

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

PURCHASED GAS ADJUSTMENT FILING OF)	CASE NO.
KENTUCKY FRONTIER GAS, LLC D/B/A B.T.U.)	2012-00408
GAS COMPANY)	

ORDER

On September 7, 2012, Ben F. Gardner, Treasurer for the Salyersville First Baptist Church (“Petitioner”), filed a request for authorization “to intervene in the rate increase request filed by the Kentucky Frontier Gas as it relates to former BTU customers now served by Kentucky Frontier Gas.” Petitioner contends that “the request for a rate increase is unwarranted when considering the recent rate increase, the cost for well-head gas and the flat inflation rate.”

The issue in this case is limited to the proposed adjustment of the actual commodity gas cost component of B.T.U. Gas Company’s (“BTU”) rates. In compliance with the Gas Cost Recovery (“GCR”) Adjustment Clause of its tariff, BTU has filed its quarterly report with the Commission which contains an updated GCR rate. This GCR rate component will be added to BTU’s base volumetric rate, on a dollar-per-Mcf basis, as prescribed by the Commission. Petitioner may review BTU’s tariff via the Commission’s Website.¹

The only person with a statutory right to intervene is the Attorney General (“AG”), pursuant to KRS 367.150(8)(b). That statute authorizes the AG to participate “on behalf

¹ [http://psc.ky.gov/Home/Library?type=Tariffs&folder=Natural Gas/Local Distribution Companies/B.T.U. Gas Company](http://psc.ky.gov/Home/Library?type=Tariffs&folder=Natural%20Gas/Local%20Distribution%20Companies/B.T.U.%20Gas%20Company).

of consumer interests.” Intervention by all others is permissive and is within the sound discretion of the Commission.²

In exercising our discretion to determine permissive intervention, there are both statutory and regulatory limitations on the Commission. The statutory limitation, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”³ The regulatory limitation is set forth in 807 KAR 5:001, Section 3(8). That regulation requires a person seeking intervention to file a request in writing which “shall specify his interest in the proceeding.”⁴ That regulation further provides that:

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 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.⁵

It is under these statutory and regulatory criteria that the Commission reviews a motion for permissive intervention.

Based on a review of the pleadings at issue and being otherwise sufficiently advised, the Commission finds that Petitioner does not have a special interest in the proceeding which is not otherwise adequately represented. Petitioner’s claims that a rate increase is “unwarranted when considering the recent rate increase, the cost for

² *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

³ *EnviroPower, LLC v. Public Service Comm’n*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. 2007).

⁴ 807 KAR 5:001, Section 3(8)(b).

⁵ *Id.*

well-head gas and the flat inflation rate” does not establish that Petitioner has a special interest in this matter which is not otherwise adequately represented. There are approximately 492 gas customers of BTU⁶ with many having similar concerns as Petitioner. The Commission further finds that Petitioner has failed to establish the likelihood that Petitioner will present issues or develop facts that will assist the Commission in resolving this matter without unduly complicating or disrupting the proceedings. Although the Commission has at times granted permissive intervention in a general rate case, the limited nature of GCR proceedings makes this case easily distinguishable and intervention inappropriate.

Because the requisites of KRS 278.040(2) and 807 KAR 5:001, Section 3(8), have not been satisfied, the Commission will deny Petitioner’s request for intervention.

Petitioner can review all documents filed in this case and monitor the proceedings via the Commission’s Website at the following web address <http://psc.ky.gov/Home/Library?type=Cases&folders=2012cases/2012-00408>. Petitioner may also file comments that will be entered into the record of this case.

IT IS THEREFORE ORDERED that Salyersville First Baptist Church’s Petition to Intervene is denied.

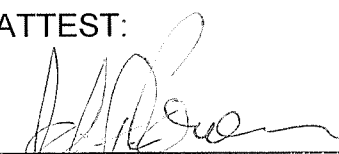
⁶ Case No. 2012-00099, *Application of Kentucky Frontier Gas, LLC (“Kentucky Frontier”) for Approval of Transfer of Assets of the Former B.T.U. Gas Company and Approval of Financing of Acquisition*, Kentucky Frontier’s Response to the Commission’s First Request for Information, filed May 4, 2012 at Item 4.

By the Commission

Commissioner Breathitt is abstaining from this proceeding.

ENTERED *A*
SEP 20 2012
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:



Executive Director

Case No. 2012-00408

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