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MAY 25 2010

PUBLIC SERVICE  
COMMISSION

May 24, 2010

Docket Clerk  
Kentucky Public Service Commission  
211 Sower Boulevard  
Frankfort, Kentucky 40601

In the Matter of: AN INVESTIGATION OF NATURAL GAS RETAIL  
COMPETITION PROGRAMS, Case No. 2010-0146

Dear Docket Clerk:

Enclosed please find for filing eleven (11) duplicate originals of AARP's motion  
For Full Intervention in the above-captioned case. All parties of record have been  
served.

Thanks in advance for your assistance in filing this!

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Cordially,

Tom FitzGerald  
Director

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

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MAY 25 2010

PUBLIC SERVICE  
COMMISSION

In the Matter of: )

AN INVESTIGATION OF NATURAL GAS )  
RETAIL COMPETITION PROGRAMS )

CASE NO. 2010-00146

MOTION OF AARP FOR FULL INTERVENTION

Comes AARP, by and through counsel, on behalf of members and of individuals over the age of 50 who are gas customers of incumbent gas utilities in the Commonwealth of Kentucky and who are directly affected by the subject matter of this case, respectfully moves to intervene into the above-captioned proceeding as a full party. Pursuant to 807 Kentucky Administrative Regulation (“KAR”) 5:001 Section 3(8), AARP respectfully requests that it be accorded the rights and privileges of a full intervenor in these proceedings, and in support thereof, states as follows:

1. Intervention in formal proceedings before the Kentucky Public Service Commission (“Commission”) is governed by 807 KAR 5:001 Section 3(8), which provides in relevant part that:

In any formal proceeding, any person who wishes to become a party to a proceeding before the Commission may by timely motion request that he be granted leave to intervene. Such motion shall include his name and address and the name and address of any party he represents and in what capacity he is employed by such party.

807 KAR 5:001 Section 3(8).

Additionally, the General Assembly has suggested through the enactment of House Joint Resolution 141 during the 2010 Regular Session, that in this case

the Commission should include “interested parties” including “representatives of consumer groups” among those involved in the collaborative study.

2. AARP is a nonprofit, nonpartisan membership organization that advocates for people who are 50 years of age and older, seeking to promote their independence, choice and control in ways that are beneficial and affordable to them and to society as a whole.<sup>1</sup> AARP operates staffed offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands. There are approximately 495,364 AARP members currently residing in the state of Kentucky. AARP’s Kentucky membership includes individuals who are customers of incumbent natural gas utilities that are parties to this case.

3. This motion for full intervention is timely, within the meaning of 807 KAR 5:001 Section 3(8). The April 19, 2010 Order opening this case set May 28, 2010 as the deadline for intervention. AARP’s motion is timely filed inasmuch as it is filed prior to that deadline.

4. The grant of intervention to a person pursuant to 807 KAR 5:001 Section 3(8) is within the sound discretion of the Commission, and requires that the person “specify his interest in the proceeding.”

5. AARP promotes the well being of older persons through advocacy, education, and service on a number of priority issues. AARP has determined that advocacy for reasonable utility rates and service for seniors is one of these priority issues. AARP has a long track record of professional participation before public utility commissions throughout the country, helping to provide a competent and fully developed factual

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<sup>1</sup> In 1999, the “American Association of Retired Persons” changed its name to simply “AARP”, in recognition of the fact that people do not have to be retired to be members. AARP is incorporated as a 501(c)(4) organization. Its affiliated AARP Foundation is incorporated as a 501(c)(3) organization.

record in numerous cases. AARP was granted full intervention status by this Commission in Case No. 2009-00141, In the Matter of Adjustment of Rates of Columbia Gas of Kentucky, Inc., and in Case No. 2009-00549, In the Matter of Application of Louisville Gas and Electric Company for An Adjustment Of Electric And Gas Base Rates, in order to represent the interests of seniors as a subgroup of the residential class of customers with distinct concerns and challenges.

6. AARP has provided credible and persuasive testimony before public utility commissions across the nation, assisting commissioners in crafting just and reasonable decisions on issues regarding rates and services for older utility customers. In this case, AARP has retained Nancy Brockway as a witness. Ms. Brockway is an expert in utility and energy matters. She was the expert witness for AARP in the 2009-00141 Columbia Gas case and is an expert witness in the pending 2009-00549 LG&E case. She has over twenty years of experience in these fields, including a term as a Commissioner on the New Hampshire Public Utilities Commission (1998-2003) and as a utility and energy expert with the National Consumer Law Center. Ms. Brockway has consulted for state and provincial regulators, state consumer advocates, unions, energy providers, and low-income energy providers and has testified on issues ranging from merger policy to system reliability to consumer protection. Furthermore, she has served on numerous committees of the National Association of Regulatory Utility Commissioners, including the Committee on Energy and the Environment. Ms. Brockway's expertise on utility and energy issues would aid the Commission in fully considering whether competition in the delivery of natural gas should be encouraged and if so, under what terms and conditions.

