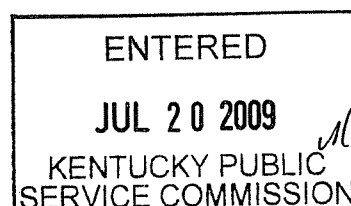
IT IS HEREBY ORDERED that:

1. Constellation is granted full intervention in this matter without limitation as to the issues it may address or raise.
2. Columbia shall respond to the data requests filed by Constellation no later than 10 days from the date of this Order.

By the Commission

ATTEST:

  
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Executive Director



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