

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Application of Duke	)	
Energy Ohio, Inc. to File for Tariff	)	
Approval	)	Case No. 14-2209-EL-ATA
	)	

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**MOTION TO INTERVENE  
AND MEMORANDUM IN SUPPORT OF IGS ENERGY**

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**January 12, 2014**

**BEFORE  
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**MOTION TO INTERVENE**

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Pursuant to R.C. 4903.221 and Rule 4901-1-11, Ohio Administrative Code (“OAC”), Interstate Gas Supply, Inc. (“IGS” or “IGS Energy”) moves to intervene in the above captioned proceeding, in which Duke Energy Ohio (“Duke”) seeks approval of new tariff language regarding the definition of “Interval Meter” and terms and conditions associated with providing customer energy usage data, including charges to competitive retail electric service (“CRES”) providers.

As set forth in the attached Memorandum in Support, IGS submits that it has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and that it is so situated that the disposition of this proceeding without IGS’s participation may, as a practical matter, impair or impede IGS’s ability to protect that interest. IGS further submits that its participation in this proceeding will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues and concerns raised in this proceeding.

IGS’s interests will not be adequately represented by other parties to this proceeding and therefore, IGS is entitled to intervene in this proceeding with the full powers and rights granted to intervening parties.

Respectfully submitted,

**/s/ Joseph Olikier**

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**MEMORANDUM IN SUPPORT**

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IGS has over 25 years of experience serving customers in Ohio’s competitive markets. IGS serves over 1 million customers nationwide and sells natural gas and electricity to customers in 11 states and in over 40 utility service territories. In Ohio, IGS currently serves electric customers in the Ohio Power Company, Duke Energy Ohio, FirstEnergy and the Dayton Power & Light service territories. The IGS family of companies (which also include IGS Generation, IGS Home Services and IGS CNG Services) also provides customers focused energy solutions that complement IGS Energy’s core commodity business including distributed generation, demand response, compressed natural gas refueling, energy efficiency and utility line protection.

Duke has completed its Smart Grid deployment and now has access to interval data for *all of its customers*. Although the Public Utilities Commission of Ohio (“Commission”) directed Duke to propose tariff language regarding access to interval data for all customers,<sup>1</sup> Duke’s proposal is limited to non-residential data. And Duke proposed to charge CRES providers for such access. At the same time, Duke continues to leverage interval data to offer its own time-of-use products and services

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<sup>1</sup> *In the Matter of the Commission’s Investigation of Ohio’s Retail Electric Service Market*, Case No. 12-3151-EL-COI, Finding and Order at 35-36 (Mar. 26, 2014) (hereinafter “*RMI Case*”); *RMI Case*, Entry on Rehearing at 19 (May 21, 2014).

that are only available to standard service offer customers. CRES providers must have access to interval data to offer customers time-of-use products and services. Thus, IGS respectfully submits that it is entitled to intervene in this proceeding because IGS has a real and substantial interest in this proceeding, the disposition of which may impair or impede its ability to protect that interest.

For purposes of considering requests for leave to intervene in a Commission proceeding, the Commission's rules provide that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: (1) A statute of this state or the United States confers a right to intervene. (2) The 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.<sup>2</sup>

Further, RC 4903.221(B) and Rule 4901-1-11(B), OAC, provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(1) The nature and extent of the prospective intervener's interest; (2) The legal position advanced by the prospective intervener and its probable relation to the merits of the case; (3) Whether the intervention by the prospective intervener will unduly prolong or delay the proceedings; (4) Whether the prospective intervener will significantly contribute to full development and equitable resolution of the factual issues.

IGS has a substantial interest in the resolution of this proceeding, which pertains to the expansion of smart meter technology deployment and access to interval data in Duke's service territory. IGS's intervention will not unduly delay this proceeding. Further, IGS is so situated that without IGS's ability to fully participate in this

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<sup>2</sup> Rule 4901-1-11(A), OAC.

proceeding, its substantial interest will be prejudiced. Others participating in this proceeding do not represent IGS's interests. Inasmuch as others participating in this proceeding cannot adequately protect IGS's interests, it would be inappropriate to determine this proceeding without IGS's participation.

Finally, the Supreme Court of Ohio has held that intervention should be liberally allowed for those with an interest in the proceeding.<sup>3</sup> In light of the liberal interpretation of the intervention rules, IGS clearly meets the standards for intervention in this proceeding.

For the reasons set forth above, IGS respectfully requests the Commission grant this Motion to Intervene.

Respectfully submitted,

**/s/ Joseph Olikier**

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<sup>3</sup> *Ohio Consumers' Counsel v. Pub. Util. Comm.*, (2006) 111 OhioSt.3d 384, 388.

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing *Motion to Intervene and Memorandum in Support of IGS Energy* was served this 12th day of January 2014 via electronic mail upon the following:

/s/ Joseph Olikier  
Joseph Olikier

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**1/12/2015 5:01:02 PM**

**in**

**Case No(s). 14-2209-EL-ATA**

Summary: Motion to Intervene and Memorandum in Support electronically filed by Mr. Joseph E. Oliker on behalf of IGS Energy