

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC UTILITIES COMMISSION

In Re: New England Gas Co. :
Service Quality Program Proposal : Docket No. 3476

OBJECTION OF NEW ENGLAND GAS COMPANY
TO THE MOTION OF UNITED STEEL WORKERS OF AMERICA, LOCAL 12431,
FOR LEAVE TO INTERVENE

Now comes the New England Gas Company (“NEGAS” or “Company”), through its attorney, and hereby objects to the Motion of the United Steel Workers of America, Local 12431 (“Union”), for leave to intervene in the above-captioned docket (“Motion to Intervene”).

The Commission should deny the Union’s Motion to Intervene for two reasons. First, the Union has failed to demonstrate a right or interest that would provide the basis for intervention in accordance with Commission Rule 1.13(b). Second, the Union has failed to meet the requirements of Commission Rule 1.13(c), which direct that a petition to intervene must “set out clearly and concisely facts from which the movant’s alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding.” Accordingly, there is no basis upon which this Motion to Intervene could be granted, and therefore, the Motion to Intervene must be rejected.

Commission Rule 1.13(b) establishes that a person seeking to intervene in a Commission proceeding must “claim a right to intervene or an interest of such nature that intervention is necessary.” Such right or interest is defined to be:

- (a) statutory right of intervention;

- (b) an interest directly affected and not adequately represented by existing parties; and
- (c) any other interest of such nature that movant's participation may be in the public interest.

See Commission Rule 1.13(a). In its Motion to Intervene, the Union states the following:

Movant states that it is the labor union recognized pursuant to federal labor relations law to represent certain of the employees at the applicant company. As a result of any Commission action on the pending Docket, the rights and responsibilities of Movant and the Company pursuant to their collective bargaining agreement will be invariably affected.

The Union's claimed interest does not meet the Commission's standard for "right or interest."¹ First, the Union has no statutory right to intervene in this proceeding. Second, "the rights and responsibilities of [the Union] and the Company pursuant to their collective bargaining agreement," to which the Union refers, are not issues being decided or ruled on by the Commission in this proceeding. Simply stated, the rights and responsibilities of the Union and the Company pursuant to their collective bargaining agreement have already been established and cannot be affected by this proceeding. The parties' collective bargaining agreement, which does not expire until May 28, 2007, sets forth all the terms and conditions of the Union employees' employment and is to "remain in full force and effect" at least until that date. Moreover, even assuming, *arguendo*, that the present proceeding could affect the terms and conditions of the Union employees' employment, that is a matter between the Union and NEGAS, and this proceeding is not the proper forum for them to discuss collective bargaining issues. *Cf. Providence Water Supply Board v. Public Utilities Commission*, 708 A.2d 537, 538 (R.I. 1998) (issues concerning the terms of employment of NEGAS employees fall squarely

¹ In fact, the Company is unaware of any instance in which a labor union has been granted intervenor status in a service quality proceeding in Rhode Island.

within managerial policy and do not relate to the Commission's regulatory authority). Thus, the Union has no interest that will be affected by the outcome of the present proceeding.

Furthermore, it is not in the public interest to provide the Union with intervenor status where it has not met the standards for intervention established by the Commission and where the Union's claimed interest has already been addressed, and resolved, in a collective-bargaining forum which is wholly independent from this proceeding. Since the terms of the Service Quality Program that are ultimately approved by the Commission in this proceeding will bear no relation to the respective commitments that the Company or the Union have already made in the collective-bargaining process, and since the public's interest in the propriety of the credits or penalties that will be reflected in the approved Service Quality Program is adequately represented by the Division, the Union has no "right or interest" in this proceeding.

The Union has also failed to meet its burden under Commission Rule 1.13(c), which requires that a petition to intervene must "set out clearly and concisely facts from which the movant's alleged right or interest can be determined, the grounds of the proposed intervention, and the position of the movant in the proceeding." The Union's cursory Motion to Intervene represents a thinly veiled attempt to link the subject matter of the Commission's proceeding - *i.e.*, setting up a series of measurements relating to the Service Quality Program - to the business issues of the Union. The statement of the Union quoted above represents the sum total of the Union's explanation of how its interests may be implicated in this proceeding and is insufficient to establish a basis for its participation in this proceeding. The Union has offered no explanation whatsoever for the way in which the establishment of measurements relating to the Service Quality Program will determine, or even have any affect, on the rights and responsibilities that

the Union and NEGAS have already committed to in their collective bargaining agreement. Accordingly, the Union has failed to meet the requirements of Commission Rule 1.13(c).

Further, equity dictates that the Union has absolutely no right or interest in this proceeding, and any participation can only result in the Union pursuing self-interest to the detriment of the proceeding. As the Commission knows, a Service Quality Program is proposed to ensure customer and safety standards. The Union has an inherent, self-serving interest to propose unattainable benchmarks and illogical performance measures in order to increase their ranks or obtain increased overtime payments.

The rights and responsibilities between the Union and the Company have now been firmly established within a collective bargaining agreement. The Union has no right or responsibility within this proceeding. Any public safety and service interest is firmly represented by the Division.

WHEREFORE, for all the above reasons, NEGAS respectfully requests the Commission deny the Union's Motion for Intervention.

NEW ENGLAND GAS COMPANY,

By its Attorney,

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Dated: _____