BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Joint Motion to Modify the December 2, 2009 Opinion and Order and the September 7, 2011 Second Opinion and Order in Case No. 08-1344-GA-EXM.	))))	Case No. 12-2637-GA-EXM

HESS CORPORATION'S
MOTION TO INTERVENE

Hess Corporation ("Hess") respectfully moves the Public Utilities Commission of Ohio for leave to intervene in the above-captioned case pursuant to Section 4903.221, Ohio Rev. Code, and Rule 4901-1-11, Ohio Admin. Code. Hess' interests in this proceeding and the reasons supporting this Motion to Intervene are set forth in the attached Memorandum in Support.

Respectfully submitted,

/s/ Dane Stinson

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Founded in 1933, Hess Corporation ("Hess") is one of the world's largest energy companies and a Fortune 75 company, engaging in the exploration for and production of crude oil and natural gas, as well as in refining and marketing of refined petroleum products, natural gas and electricity. Hess' energy marketing business provides natural gas, electric and oil supply services to more than 22,000 customers across 21 states and Washington, D.C. Hess has been a certified natural gas supplier ("CRNGS") in Ohio since 2004 focusing on supplying natural gas supply services to large commercial and industrial ("C&I") customers throughout the state. Hess is already the largest natural gas C&I supplier on the East Coast and when a recently-announced acquisition is finalized later this fall, Hess will become the largest natural gas C&I supplier in Ohio as well. Besides our C&I business, Hess has been very active in the Standard Choice Offer ("SCO") auctions of Columbia Gas of Ohio ("COH") and other Ohio local natural gas distribution companies ("LDCs"). Hess won tranches in COH's standard service offer ("SSO") auction in 2010-2011 and SCO auction in 2012-2013. Hess' wholly-owned subsidiary, Hess Small Business Services, LLC ("HSBS"), is also a separately-licensed CRNGS in Ohio focusing on providing natural gas supply services to Choice customers in COH and other LDC service territories. As a result of its expanding energy marketing business operations in the state, Hess is scheduled to open its Ohio headquarters in Dublin, Ohio on November 1, 2012.

II. SUPPORT FOR HESS' MOTION TO INTERVENE

Rule 4901-1-11, Ohio Admin. Code, implements the provisions of Section 4903.221, Ohio

Rev. Code,[1] governing intervention in proceedings before the Public Utilities Commission of Ohio ("Commission"). Pursuant to Rule 4901-1-11(A)(2), Ohio Admin. Code, the Commission may grant intervention if a person has "a real and substantial interest in the proceeding and the 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." Under the rules, and consistent with the provisions of Section 4903.221, Ohio Rev. Code, the Commission may consider the following criteria in making its determination:

> (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.

Rule 4901-1-11(B), Ohio Admin. Code.

On October 4, 2012, COH, Commission Staff, the Ohio Gas Marketers' Group ("OGMG"), Retail Energy Supply Association ("RESA") and Dominion Retail, Inc., filed a joint motion requesting the Commission to approve their Joint Stipulation containing several

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[1] Section 4903.221, Ohio Rev. Code, permits a "person who may be adversely affected" to intervene in a Commission proceeding and provides the following criteria for the Commission to consider in ruling upon applications for intervention:

> (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.

modifications to COH's current SCO auction program design established in the Commission's December 2, 2009 Opinion and Order and the September 7, 2011 Second Opinion and Order in Case No. 08-1344-GA-EXM. Of particular interest to Hess, the Joint Stipulation calls for the following:

(1) If non-residential customer participation in the COH Choice program meets or exceeds 70% of Choice-eligible, non-residential customers for three consecutive months, then COH will exit the merchant function with regard to non-residential customers effective the first April 1 that follows.

(2) If residential customer participation in the COH Choice program meets or exceeds 70% of Choice-eligible, residential customers for three consecutive months, then COH will file an application with the Commission to exit the merchant function for all Choice-eligible residential customers on the first April that is at least twelve months after COH exits the merchant function with regard to non-residential customers. COH and the OGMG will prepare testimony supporting that final exit-the-merchant-function application.

(3) Upon exit from the merchant function for either Choice-eligible, non-residential customers or residential customers, COH will no longer provide default commodity service for that subset of Choice-eligible customers. Instead, those Choice-eligible customers that do not enroll with a supplier will be assigned a supplier, pursuant to COH's MVR program. The allocation methodology for assigning supply default Choice-eligible customers will be addressed in this proceeding.

