

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Regulation of the)	
Purchased Gas Adjustment Clause Contained)	Case No. 04-221-GA-GCR
Within The Rate Schedules of Columbia Gas)	
of Ohio, Inc.)	

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Purchased Gas Adjustment Clause Contained)	Case No. 05-221-GA-GCR
Within The Rate Schedules of Columbia Gas)	
of Ohio, Inc.)	

**MOTION FOR LIMITED INTERVENTION
BY
COMMERCE ENERGY, INC., DIRECT ENERGY MARKETING LIMITED, HESS
CORPORATION, INTERSTATE GAS SUPPLY, INC. MXENERGY, INC.
AND VECTREN RETAIL LLC**

MOTION

Now come Commerce Energy, Inc., Direct Energy Services LLC, Hess Corporation, MxEnergy Inc., and Vectren Retail LLC (d/b/a Vectren Source)¹, hereinafter referred to as "the Ohio Gas Marketers Group", and pursuant to Section 4903.221 Revised Code and Rule 4901-1-11 of the Ohio Administrative Code move for intervention in the above styled proceeding on a limited basis as more fully described in the following Memorandum in Support.

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¹ Hess Corporation (f/n/a Amerada Hess Corporation) and Vectren Retail LLC are signatory parties to the 2003 Stipulation.

MEMORANDUM IN SUPPORT

I. The Ohio Marketers Group Meet the Standards of Section 4903.221, Revised Code and Rule 4901-1-11 of the Ohio Administrative Code and the Motion to Intervene Should Be Granted.

Section 4903.221, Revised Code establishes the following items which the Commission need consider when ruling on a motion to intervene:

- (1) the nature and extent of the prospective intervenor's interest;
- (2) the legal position advanced by the prospective intervenor and its probable relation to the case;
- (3) whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; and
- (4) whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

To implement this statutory provision the Commission promulgated Rule 4901-1-11(B) of the Ohio Administrative Code which instructs Legal Director, the Deputy Legal Director, or the Attorney Examiner to consider:

- (1) the nature of the person's interest;
- (2) the extent to which the person's interest is represented by existing parties;
- (3) the person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding; and
- (4) whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice any existing party.

A. Nature of the Ohio Gas Marketers Group Interest

The Ohio Gas Marketers Group is an organization consisting of active competitive natural gas suppliers serving Ohio. All of the above named members have customers in the Columbia Gas of Ohio, Inc. ("Columbia") service area. All the members of the Ohio Gas Marketers Group have pooling arrangements with Columbia. Together, the Ohio Gas Marketers Group represents a substantial portion of all the natural gas which flows on the Columbia system.

The Ohio Gas Marketers Group in the past has participated in several Commission proceedings involving generic Gas Cost Recovery ("GCR") matters. For example, the Ohio Gas Marketers Group actively participated in Case No. 06-423-GA-ORD which included the generic

issue of whether the BA and AA adjustments of the GCR should continue to be charged for one year to all migrating Choice customers. The Ohio Gas Marketers Group has also been active in Case No. 05-474-GA-UNC which involves the East Ohio Gas Company's proposal to replace the GCR with an alternative provider of last resort gas supply option.

When the above styled GCR proceeding originally commenced some nine months ago, the focus appeared to be on the prudence of the gas commodity and transport \ storage purchased during the 2004 and 2005 contract year by Columbia. Testimony filed on December 8, 2006, though, raised a number of generic issues which transcend the scope of commodity and service purchases by Columbia in 2004 and 2005. Specifically, the direct prepared testimony of Consumers' Counsel ("OCC") witness Michael P. Haugh² advocates the replacement of the GCR with an auction as of April 1, 2007³. This is a new issue, not reasonably foreseen by informed members of the natural gas industry in Ohio. As it did in the East Ohio Gas Company proceeding, the Ohio Gas Marketers Group supports the concept of further advancing the development of a vibrant competitive market by replacing the GCR mechanism with an alternative plan for Columbia's exit of the merchant function. While the Ohio Gas Marketers Group agrees with Mr. Haugh's basic concept of an auction as an element of a merchant function exit strategy, there are details as to the type and timing of such an auction which deserve exploration, and on which the Ohio Gas Marketers would like to offer insight. Since the Ohio Gas Marketers Group includes bidders who were active in the East Ohio auction, and potential participants in a Columbia auction, the record will be enhanced if the Ohio Gas Marketers Group is permitted to address the issue of an auction.

² PP. 9 - 14

³ Id. At 16

The prepared direct testimony of Mr. Hayes, also sponsored by OCC, advocates terminating the 2003 Stipulation⁴. The 2003 Stipulation⁵ is a complex agreement covering some 27 pages which addresses balancing and banking⁶, obligations for Choice suppliers to purchase or take assignment of upstream capacity⁷, trading of gas and capacity⁸, and operational and maintenance flow orders⁹. Any discussion of terminating the 2003 Stipulation must be accompanied by a discussion concerning the detailed implementation plan that will be required to replace the current stipulation. In order to maintain reliable, optimally priced gas supplies the details of how balancing and banking, upstream capacity assignments, trading and operational and maintenance flow orders must be finely tuned to meet the practical needs of bringing the right amount of gas to the system at the right time. The practical needs and requirements of any successor plan for these essential services is the information that the Ohio Gas Marketers Group intends to bring to the record if its intervention is approved.

