

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application to Modify)	
in Accordance with Section 4929.08,)	Case No 12-2637-GA-EXM
Revised Code, the Exemption Granted)	
Columbia Gas of Ohio, Inc., in Case No.)	
08-1344-GA-EXM.)	

**DIRECT ENERGY SERVICES, LLC, DIRECT ENERGY BUSINESS, LLC,
AND INTERSTATE GAS SUPPLY, INC.'S MEMORANDUM CONTRA
HESS CORPORATION'S MOTION TO STRIKE**

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February 26, 2013

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I. INTRODUCTION

On February 22, 2013, Hess Corporation (“Hess”) filed a Motion to Strike the Memorandum Contra (“Memo Contra”) of Direct Energy Services, LLC, Direct Energy Business, LLC (collectively, “Direct Energy”) and Interstate Gas Supply, Inc. (“IGS”) to Hess’s Application for Rehearing in this case. Specifically, Hess objects to the following paragraph of the 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 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.

Hess asks the Public Utilities Commission of Ohio (“Commission”) to strike this portion of the Memo Contra because it claims that Direct Energy and IGS have filed an untimely Application for Rehearing.

The Commission should deny Hess’s Motion to Strike. Direct Energy and IGS merely point out that once Hess opened up this door through its rehearing application, Hess gave the Commission the wholesale opportunity to revisit its decision on these matters. Section 4903.10, Revised Code, states “If, after such rehearing, the commission is of the opinion that the original

order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or modify the same; otherwise such order shall be affirmed.” There is no limitation in the statute constraining the Commission’s review to an approval or rejection of only the viewpoint of the party who filed the Application for Rehearing once it has opened the door to any argument related to its rehearing request. Once it filed its Application for Rehearing on the first two elements of the allocation methodology, Hess opened up those two directives to the Commission’s consideration without limitation.

Direct Energy and IGS did state their acceptance of the Commission’s initial allocation methodology framework that “for the most part” adopted Hess’s allocation methodology. Memo Contra at 5. This conditional acceptance was predicated on the balance of the initial allocation methodology and the value to Choice suppliers in the initial allocation methodology adopted by the Commission, as understood by Direct Energy and IGS from the language in the Opinion and Order. However, Direct Energy and IGS did not know in advance what Hess was going to include in its Application for Rehearing. Opposing Hess’s “clarifications” that are actually attempts to skew the initial allocation methodology largely in Hess’s favor (*See* Memo Contra at 5-7) by pointing out the additional record evidence available to the Commission pertinent to the arguments raised by Hess in its Application for Rehearing is appropriate for inclusion in the Memo Contra.

For the reasons described above, Direct Energy and IGS respectfully request the Commission deny Hess’s Motion to Strike.

Respectfully Submitted,

/s/ Joseph M. Clark

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served by electronic mail on the following persons this 26th day of February, 2013.

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Summary: Memorandum Contra Hess Corporation's Motion to Strike electronically filed by JOSEPH CLARK on behalf of Direct Energy Services, LLC and Direct Energy Business, LLC and Interstate Gas Supply, Inc.