

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-2230-PET

Petition of Vermont Gas Systems, Inc.,
pursuant to 30 V.S.A. § 248(i), for approval of
an out-of-state renewable gas purchase contract
with a term exceeding five years

Motion to Reconsider Order Denying Motion to Intervene

I. Introduction

This case involves a petition filed by Vermont Gas Systems, Inc. (“VGS”) with the Vermont Public Utility Commission (“Commission”) seeking approval of an out-of-state renewable gas (“RNG”) purchase contract with Archaea Energy Marketing LLC (“Archaea”) under 30 V.S.A. § 248(i) (the “Contract”). In this motion, I am asking that the Commission reconsider its order of August 15, 2022, denying my motion of July 29, 2022 seeking permissive intervention in this case under Commission Rule 2.209(B). My motion to intervene was denied “because Catherine Brock’s *[sic]* stated interests in the outcome of this case are similar to those of VGS’s ratepayers generally and also because those interests will be adequately represented by an existing party to this proceeding.” I do not believe that the order denying my motion to intervene adequately addresses the reasons I stated for seeking to intervene.

II. PROCEDURAL HISTORY

On June 13, 2022, VGS filed the Contract for review by the Commission under 30 V.S.A. § 248(i).

On July 5, 2022, the Vermont Department of Public Service (“Department”) filed a recommendation requesting that the Commission open an investigation into the Contract.

On July 11, 2022, the Commission issued an Order opening an investigation into the Contract. The Commission’s order noted that 30 V.S.A. § 248(i) requires that the investigation into the Contract be completed within 120 days.

On July 29, 2022, I timely filed the Motion to intervene.

On August 5, 2022, VGS and the Department responded to the Motion. Neither VGS nor the Department objected to the Motion.

On August 15, 2022, the Commission denied the Motion to intervene.

III. The Motion to Intervene

I am seeking permissive intervention in this case under Commission Rule 2,209 (B). In support of my request to intervene, I attached the following statement:

I am a [VGS] customer. My interest in seeking permissive intervention is to ensure that I will not have to pay extra because of rate increases resulting from a claimed benefit that does not actually exist. VGS makes the claim that “the Contract aligns with State . . . climate goals in a cost-effective manner that benefits VGS customers,” a claim which I dispute. . . . I intend to show that the [C]ontract will provide no benefit to me as a VGS ratepayer and, furthermore, that it does not align with Vermont’s climate goals or allow VGS “to contribute to the State’s Global Warming Solutions Act requirements.”

My motion further stated that in order to “be able to make my case that VGS’s claim of cost-effectiveness is incorrect” I would need to have access to confidential materials –

not available to me were I not an intervenor--filed by VGS in this case. The Motion further states that “the [Department’s] overriding interest in this case is whether the contract under consideration is as fully consistent as possible with the statutory least cost standard” and that “ [t]he [greenhouse gas] emissions reduction benefits of the contract are assumed by the [Department].”

VGS and the Department filed separate responses stating that they do not object to the Motion.

IV. LEGAL STANDARD

Commission Rule 2.209(B) reserves to the Commission the power to grant intervenor status on a permissive basis when an applicant “demonstrates a substantial interest which may be affected by the outcome of the proceeding.” In exercising its discretionary authority under this provision, the Commission considers three factors:

- (1) whether the applicant’s interest will be adequately protected by other parties;
- (2) whether alternative means exist by which the applicant’s interest can be protected; and
- (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Under this standard the Commission has often but not always required that potential intervenors demonstrate a sufficiently “particularized” interest that is different from the general interests of other similarly situated ratepayers, whose interests are represented by the Department in proceedings before the Commission. For example, the Commission has ruled that in considering requests for permissive intervention status, permission may be granted where a party may be able to assist the Commission in determining the facts or the

