

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC TARIFF FILING OF COLUMBIA)	
GAS OF KENTUCKY, INC. TO EXTEND ITS)	CASE NO.
SMALL VOLUME GAS TRANSPORTATION)	2021-00386
SERVICE)	

ORDER

This matter arises upon the motion of the XOOM Energy Kentucky, LLC (XOOM), filed January 14, 2022, for full intervention. As a basis for its motion, XOOM stated that it is an active supplier in Columbia Gas of Kentucky, Inc.'s (Columbia Kentucky) CHOICE Program. Columbia Kentucky's CHOICE program consists of Columbia Kentucky's Small Gas Transportation Service tariff and Small Volume Aggregation Service tariff. XOOM stated that it has been offering natural gas products of varying durations and serving residential customers in the Columbia Kentucky service territory since January 2013. Additionally, XOOM stated that it is an affiliate of NRG Energy, Inc. (NRG). XOOM stated that it offers different products to its customers in the CHOICE program, sometimes locking in rates for significant periods of time, and that changes in the CHOICE program's tariffs impact XOOM and its customers. XOOM maintained changes in the CHOICE program, which could significantly impact XOOM's cost structure. Because of this, XOOM argued it has an interest in the rates or services of Columbia Kentucky. XOOM stated that it brings a broad spectrum of experience to this proceeding. Finally, XOOM argued there is no other party that can represent its interest in this proceeding.

LEGAL STANDARD

The only person who has a statutory right to intervene in a Commission case is the Attorney General of the Commonwealth of Kentucky (Attorney General), pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sole discretion of the Commission.¹

The statutory standard for permissive intervention, 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.”²

The regulatory standard for permissive intervention, set forth in 807 KAR 5:001, Section 4, is twofold. Commission regulation 807 KAR 5:001, Section 4(11), requires a person to set forth in the motion to intervene either (1) a special interest in the proceeding that is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

DISCUSSION AND FINDINGS

Based on a review of the pleadings at issue and being otherwise sufficient advised, the Commission finds that XOOM demonstrated that XOOM has a special interest in the proceeding over which the Commission has jurisdiction that is not otherwise adequately represented or that XOOM is likely to present issues or develop facts that will assist the

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 at 3 (Ky. App. Feb. 2, 2007).

Commission in considering this matter without undue complication the proceedings, for the reasons discussed below.

As an active supplier in Columbia Kentucky's CHOICE program, XOOM will be greatly impacted if the program is not extended. This is a special interest, and an interest directly related to rates or service of a utility.

Additionally, XOOM, as an active supplier of natural gas in Columbia Kentucky's CHOICE program is in a position to present issues and develop facts that will ensure the Commission's decision in this matter is supported by a robust record.

Based on the above, the Commission finds that XOOM should be granted full rights of a party in this proceeding. The Commission directs XOOM to the Commission's July 22, 2021 Order in Case No. 2020-00085³ regarding filings with the Commission.

IT IS HEREBY ORDERED that:

1. The motion of XOOM to intervene is granted.
2. XOOM shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. XOOM shall comply with all provisions of the Commission's regulations, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. XOOM shall adhere to the procedural schedule set forth in the Commission's December 7, 2021 Order and as amended by subsequent Orders.

³ Case No. 2020-00085, *Electronic Emergency Docket Related to the Novel Coronavirus COVID-19* (Ky. PSC July 22, 2021), Order (in which the Commission ordered that for case filings made on and after March 16, 2020, filers are NOT required to file the original physical copies of the filings required by 807 KAR 5:001, Section 8).

5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, XOOM shall file a written statement with the Commission that:

a. Certifies that it, or its agent, possesses the facilities to receive electronic transmissions; and

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

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By the Commission

ENTERED
JAN 25 2022 rcs
KENTUCKY PUBLIC
SERVICE COMMISSION

ATTEST:

Linda C. Bridwell

Executive Director

Case No. 2021-00386

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