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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of
Interstate Gas Supply, Inc. for
Certification as a Retail Natural Gas
Supplier**

Case No. 02-1683-GA-CRS

**MEMORANDUM CONTRA RETAIL ENERGY SUPPLY ASSOCIATION'S AND STAND
ENERGY CORPORATION'S MOTIONS TO INTERVENE**

Pursuant to Ohio Administrative Code (O.A.C.) 4901-1-12(B)(1), Interstate Gas Supply, Inc. ("IGS") respectfully submits this Memorandum Contra the motions to intervene of the Retail Energy Supply Association ("RESA") and Stand Energy Corporation ("Stand"). As IGS stated in its Memorandum Contra the intervention of the Office of the Ohio Consumer's Counsel ("OCC"), Border Energy ("Border") and Northeast Ohio Public Energy Council ("NOPEC") (collectively the "Objecting Parties"), certification dockets are intended to assess the financial, managerial and technical capabilities of an applicant, either initially or at the bi-annual review period. A certification docket does not, and should not, include marketing issues. To the extent issues arise with respect to marketing activities, O.A.C. 4901:1-29-05(C)'s prohibition against unfair or misleading marketing practices applies to both utility affiliates and non-affiliates alike. A complaint proceeding, rather than intervention in a certification docket, would be the proper procedural mechanism for consideration of whether a supplier is in compliance with that regulation. For these reasons, and the reasons stated in IGS' prior Memoranda Contra the Objecting Parties, both Stand's and RESA's motions to intervene in IGS' certification docket should be denied.

In addition to the arguments presented by OCC, NOPEC, Stand and Border, RESA presents an additional argument which warrants response. RESA is not claiming that IGS should be unable to use the trade name "Columbia Retail Energy" but instead asserted:

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IGS has not included in its notice to the Commission how it intends, or if it intends, to distinguish its marketing of natural gas commodity supply under the "Columbia Retail" trade name from that of the incumbent natural gas company ("NGC"), Columbia Gas of Ohio. RESA Motion p. 2.

* * *

RESA is concerned that IGS's use of the "Columbia Retail" trade name, **without appropriate disclaimers**, will mislead customers to believe that their natural gas will be supplied by their NGC, Columbia Gas of Ohio, to the detriment of customer choice and a competitive retail natural gas market in Ohio. (Emphasis added). RESA Motion p. 4.

Although RESA is correct that IGS' Notice of Material Change did not include specific detail regarding disclosures IGS will make when using the trade name "Columbia Retail Energy", RESA misses two relevant points. First, the notice rules promulgated in OAC 4901:1-24-10 do not require disclosure and a review of specific marketing materials. Further, the Certification dockets of the affiliated suppliers AEP Retail Services, Dominion Retail, dba Dominion East Ohio Energy, Duke Retail Energy, First Energy Solutions, and Vectren Retail do not contain such disclosures and no party, to IGS's knowledge, including RESA or the Objecting Parties, is asserting that such disclosure is required in a Notice of Material Change filing.

Second, as IGS stated in its Memorandum Contra the Objecting Parties, IGS has relied heavily on the disclosure standards in the Commission rules (specifically O.A.C. 4901:1-29-05(C)(8)(f)) and has consulted with Commission Staff regarding appropriate disclosures in developing its marketing materials.¹

In order to allay the speculative concerns raised by RESA and the Objecting Parties, IGS has attached to this memorandum the affidavit of Vincent A. Parisi, General Counsel for

¹ In its Memorandum Contra, IGS stated: "IGS is a well established energy company with an impeccable reputation for conducting itself with the highest level of integrity in the market. In developing its marketing program for use of the CRE trade name, **IGS has relied heavily upon the Commission's rules governing the use of trade names and trademarks** by affiliated companies to guide its disclosures to consumers regarding its relationship with the trade name owner. IGS has also **consulted with the Commission's Staff regarding appropriate disclosures** related to the use of the CRE trade name." (Emphasis added, Memorandum Contra p. 6.)

IGS. As Mr. Parisi's affidavit confirms, IGS has developed the following disclaimer/disclosure language in consultation with the Commission's staff for use on its CRE marketing material:

Next to the logo at the top:

Columbia Retail Energy is not an affiliate of NiSource or Columbia Gas of Ohio.

