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TO: Public Utilities Commission of Ohio
Docketing Division

FROM: Juan Jose Perez 

DATE: September 14, 2010

RE: 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

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RECEIVED-DOCKETING DIV

Enclosed for filing in the above-referenced matter is Delta Energy, LLC's Motion to Intervene and Motion for an Evidentiary Hearing. Twelve (12) copies of the motion are also enclosed. Please return a time stamped copy to our office in the enclosed, self-addressed stamped envelope provided.

Thank you for your assistance. If you have questions, please contact me.

Enclosures
cc (w/enclosure): All parties of record

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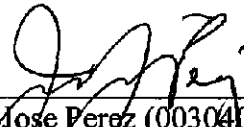
**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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
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**DELTA ENERGY, LLC'S MOTION TO INTERVENE
AND MOTION FOR AN EVIDENTIARY HEARING**

Pursuant to Ohio Revised Code ("R.C.") 4903.221 and Ohio Administrative Code ("Ohio Adm.Code") 4901-1-11, Delta Energy, LLC ("Delta Energy") respectfully requests that the Public Utilities Commission (the "Commission") grant its motion to intervene in this proceeding. Delta Energy has real and substantial interests in this matter that cannot be adequately represented by any other party to the action. Delta Energy also requests the Commission set this matter for evidentiary hearing pursuant to Ohio Adm.Code 4901:1-27-10(A)(2). The reasons supporting these requests for intervention and for an evidentiary hearing are contained in the attached Memorandum in Support.

Respectfully submitted,



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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 : Case No. 02-1683-GA-CRS
Natural Gas Supplier. :**

MEMORANDUM IN SUPPORT

I. INTRODUCTION AND BACKGROUND

Delta Energy is an Ohio limited liability company, with its primary office located at 2674 Federated Boulevard, Columbus, Ohio 43235. Delta Energy has been a natural gas supplier and comprehensive energy consultant in North America since 1997, with natural gas retail sales focused in Ohio, Pennsylvania, Virginia, West Virginia, Maryland, Kentucky, and Michigan.

On August 6, 2010 Interstate Gas Supply, Inc. ("IGS") filed a Notice of Material Change (the "Notice") with the Commission. The Notice requests that IGS be permitted to operate in the retail natural gas market under the trade name Columbia Retail Energy ("Columbia Retail"). IGS is unaffiliated with Columbia Gas of Ohio, Inc. ("Columbia Gas"). However, should its request be granted, IGS will be permitted to do business in Columbia Gas territory under the virtually indistinguishable trade name of Columbia Retail. Not only would such a change be deceptive and misleading to the consumer, in violation of Ohio Adm.Code 4901:1-29-05(C), but it would also harm retail energy suppliers like Delta Energy by disturbing the competitive equilibrium of the natural gas market. Delta Energy requests to intervene in this proceeding to protect its interest and ensure a full and equitable resolution of this matter.

II. MOTION TO INTERVENE

Ohio Adm.Code 4901-1-11 and R.C. 4903.221 generally provide that any party whose real and substantial interest stands to be adversely affected by the outcome of a Commission proceeding may intervene to protect that interest. The Supreme Court of Ohio has held that “intervention ought to be liberally allowed so the positions of all persons with real and substantial interests in the proceedings can be considered by the PUCO.” *Ohio Consumers’ Counsel v. Public Utilities Commission* (2006), 111 Ohio St.3d 384, 388. In this proceeding, no other party can fully and adequately represent the particularized interests of Delta Energy. The intervention of Delta Energy is necessary to ensure a just outcome.

R.C. 4903.221(B) and Ohio Adm.Code 4901-1-11(B) state in sum and substance that the Commission shall consider the following when deciding 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 relation to the merits of the case; (3) whether the intervention would unduly delay the proceeding or unjustly prejudice any existing party; (4) the potential intervenor’s contribution to the full development and equitable resolution of the issues involved in the proceeding; and (5) whether the potential intervenor’s interest is represented by existing parties to the case.

As a natural gas retailer and energy consultant headquartered in Central Ohio, Delta Energy has a specific interest in preserving a fair and competitive marketplace that is free from deceptive practices. The legal claims Delta Energy will raise are directly related to the merits of this case. Delta Energy has a significant stake in the effect such a deceptive trade name change will have on the energy consumer as well as Ohio’s retail natural gas market as a whole.