As explained above, Hess and HSBS provide natural gas supply services to all levels of retail customers in the COH service territory, namely, C&I customers, SCO customers and soon, Choice customers. Through its membership in the OGMG,[2] Hess has been intimately involved in the settlement negotiations among the various stakeholders giving rise to the Joint Stipulation filed in the instant proceeding. Ultimately, Hess chose not to sign on to the Joint Stipulation as it

[2] Hess is also a member of RESA. RESA was a signatory party of the Joint Stipulation. As the Joint Stipulation provides, RESA's participation in this proceeding is as an organization and may not represent the views of any particular RESA member. As explained herein, Hess is not a signatory party to the Joint Stipulation and is, therefore, not bound by the terms of it.

believes aspects of the Joint Stipulation are not in the public interest and will cause immediate and substantial harm to Hess' business interests. As such, Hess seeks intervention in this proceeding to protect these interests by submitting (i) evidence in support of its opposition, and (ii) recommendations for Commission consideration on various aspects of the Joint Stipulation.

More specifically, the Joint Stipulation calls for the establishment of frameworks for COH to exit the merchant function for non-residential and residential SCO customers once COH reaches 70% shopping levels for both subsets of customers in its service territory. Once the 70% shopping threshold for Choice-eligible, non-residential customers is met, the Joint Stipulation provides that COH will eliminate the SCO service for non-residential customers and automatically exit from the merchant function for these customers. Once the 70% shopping threshold for Choice-eligible, residential customers is met, the Joint Stipulation provides that COH will file an application with the Commission to exit the merchant function (which, if approved, will eliminate SCO service for residential customers). At exit, COH will assign the remaining non-shopping customers on SCO service to retail suppliers.

Hess is in favor of the Joint Stipulation's exit framework for non-residential (*i.e.*, commercial) SCO customers as commercial customers are uniquely situated to evaluate various supply offerings, and to select the one that best fits each customer's risk tolerance and usage profile. The assignment methodology by which COH will allocate those non-residential customers who have not selected a supplier at the time of exit has not been delineated in the Joint Stipulation, but the signatory parties agree that it should be adjudicated and decided in this proceeding. To that point, Hess plans on supporting the commercial exit framework and offering an assignment methodology for Commission consideration which takes into account historical SCO tranche ownership in this proceeding.

While it supports the proposed commercial exit framework, Hess opposes the Joint Stipulation's framework calling for COH to file an application for Commission review to exit the merchant function and to eliminate the SCO program for residential customers. If a residential exit at only 70% shopping is approved, COH (by eliminating the SCO program) will transfer over 364,000 SCO residential customers to retail suppliers. Hess is opposed to the proposed 70% residential shopping trigger as it is far too low. Further, even though the Joint Stipulation only calls for COH to file an application to exit (as opposed to an automatic exit) at 70% shopping, Hess still opposes the framework as it undermines the stability of the SCO and retail markets, and frustrates SCO and retail suppliers' ability to make proper investment decisions (in the short- and long-term) because the SCO program could end at any time.[3]

Currently, COH's Choice market is one of the most stable and most competitive in the country, due in large part to the Commission's well-reasoned policy determinations guiding COH's effective transition from traditional, LDC-procured default service to a model that relies on competitive suppliers providing a market-based default product. Yet, the Joint Stipulation, if approved, will only inject uncertainty and serve to destabilize an otherwise strong market by inviting volatility and sending improper investment signals. These developments will inevitably result in higher prices for all of COH's residential customers. As such, Hess plans on submitting evidence (i) to explain the negative impacts that the Joint Stipulation's proposed residential exit framework will have on COH's Choice market; and (ii) to support its request that the Commission reject the Joint Stipulation's proposed residential exit framework because it is not in the public interest, will create regulatory uncertainty in both the SCO and retail markets, will improperly allocate hundreds of thousands of non-shopping customers to suppliers without their

[3] While COH shopping levels have seemed to stagnate (or even regress) recently, government/municipal aggregations can have a significant impact on retail shopping statistics.

consent and in violation of Ohio statute,[4] and will unnecessarily subject all residential customers to higher rates.

Hess fully expects to be active throughout this proceeding and, should the Commission grant its intervention, Hess plans on offering written expert testimony to support and advance its positions. With its vast experience in the natural gas supply industry (specifically with COH's retail and SCO markets), Hess' participation will significantly contribute to the full development and equitable resolution of the facts of the case. Hess will not unduly prolong or delay these proceedings and, indeed, has filed this motion to intervene prior to the deadline for intervention established in Section 4903.221, Ohio Rev. Code. Moreover, as a natural gas supplier active in COH's retail and SCO markets, Hess' unique financial interests in this proceeding cannot be adequately represented by any other party.

Wherefore, Hess respectfully requests that the Commission grant its motion to intervene in this proceeding.

Respectfully submitted,

/s/ Dane Stinson

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[4] *See, e.g.,* Section 4929.02(A)(7), Ohio Rev. Code.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing *Hess Corporation's Motion to Intervene* was served by regular U.S. Mail and electronic mail this 9th day of October, 2012, on the persons listed below.

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