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November 16, 2006

**VIA UPS NEXT DAY AIR**

Public Utilities Commission of Ohio  
PUCO Docketing  
180 East Broad Street  
13<sup>th</sup> Floor  
Columbus, Ohio 43215-3716

**Re: Case No. 06-1201-AU-ORD**

To Whom It May Concern:

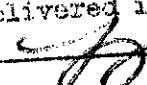
Please find enclosed for filing with the commission, an original and 10 copies of Stand Energy Corporation's Comments in the above-styled case.

Please contact me if you have any questions regarding this filing. Thank you.

Sincerely,

John M. Dosker  
General Counsel

Encls.

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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of Chapters	)	
4901:5-17, 4901:5-21, 4901:5-23,	)	<b>Case No. 06-1201-AU-ORD</b>
4901:5-25; 4901:5-33, 4901:5-35, and	)	
4901:5-37 of the Ohio Administrative Code	)	

\* \* \* \* \*

**COMMENTS OF STAND ENERGY CORPORATION**

\* \* \* \* \*

By Entry herein of October 11, 2006, the Commission directed (ordering paragraph nine [9]) interested parties to file comments with the Docketing Division on or before November 21, 2006 and reply comments to be filed on or before December 18, 2006. Stand Energy offers the following comments specifically confined to the Emergency Rules related to Natural Gas (Order pages 28-42).

**Ohio LDC's Are Required By Law to Have "Curtailment Plans" on File.**

OAC 4901:5-25-02(c) requires all Ohio "Gas Suppliers" with tariffs on file with the Commission, to file a "curtailment plan" with the Commission "which specifies the order of curtailments of all gas sales and transportation service to its customers, . . ."

Pursuant to OAC 4901:5-25-02(D), "Each curtailment plan **shall be filed** for commission approval in the gas supplier's existing tariff filing docket" and **shall be filed** annually on or before September 1st of each year. *Id.* (emphasis added). Stand Energy Corporation believes that all Ohio LDC's, except one - Columbia Gas of Ohio - have a conforming curtailment plan on file with the Commission.

**Compliance with Ohio Administrative Regulations is NOT optional.**

Instead of complying with this obligatory administrative regulation, Columbia Gas of Ohio has previously indicated that it chooses to rely upon Commission Order 85-800 ("85-800") in lieu of filing its own curtailment plan. Not only is 85-800 out of date in terms of the natural gas industry currently, 85-800 does not address how a marketer whose gas is seized is compensated. Stand Energy asserts this issue must be addressed by the Commission or Staff with Columbia Gas of Ohio before force majeure declarations, extended "flow orders" (i.e. OFO's and OMO's) , or other circumstances require or allow confiscation of marketer gas.

**Numerous Critical Issues Need To Be Considered and Addressed.**

The Commission is required by law to review the curtailment and confiscation policies of Ohio LDC's. Significant changes in the market have occurred in the last 30 years since the natural gas industry practically shut down and curtailment and confiscation policies were last exercised. Then, there was no customer-owned gas or transportation gas, and there were few if any gas-fired electric generating facilities. Confiscation of marketer's gas needs to be addressed to determine the mechanics for how, when, and where confiscation will be authorized, and how much will be paid to the marketer for confiscated gas and when it will be paid. At a minimum, compensation for confiscated gas should be immediate, at market pricing, plus a reasonable profit for the marketer whose gas is confiscated. Anything less, will cause further reduction in the quantity and quality of natural gas competition in Ohio. The PUCO must ensure that LDC curtailment and confiscation policies do not disadvantage marketers to the advantage of the LDC or any other party.

### **The Duke Energy And VEDO Curtailment Plans Should Also Be Reviewed.**

At least two Ohio gas LDC's (Duke Energy Ohio and Vectren Energy Delivery of Ohio) use marketer deliveries to balance their distribution systems during winter. Marketers are required to make "directed deliveries" of a certain percentage of total marketer gas to various designated receipt points on the LDC system. Will these systems fail if *force majeure*s or flow restrictions are declared and the utility and marketers *all receive less than allotted pipeline supplies*? If so, will the LDC's nevertheless penalize marketers for under-delivery? This is a concern because gas marketers (and their customers to whom costs will be passed through) are **not** protected from LDC flow order or other penalties as a result of **non-standard** *force majeure* provisions contained in LDC-Marketer "adhesion" contracts (i.e. not-negotiated). If any parties' failure to deliver is the result of *force majeure* (i.e. no fault of that party **and** that gas cannot be replaced through reasonable diligence), then LDC's should not be able to penalize unless actual harm occurs. Actual harm can be determined by examining the Pipeline-LDC penalties on a case-by-case basis and passing only those pipeline penalties and costs through to offending marketers or customers. Force majeure and flow order situations should not be turned into profit centers for the LDC's.

If however, marketers are penalized through no fault of their own, marketers will likely pass on costs to Ohio industrial, commercial, and residential customers. Ohio cannot afford to lose more industrial or commercial businesses or increase gas costs to human needs customers.

## **The Potential For LDC Abuse Should Be Removed From The Curtailment Plans**

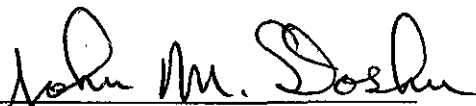
Any gas emergency would present opportunities for manipulation and abuse of the natural gas delivery system in Ohio and elsewhere. The best way for Ohio to prevent profiteering by any party is for the Commission to require all LDC's to have updated curtailment policies and make a strong public statement that manipulation or abuse will not be tolerated and any participants caught doing it will be punished appropriately to the fullest extent of the law, profits will be disgorged and other available and appropriate remedies employed.

### **CONCLUSION**

The Commission must require Columbia Gas of Ohio to comply with relevant Ohio Administrative Code provisions and immediately file a curtailment plan. The Commission should also review the curtailment plans of Duke Energy of Ohio and Vectren Energy Delivery of Ohio to determine if those plans offer adequate protection against foreseeable force majeure, flow order, or other events.

Respectfully submitted,

**STAND ENERGY CORPORATION**

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## CERTIFICATE OF SERVICE

I hereby certify that true copies of Stand Energy Corporation's Comments have been served by first class U.S. mail, postage prepaid, to the parties of record and parties referred to in these comments this 16<sup>th</sup> day of November, 2006.

  
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