appropriate remedy even if that party cannot demonstrate particularized harm. See *Amended Joint Petition of Central Vermont Public Service Corp., Danaus Vermont Corp., Gaz Metro Limited Partner, Gaz Metro, Inc., Green Mountain Power Corp., and Vermont Low Income Trust for Electricity, Inc.*, Docket No. 7770, Order re Intervention Motions, November 1, 2011, at 16-21 (“...it is important for the Board to allow the participation of, and take evidence from, parties with a broad range of perspectives and diverse viewpoints...” even where the intervenors cannot demonstrate particularized harm). See also *Investigation into rates charged by Sprint Communications, LP, for provision of telephone services to the Northwest Correctional Facility in Swanton, VT*, Docket No. 6373, Order re Motions to Intervene, Aug. 31, 2000, (granting intervenor status over utility objection in a rate case, without any showing of particularized harm) and *Investigation into Principles, Authority and Proposals for Reform of Vermont’s Electric Power Supply*, Docket No. 6140-A, Order on Motions to Intervene, June 29, 1999, (in investigation proceeding, granting intervenor status over utility objection, without any showing of particularized harm).

While the Hearing Officer in the present case has noted in the order denying my motion that ‘the ‘particularized interest’ intervention standard has been reviewed with approval by the Vermont Supreme Court in the context of a Section 248 petition,” the Hearing Officer has also noted that “The Commission has also allowed for permissive intervention under Rule 2.209(B) where intervenors have shown that they are in a ‘position to contribute insights over the course of the proceeding that will assist [the Commission] in developing a full record.’”(Petition of Vermont Gas Systems, Case No. 7970, Order of 4/12/2013, at 12.) I

believe this is exactly the position I am in with regard to the present case, and it is why I am seeking to intervene.

V. Discussion

The order denying my motion to intervene in this case does not accurately represent my stated reasons for seeking to intervene. The order says, “Catherine Brock’s *[sic]* Motion presents two general arguments in support of permissive intervention: (1) the Contract will result in increased rates for VGS customers; and (2) the asserted environmental benefits of the Contract are inconsistent with Vermont’s climate goals and the recently enacted Global Warming Solutions Act.” In fact, my stated reason for seeking permissive intervention was this “My interest in seeking permissive intervention is to ensure that I will not have to pay extra because of rate increases **resulting from a claimed benefit that does not actually exist** [emphasis added]. In concluding that the Department will adequately address the issues raised in the motion to intervene, the order to deny points to the questions about the benefit of the proposed contract raised by the Department in discovery. But this ignores the fact that the Department does not dispute that benefit exists. My interest is to show this is true, and this is not an interest addressed at all by the Department. I further note that the order to deny the motion to intervene reaches this conclusion based on the Department’s discovery questions and not on my statement in support of my motion let alone with reference to the discovery questions I have prepared while awaiting the Commission’s decision on my motion to intervene.

I filed my motion to intervene after the Department filed its first set of discovery questions when it was apparent that the Department was not raising issues pertinent to the issues of concern to me. The workshop held by the Commission on August 11, 2022 with regard to the substance of the contract under investigation in this case convinced me further that the Department was not prepared to address my interests. The Department's representative failed to speak at all during the workshop until the very end when he was prodded by the Hearing Officer. His remarks were about an isolated and relatively minute technical matter, difficult to understand and remote from my interests.

After the workshop, I contacted the parties to arrange the discovery conference noted in the case schedule for the following day, August. During our conference the parties' representatives were helpful and accommodating and were fully agreeable to conducting our conference on the assumption that my intervenor status was all but formally guaranteed. We agreed to a schedule, and I spent much of the following weekend developing my discovery questions and requests. I am attaching my discovery requests as an offer demonstrating that my intervention in this case will be serious and limited to the matters stated in my motion to intervene and that I am raising issues that are not addressed by the other parties.

The order denying my motion to intervene in this proceeding acknowledges that the Commission may exercise its discretion in deciding on motions to intervene and has in the past granted permissive intervention "where intervenors have shown that they are in

a ‘position to contribute insights over the course of the proceeding that will assist [the Commission] in developing a full record.’” I believe the discovery questions I am attaching will also demonstrate that I am precisely in such a position.

VI. Conclusion

For all the foregoing reasons, I believe the Commission should reconsider the order to deny my intervention in this proceeding and should grant me intervenor status.

Dated August 17, 2022

/s/ Catherine Bock
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