7. AARP's interest in this matter relates to the protection of seniors from potential negative effects of competitive natural gas retail market programs. This interest is different than the general public interest. Seniors, who are often on fixed or low incomes, are particularly vulnerable to increases and instability in energy prices. Seniors also devote a higher percentage of their total spending than do other age groups on residential energy costs and have special needs with regard to access to gas service.

8. Among AARP's particular concerns, in addition to the 21 Safeguards identified by Commission Staff in the November 3, 2008 Letter and the concerns expressed to the General Assembly in the December 7, 2009 Letter, are reliability of service; effects on rates when they are no longer set on cost-of-service with a reasonable ROE; loss of obligation to serve; possible higher gas costs<sup>2</sup>; potential for loss of tax revenues to local government; impact on low-income assistance programs; costs associated with "rebundling" services; regulation of marketers; disaggregation of customers and impacts on prices of gas for LDC gas customers; regulation of marketers and of their offerings; allocation of volumetric costs among participants in "choice" programs and gas customers of LDCs; role of the LDCs as supplier of last resort; avoidance of cherry picking of customers by marketers; financial assurances and

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<sup>2</sup> This concern is underscored when reviewing the 8-year report of the Columbia Gas "Choice" program, in which the company noted that "As of March 2008, Choice customers have saved (\$4,450,323). This savings is calculated as the amount paid by customers compared to the amount the customers would have paid if they had not opted to be supplied by a marketer in the first place. This is the grand total from the initial Choice program to most recent month available." In plainer terms, the report indicated that those who "chose" to exit the LDC as the gas supplier paid an aggregate \$4.5 million dollars **more** than if they had stayed put. Avoiding this sort of outcome in the design of future programs, whether by tariff, Commission Order, or legislative enactment, should be of paramount concern.

penalties related to performance assurance and nonperformance; and gas supply cutoff and billing practice oversight. AARP has experience with the design and effects of retail competition programs for natural gas in other states that would be helpful to the Commission in the development of this collaborative study.

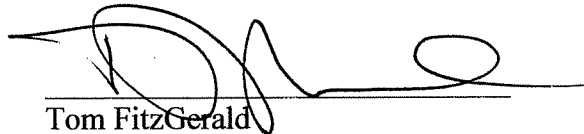
9. Existing parties to the proceeding do not adequately represent the interests of AARP and its members. No current party represents the specific interests of seniors, who often live on fixed incomes, use less gas, and spend a higher percentage of money per month on utility bills than the average citizen.

10. 807 KAR 5:001 Section 1(8)(b) provides in the alternative that the Commission shall grant full intervention status if the person “has special interests in the proceeding which is not otherwise adequately represented” or “that full intervention by party (sic) is likely to present issues or to develop facts that assist the commission in fully considering the matter without unduly complicating or disrupting the proceeding[.]” The special interests of AARP and its members are squarely within the ambit of the Commission’s jurisdiction and this proceeding and are not adequately represented, as discussed above.

11. Alternatively, full intervention should be granted since the participation of AARP would assist the Commission in fully considering the matter without unduly complicating or disrupting the proceeding. The participation of AARP and the expert testimony of Ms. Brockway will hopefully assist the Commissioners in determining whether natural gas retail competition programs would benefit consumers; and how such a program should be structured in order to protect consumers and to assure that the benefits of such a program are universally available, durable, and reliable.

WHEREFORE, for the reasons stated above and in the interests of assuring that those constituencies that would be most directly affected by natural gas retail competition programs are heard during this deliberative process, because the special interests of AARP and its member ratepayers and ratepayers over the age of 50 are not adequately represented by existing parties, and in order to provide information that will assist the Commission in fully considering the matter, Movant AARP requests that it be accorded the status of full Intervenor, and that each party to the case be directed to serve upon AARP and the undersigned counsel, all pleadings and information requests that are filed in this case.

Respectfully submitted,



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*Counsel for Movant, AARP*

### **CERTIFICATE OF SERVICE**

I certify that an original and ten (10) copies of this Motion of AARP for Full Intervention were transmitted for filing by priority mail to the Docket Clerk, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601 and that a true and accurate copy of the foregoing was mailed via first class U.S. Mail, postage prepaid, this 24th day of May, 2010, to the following:

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