

**BEFORE  
THE PUBLIC UTILITIES COMMISSIONS 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 :	Case No. 12-2637-GA-EXM
Second Opinion and Order in Case No. :	
08-1344-GA-EXM :	
:	
:	

**MOTION TO INTERVENE**

Volunteer Energy Services, Inc. ("Volunteer") 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. Volunteer's interests in this proceeding and the reasons supporting this Motion to Intervene are set forth in the attached Memorandum in Support.

Respectfully submitted,

VOLUNTEER ENERGY SERVICES, INC.

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## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

Founded in 2001, Volunteer Energy Services, Inc. ("Volunteer") is one of the largest certified natural gas suppliers ("CRNGS") in Ohio, currently servicing over 130,000 Choice eligible customers in the territory served by Columbia Gas of Ohio ("COH") through its direct contracts with customers and as the winner of several tranches in COH's Standard Choice Offer ("SCO") auction. Volunteer's headquarters are based in Pickerington, Ohio.

### **II. SUPPORT FOR VOLUNTEER'S MOTION TO INTERVENE**

Rule 4901-1-11, Ohio Admin. Code, implements the provisions of Section 4903.221, Ohio Rev. Code,<sup>1</sup> 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.

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<sup>1</sup> 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 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.

- (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 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 Volunteer, 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 mentioned above, Volunteer provides natural gas supply services to Choice-eligible customers in the COH service territory. Volunteer is also not a member of OGMG and, to date, has not become a party to these proceedings. Though Volunteer acknowledges the quality of the representation provided by counsel for OGMG, it is concerned that as a non-member, its interests may diverge from those of the OGMG members in determining the allocation methodology for assigning supply default Choice-eligible customers. As such, Volunteer seeks intervention in this proceeding to protect these interests in the event there is such a divergence of interests between itself and OGMG so that its voice will be heard on this important issue. As a natural gas supplier active in COH's retail and SCO markets, Volunteer's unique financial interests in this proceeding cannot be adequately represented by any other party.

Wherefore, Volunteer respectfully requests that the Commission grant its Motion to Intervene in this proceeding.

Respectfully submitted,

VOLUNTEER ENERGY SERVICES, INC.

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Volunteer Energy Services, Inc.'s Motion to Intervene was served by electronic mail this 1<sup>st</sup> day of November, 2012, on the following:

/s/ John L. Einstein, IV

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Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. John L Einstein IV, Esq. on behalf of Volunteer Energy Services, Inc.