Ohio Adm.Code 4901:1-29-05(C) provides, "no retail natural gas supplier or governmental aggregator may engage in marketing, solicitation, sales acts, or practices which are unfair, misleading, deceptive, or unconscionable in the marketing, solicitation, or sale of a competitive retail natural gas service." Columbia Gas has a trusted reputation in Ohio. Should IGS be permitted to assume the trade name of Columbia Retail, consumers stand to be deceived and misled in selecting Columbia Retail based solely on the good name and reputation of Columbia Gas. As a result, Columbia Retail is likely to significantly increase its percentage of the market share without having earned this new customer base. Such marketing and solicitation practices violate Ohio Adm.Code 4901:1-29-05(C).

Additionally, the unfair advantage that would be given to IGS if its request is granted is in violation of R.C. 4905.35, titled "Prohibiting Discrimination." The law makes clear a public utility is prohibited from giving any undue or unreasonable preference or advantage to a corporation to the prejudice or disadvantage of another. *See* R.C. 4905.35. As Delta Energy would be both disadvantaged and prejudiced by the unreasonable advantage given to IGS by the use of the Columbia Retail trade name, its motion to intervene in this matter should be granted.

Furthermore, Delta Energy will in no way unduly delay the proceedings in this case and will not unjustly prejudice any party. To the contrary, Delta Energy's participation could prevent future litigation on this matter as its claims and objections will be heard and considered in the current proceeding. By allowing the intervention of Delta Energy, a more full and equitable outcome will be ensured.

For the reasons set forth above, it is respectfully requested Delta Energy's motion to intervene be granted.

III. MOTION FOR EVIDENTIARY HEARING

Pursuant to Ohio Adm.Code 4901:1-27-10(A)(2), the Commission has the power to hold an evidentiary hearing regarding a notice of material change to determine whether the change will adversely affect a natural gas supplier's ability to provide the services for which it is certified. In this case, an evidentiary hearing is necessary as IGS' use of the trade name Columbia Retail is likely to have a significant impact on its fitness to provide service to customers and to participate fairly in the retail natural gas market. By assuming a trade name substantially similar to Columbia Gas, Columbia Retail stands to benefit greatly. However, this benefit will come to the detriment of consumers and other energy service providers in the Columbia Gas territory, such as Delta Energy.

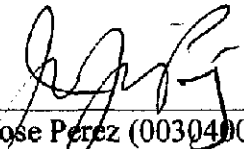
In order to adequately examine the impact such a trade name change will have on this market, extensive discovery and an evidentiary hearing are necessary. The details of the licensing agreement between Columbia Gas and IGS must be fully scrutinized to understand the monetary and non-monetary benefits being exchanged by the parties, as well as the compensation structure established by the agreement. It is also important to fully examine whether the licensing agreement is being used as a mechanism for Columbia Gas to glean continued financial benefit while shifting from the competitive retail natural gas market to a wholesale approach. An evidentiary hearing would further aid in determining whether the proposed name change is, in effect, IGS' affiliation with another public utility, which may require such information be provided in the Notice pursuant to Ohio Adm.Code 4901:1-27-10(B)(2). It must also be determined the extent to which customers will contract with the newly named Columbia Retail under the mistaken belief they are dealing with Columbia Gas. Finally, a determination as to whether Columbia Gas should be joined as a necessary and indispensable

party to this action or whether this case should be consolidated with the Columbia Gas SCO proceeding¹ is necessary to ensure full and equitable adjudication of the issues presented.

The Commission has a responsibility to ensure customers and retail natural gas suppliers are protected from misleading or deceptive marketing practices and unfair discrimination. To gain the information necessary to appropriately decide this matter, an evidentiary hearing is warranted.

For the reasons set forth above, Delta Energy respectfully requests that its motion for evidentiary hearing be granted.

Respectfully submitted,



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¹ The proceeding referenced is Case No. 07-1244-GA-EXM. This request was also made in the Motion to Intervene and Motion for an Evidentiary Hearing of the Northeast Ohio Public Energy Council on 8/31/2010.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties of record by ordinary U.S. Mail postage prepaid this 17th day of September 2010.

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