At the bottom:

The trademark COLUMBIA RETAIL ENERGY including the starburst design is a trademark of NiSource Corporate Services Company and is used under license by Interstate Gas Supply, Inc. Interstate Gas Supply, Inc., is not an affiliate of NiSource Corporate Services Company or Columbia Gas of Ohio.

IGS is committed to using one or both of these or substantially similar disclaimers/disclosures in soliciting customers for CRE and in complying with all applicable statutes and/or regulations.² These disclaimers/disclosures would more than fully comply with O.A.C. 4901:1-29-05(C)(8)(f) if IGS were a utility affiliate as well as comply with O.A.C. 4901:1-29-05(C)'s general prohibition against unfair or misleading marketing activities.

Given the applicability of existing O.A.C. 4901:1-29-05(C) to affiliates and non-affiliates, and the guidance, by analogy, provided by O.A.C. 4901:1-29-05(C)(8)(f), coupled with IGS' efforts in consulting with the Commission Staff regarding appropriate disclaimers/disclosures, there is no statutory or regulatory basis, nor any consumer related concerns, to support RESA's assertion that new regulations must be crafted for non-affiliate suppliers before IGS begins its CRE marketing program.

IGS continues to assert that a certification docket is not the appropriate forum for addressing issues outside of the applicant's financial, technical and managerial capability to conduct business in Ohio as a seller of natural gas to residential consumers. Further, marketing standards and practices are not within the items codified by the Ohio legislature as elements to be considered by the Commission when determining whether a CRNGS certification should be issued or renewed. RESA seems to acknowledge this in its filing, given its request for the

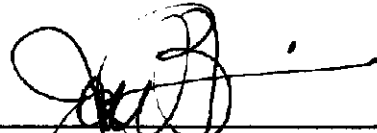
² IGS will use a disclaimer next to the CRE logo at the top of all marketing material.

Commission to open a separate docket for rulemaking to craft new rules related to disclosures for non-affiliates. Although IGS does not believe separate rules are necessary, if the Commission deems it necessary to open a new docket for a rulemaking proceeding on O.A.C. 4901:1-29-05(C)(8)(f) to add "or unaffiliated companies" to the rule, IGS would not object to such a process, although it reserves all of its rights and arguments for such a process.

However, IGS vigorously opposes RESA's assertion that IGS' use of the trade name Columbia Retail Energy should be suspended pending the outcome of a proposed rule making process. It would be unwarranted, unduly penalize IGS and be an inappropriate restraint on trade to prevent IGS from using a legally licensed service mark, with appropriate disclosures, simply to hold a proceeding that would result in requiring IGS to do the thing it has already committed to do. This is especially so since IGS is not violating any law or Commission rule by marketing under the name Columbia Retail Energy, and has gone to great lengths to comply with 4901:1-29-05(C)(8)(f).

RESA is comprised of some of the largest competitors in the retail space, many of whom directly compete with IGS for customers and all of whom are keenly aware of the best times to present offers to the public. RESA is also aware of the time it would take for a rulemaking proceeding to conclude and that a suspension of the use of the name Columbia Retail Energy would likely preclude IGS' use of the service mark this gas year, and possibly into next. If RESA's concern is that other non-affiliate suppliers would not follow the standards set forth in O.A.C. 4901:1-29-05(C)(8)(f), a rulemaking proceeding may be warranted to ensure that the rest of the market, if ever presented with such an opportunity, would be compelled to do what IGS has already committed to do. However, having followed the appropriate path, and after working with Commission Staff to craft disclosures that meet, if not exceed, the requirements of the existing Commission rules, there is no legal or other basis for restraining IGS from doing what it is clearly entitled to do as urged by RESA.

Accordingly IGS respectfully requests that the Commission deny Stand's and RESA's motions to intervene in IGS' certification docket, deny RESA's request that IGS be prohibited from using the Columbia Retail Energy trade name until the conclusion of any future non-affiliate rulemaking proceeding, and issue such other orders as the Commission deems appropriate.



