

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**HESS CORPORATION'S
MOTION TO STRIKE PORTIONS OF DIRECT ENERGY SERVICES, DIRECT
ENERGY BUSINESS, AND INTERSTATE GAS SUPPLY'S MEMORANDUM CONTRA
THE APPLICATION FOR REHEARING OF HESS CORPORATION**

Hess Corporation ("Hess"), by its counsel and pursuant to Section 4903.10, Ohio Rev. Code, and Rule 4901-1-12, Ohio Admin. Code, moves the Public Utilities Commission of Ohio to strike portions of the memorandum contra Hess Corporation's application for rehearing filed by Direct Energy Services, LLC; Direct Energy Business, LLC; and Interstate Gas Supply, Inc., as an untimely application for rehearing. The bases for Hess' motion are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

On November 27, 2012, Columbia Gas of Ohio, Inc. (“Columbia”), Ohio Gas Marketers Group (“OGMG”), Retail Energy Supply Association (“RESA”), Dominion Retail, Inc. (“Dominion”), Commission Staff, and the Ohio Consumers’ Counsel (collectively, the “Stipulating Parties”) filed an amended stipulation (“Amended Stipulation”) in this proceeding that, if adopted, would institute significant program changes to Columbia’s Standard Choice Offer (“SCO”) program. However, the Amended Stipulation did not resolve the methodology to be used in allocating non-shopping customers to Monthly Variable Rate (“MVR”) suppliers upon Columbia’s exit from the merchant function for non-residential customers. Rather, the Amended Stipulation left it to the parties to present their competing allocation proposals for the Commission’s review and determination in this proceeding.¹

Direct Energy Services, LLC; Direct Energy Business, LLC (collectively, “Direct Energy”); and Interstate Gas Supply, Inc. (“IGS”)² proposed a proportional allocation based on Choice customer market share only. Hess proposed a proportional allocation based on the market share of all nonresidential Choice eligible customers, including a supplier's average historical SSO and SCO tranche ownership. Ohio Partners for Affordable Energy proposed a rotational allocation, under which customers are equally and randomly assigned to each CRNGS provider. In its Opinion and Order issued January 9, 2013 (“Order”), the Commission adopted,

¹ The Amended Joint Stipulation states:

Prior to Columbia’s exit of the merchant function, a method for assigning supply default Choice-Eligible Customer should be determined. The Parties acknowledge and agree that such method should be part of this proceeding and include both the initial allocation upon Columbia’s exit as well as an allocation methodology for future supply default Choice-Eligible Customers. The Parties agree that the allocation methodology shall be addressed by the undersigned in the testimony phase of this proceeding. Joint Exhibit 1 at 13, ¶39.

² Direct Energy is a member of RESA and OGMG. IGS is a member of OGMG. Direct Energy and IGS each intervened separately in this proceeding and presented individual proposals as to the proper MVR allocation methodology the Commission should adopt in this proceeding.

“for the most part,” Hess’ proposed MVR allocation methodology. Order, at 36.

Hess and Dominion timely filed applications for rehearing of the Commission’s MVR allocation methodology and sought further clarification of the Order. By their own admission, Direct Energy and IGS “did not file for rehearing and accept[ed] the Commission’s decision to ‘for the most part’ adopt Hess’ initial allocation methodology.”³ Direct Energy and IGS Memo Contra Hess Application for Rehearing (“Direct/IGS Memo Contra”), at 5. Yet, in their memo contra, Direct Energy and IGS ask the Commission to “wholesale reconsider” its initial determination of the allocation methodology, including a reconsideration of Direct Energy and IGS’s proposal for a proportional allocation based on Choice customer market share only. Direct/IGS Memo Contra, at 6-7. Direct Energy and IGS’s request is an untimely application for rehearing.

Section 4903.10, Ohio Rev. Code, requires that applications for rehearing be filed within thirty days of the journalization of the Commission’s Order. The Order was journalized on January 9, 2013, and the time for filing an application for rehearing expired on February 8, 2013. As such, Direct Energy and IGS’s request in their memorandum contra filed February 19, 2013, that the Commission reconsider their proposed MVR allocation methodologies is untimely and unlawful. Hess respectfully moves the Commission to strike the following full paragraph of the Direct/IGS Memo Contra:

Indeed, if Hess wants essentially to open up the initial allocation methodology, then Direct Energy and IGS recommend the Commission wholesale reconsider its decision on the initial allocation methodology. Direct Energy and IGS put forward an allocation methodology that properly incents suppliers to invest in serving retail customers. *See* Brief of Direct Energy and IGS at 1-7 (December 11, 2012). Since Hess has

³ In lieu of a Commission clarification of its Order, as requested by Hess and Dominion, Direct Energy and IGS propose that unresolved issues related to the methodology be returned to the collaborative for agreement among the parties. *See, e.g.,* Direct/IGS Memo Contra, at 6.

opened this door, Direct Energy and IGS suggest the Commission revisit this issue in its entirety in order to send the proper market signals to market participants who want to make true investments in Ohio and for Ohio customers.

If Direct Energy and IGS wanted the Commission to reconsider their proposed allocation methodologies, they should have timely requested reconsideration by February 8, 2013, as required by law.

Wherefore, Hess respectfully requests the Commission to grant the Motion to Strike.

Respectfully submitted,

/s/ Dane Stinson

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Motion to Strike was served by email on the following parties of record this 22nd day of February, 2013.

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Summary: Motion to Strike electronically filed by Mr. Dane Stinson on behalf of Hess Corporation