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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

2009 JUN 12 PM 1:02

In the Matter of the Application of  
Akron Thermal, Limited Partnership  
for an Emergency Increase in its Rates  
and Charges for Steam and Hot Water  
Service.

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Case No. 09-453-HT-AEM

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**MOTION TO INTERVENE  
OF CHILDREN'S HOSPITAL MEDICAL CENTER OF AKRON**

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Children's Hospital Medical Center of Akron (the Hospital) respectfully moves the Public Utilities Commission of Ohio (Commission), pursuant to Section 4902.221, Ohio Rev. Code, and Rule 4901-1-11, Ohio Admin. Code, for leave to intervene in this proceeding.

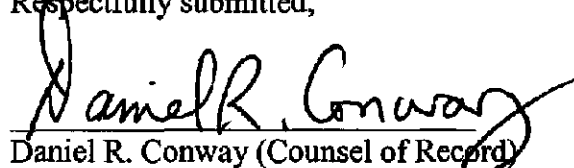
On May 29, 2009, Akron Thermal, Limited Partnership (AT) filed an Application for an emergency increase in its rates and charges for steam and hot water service provided throughout its service area. AT is requesting emergency rate relief that would allow it collect from its remaining customers a revenue shortfall that, it claims, has resulted from the loss of the University of Akron as a customer. AT's Application proposes to increase its rates to customers by either 48 or 72 percent, depending on whether the increase is applied to both tariff and special contract customers or to tariff customers alone. Either increase would be, in a word, enormous.

Children's Hospital is a special contract customer of AT and, as discussed further in the attached Memorandum in Support, it has a direct, real and substantial interest in this proceeding because one of AT's proposals would increase the rates charged to Children's Hospital well in excess of what its contractual arrangement with AT allows. Children's Hospital is so situated that disposition of this proceeding without its participation may, as a practical matter, impair or impede its ability to protect that interest. Children's Hospital's participation will not unduly

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prolong or delay this proceeding, and it will contribute significantly to the full development and equitable resolution of the factual issues.

Respectfully submitted,

A handwritten signature in black ink, reading "Daniel R. Conway". The signature is fluid and cursive, with a large, stylized "D" and "C".

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## MEMORANDUM IN SUPPORT

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On May 29, 2009, AT filed its Application for an emergency increase in rates and charges for steam and hot water service provided throughout its service area. The necessity to increase rates, AT contends, results from losing its largest customer, the University of Akron. AT proposes to increase its rates to customers by either 48 or 72 percent.

The 48 percent increase branch of AT's proposal, which would apply to the Hospital, is based on increasing rates to both tariff and special contract customers in that percentage amount. The Hospital is a special contract customer of AT. Under that contract the Hospital purchases its full requirements of steam services from AT. That contract, entered into in 2006, has a term that continues until at least March 31, 2011. Among other things, the contract specifies the rate the Hospital will pay for steam service. The rate has a fuel component and a non-fuel component. Each rate is subject to a contractual formula under which it is adjusted regularly during the term of the contract to reflect specific types and measures of increases for fuel and non-fuel costs.<sup>1</sup> The rates charged to the Hospital by AT have been adjusted in accordance with the contractual mechanisms since the contract was executed in 2006.

AT's Application, through its proposal to increase rates by 48 percent to both tariff and special contract customers, would impose on the Hospital rate increases that are not permitted by its special contract. Moreover, the adverse impact on the Hospital of that rate increase proposal would be significant.

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<sup>1</sup> On May 26, 2009, AT submitted the contract with the Hospital for approval to the Commission, pursuant to Section 4905.31, Ohio Rev. Code, in Case No. 09-441-HT-AEC.

Under Rule 4901-1-11(A)(2), O.A.C., a person shall be permitted to intervene in a Commission proceeding upon a showing that the person has a real and substantial interest in the proceeding, and the interested person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

In deciding whether to permit intervention under paragraph (A)(2) of Rule 4901-1-11, the Commission considers.<sup>2</sup>

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 merits of the case.
3. Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.
4. Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.
5. The extent to which the person's interest is represented by existing parties.

The Ohio Supreme Court has confirmed that intervention "ought to be liberally allowed so that the positions of all persons with a real and substantial interest" in a proceeding can be considered, *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St3d 384, 2006-Ohio-5853, ¶20.

The Hospital has a real and substantial interest in this proceeding, generally, as a customer of AT and, specifically, through its contractual arrangement with AT. The Hospital's interests as a customer receiving services pursuant to a special contract with AT may be impaired or impeded as a practical matter by the disposition of this proceeding.

The legal positions that the Hospital will advance directly relate to, and will assist the Commission in resolving, the merits of AT's Application. The Hospital's involvement in the proceeding will not unduly prolong or delay the proceeding. Indeed, the Hospital will

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<sup>2</sup> See Section 4903.221, Ohio Rev. Code.

significantly contribute to the full development and equitable resolution of the factual issues.

Finally, no other person or existing parties adequately represent the Hospital's interests.

Accordingly, the Hospital respectfully requests that the Commission grant its Motion to Intervene.

Respectfully submitted,

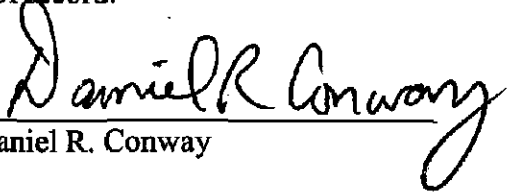
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## CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Intervene of Children's Hospital Medical Center of Akron has been served by First-Class United States Mail, postage prepaid, this 12th day of June, 2009, upon the counsel for the following parties of record.

  
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