John W. Bentine (0016388)
Email: jbentine@cwsllaw.com
Direct Dial: 614-334-6121
Stephen C. Fitch (0022322)
Email: sfitch@cwsllaw.com
Direct Dial: 614-334-6120
Matthew S. White (0082859)
Email: mwhite@cwsllaw.com
Direct Dial: 614-334-6172
CHESTER WILLCOX & SAXBE LLP
65 E. State Street, Suite 1000
Columbus, Ohio 43215
Telephone: 614-221-4000
Facsimile: 614-221-4012

Vincent A. Parisi
Email: vparisi@igsenergy.com
IGS ENERGY
6100 Emerald Parkway
Dublin, Ohio 43016
Telephone: 614-923-1000

Attorneys for Interstate Gas Supply, Inc.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Memorandum Contra Retail Energy Supply Association's and Stand Energy Corporation's Motions to Intervene* was served upon the following persons listed below by electronic mail and regular U.S. Mail, postage prepaid, this 10th day of September, 2010.

Joseph Serio
Larry S. Sauer
OFFICE OF CONSUMERS' COUNSEL
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215
Email: serio@occ.state.oh.us
sauer@occ.state.oh.us

Katie Stenman
Attorney Examiner
PUBLIC UTILITIES COMMISSION OF OHIO
180 E. Broad Street
Columbus, Ohio 43215
Email: Katie.Stenman@puc.state.oh.us

Glenn S. Krassen
BRICKER & ECKLER LLP
1011 Lakeside Avenue, Suite 1350
Cleveland, Ohio 44114
Email: gkrassen@bricker.com

Matthew W. Warnock
BRICKER & ECKLER LLP
100 South Third Street
Columbus, Ohio 43215
Email: mwarnock@bricker.com

Carolyn S. Flahive
Ann B. Zallocco
THOMPSON HINE LLP
41 South High Street, Suite 1700
Columbus, Ohio 43215
Email: Carolyn.Flahive@ThompsonHine.com

Dane Stinson
BAILEY CAVALIERI, LLC
10 West Broad Street, Suite 2100
Columbus, Ohio 43215
Email: dane.stinson@baileycavalieri.com

John M. Dosker
STAND ENERGY CORPORATION
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202
Email: jdosker@stand-energy.com


Matthew S. White

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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Interstate Gas Supply, Inc. for)	Case No. 02-1683-GA-CRS
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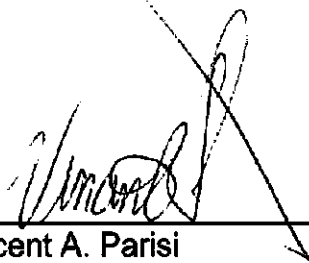
AFFIDAVIT OF VINCENT A. PARISI

Vincent A. Parisi, being first duly sworn and cautioned, does swear and depose that:

- (1) I, Vincent A. Parisi, am General Counsel of Interstate Gas Supply, Inc. ("IGS"). I make this affidavit on my own personal knowledge regarding the matters stated in this affidavit;
- (2) I have worked to develop, with other representatives of IGS, examples (attached to this Affidavit) of disclosures ("Disclosure Examples") to be used in IGS' marketing material regarding the use of the service mark Columbia Retail Energy;
- (3) IGS has received the Public Utilities Commission of Ohio ("Commission") Staff's ("Staff") input and recommendations as to the type of disclosures IGS should make while marketing under the service mark Columbia Retail Energy;
- (4) IGS has used Staff's recommendations and input to craft the Disclosure Examples;
- (5) IGS has submitted the Disclosure Examples to Staff and Staff has indicated that the Disclosure Examples appear to comply with the Commission rules regarding disclosures of the use of a service mark of an Ohio public utility;

- (6) IGS' marketing materials under the service mark Columbia Retail Energy will contain one or both of the Disclosure Examples, or substantially similar disclosures. IGS will use a disclaimer next to the CRE logo at the top of all marketing material.

Further affiant sayeth naught.




Vincent A. Parisi
General Counsel
Interstate Gas Supply, Inc.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

On this 10th day of September 2010, Vincent A. Parisi appeared before me, a notary public for the State of Ohio, and subscribed and swore that the foregoing is true and accurate to the best of his knowledge and belief.



Christine L. Schulenberg
Notary Public, State of Ohio
My Commission Expires on 10/24/12


Notary Public

DISCLOSURE EXAMPLES

Next to the logo at the top:

Columbia Retail Energy is not an affiliate of NiSource or Columbia Gas of Ohio.

At the bottom:

The trademark COLUMBIA RETAIL ENERGY including the starburst design is a trademark of NiSource Corporate Services Company and is used under license by Interstate Gas Supply, Inc. Interstate Gas Supply, Inc. is not an affiliate of NiSource Corporate Services or Columbia Gas of Ohio.