Finally, in the direct prepared testimony of Columbia witness Thomas J. Brown, Jr.¹⁰, the issue is raised as to when and how to begin what Mr. Brown refers to as the “merchant function” discussions¹¹. The Ohio Gas Marketers Group has views as to when and how those discussions should be conducted and wish to present those on the record.

In sum, the tenor of the above styled proceeding changed with the filing of the December 8, 2006 testimony. Thus, within the last month new issues were presented which address: 1) replacement of the GCR with an auction; 2) replacement of the balancing and banking systems; 3)

⁴ “I am testifying that the 2003 Stipulation is not providing the benefits that it was projected to provide to COH core customers, including both GCR and Choice customers, and thus the Commission should terminate the 2003 Stipulation.” P. 4

⁵ The 2003 Stipulation (see footnote 4 above) is a short hand used in the pleading in this proceeding for the Stipulation originally composed in calendar year 2003, but signed in April of 2004 and subject to modifications by the Commission.

⁶ See page 21 of the 2003 Stipulation

⁷ Id. Page 11

⁸ Id. Page 20

⁹ Id. Page 21

potential termination of the commodity and capacity trading program; 4) changes to the operational flow and maintenance orders; and 5) the nature of future merchant function activities by Columbia. Unlike the procurement of gas and transmission service in 2004 and 2005, these generic operational issues directly impact all gas marketers in general, and specifically marketers like the members of the Ohio Gas Marketers Group who service a large proportion of Columbia retail customers.

B. The interest of the gas marketers is not being adequately represented by existing parties; the addition of the Ohio Gas Marketing Group will contribute to a just and expeditious resolution of the issues involved in the proceeding.

Currently, one marketer \ supplier, Interstate Gas Services, Inc., is a party to the proceeding. Interstate Gas Services is also a member of the Ohio Gas Marketers Group. If intervention is granted, the Ohio Gas Marketers Group and Interstate Gas Services will coordinate their participation to the maximum extent possible in order to promote the efficient use of the Commission's time. While Interstate Gas Services has similar interests with the other six members of the Ohio Gas Marketers Group, their interest is more focused on their individual activity within the Columbia service area, whereas the Ohio Gas Marketers Group, because it has wholesale as well as retail interests and suppliers with a wide variety of gas sources, presents a broader cross section of views as to the generic issues of auctions, capacity assignment, operational and maintenance flow orders, trading and balancing and banking. If it is going to tackle such important issues for more than one million customers in this proceeding, the Commission should avail itself of the input from such a large section of the marketing \ supplier community.

C. Granting the requested interventions will not unduly delay the proceeding or unjustly prejudice any existing party.

The Ohio Gas Marketers Group agrees to accept both the record and the procedural schedule as they stand. Since its limited intervention concerns only a few issues, which are somewhat

¹⁰ Mr. Brown's testimony was filed a week earlier on November 29, 2006

¹¹ P. 6

tangential to the procurement of commodity or transmission services in 2004 and 2005 by Columbia, the Ohio Gas Marketers Group does not anticipate presenting any direct witness. The Ohio Gas Marketers Group will by brief address the practicality and desirability of auctions, early replacement of the 2003 Stipulation and timing and process for the post Stipulation period.

II. The Application for Intervention is Timely Filed

OAC 4901:1-11(E)(1) requires an intervention to be filed no later than five days prior to the scheduled date of hearing. As the issues in the matter at bar have advanced, the date of hearing has receded. In the last Entry issued by the Attorney Examiner it was “Ordered, that a hearing be scheduled for January 30, 2007 at 10 a.m., at the offices of the Commission, 180 E. Broad St., Columbus, Ohio 43215.”¹² That is ten days from the filing of this motion, well within the time allotted by the rule. The matter at bar had a pre-trial conference called on December 15, 2008. A review of the transcript of that pre trial, which has been publicly posted on the Commission’s website, indicates that no witnesses were called and the arguments heard were all procedural in nature. This included the granting of the request by Columbia to continue the hearing.

Should the Attorney Examiner find that December 15, 2006 pre-trial was the start of the hearing, then pursuant to OAC 4901:1-11(F), the Ohio Gas Marketers Group requests late intervention. The essence of due process is that citizens be given sufficient notice and time to respond prior to governmental actions which affect their life or property. In the matter at bar, the testimony filed on December 8, 2006 called for replacement of the GCR and termination of the current process for balancing and banking, trading, and operational and maintenance flow orders. These are changes that profoundly affect the gas marketers and suppliers in the Columbia service area. They are suggested changes of a magnitude that require more than one week for response. The Ohio Gas Marketers Group has acted promptly as only a month has elapsed between the filing

¹² Entry of December 29, 2006

of the testimony that raised the new issues and this intervention. Further, that month included the Christmas and New Year's Day holidays. Thus, should this intervention be deemed out of time, it should be granted leave under OAC 4901:1-11(F) for late intervention status.

III. CONCLUSION

WHEREFORE, the Ohio Marketers Group respectfully moves for limited intervention for the purpose of participating in generic issues affecting the future structure of the Columbia GCR.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion for Limited Intervention was served upon the following persons via first-class U.S. mail, postage prepaid, this 11th day of January, 2007.



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