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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company and The Toledo) Case No. 14-1297-EL-SSO
Edison Company for Authority to Provide)
for a Standard Service Offer Pursuant to)
R.C. 4928.143 in the Form of an Electric)
Security Plan)

INTERSTATE GAS SUPPLY, INC.'S MOTION FOR A
THIRD PARTY SUBPOENA DUCES TECUM DIRECTED
TO
DUKE ENERGY OHIO, INC.

Under Ohio Administrative Code § 4901-1-25 , Interstate Gas Supply, Inc. ("IGS") respectfully moves the Public Utilities Commission of Ohio (the "Commission"), any commissioner, the legal director , the deputy legal director, or any attorney examiner to issue a subpoena duces tecum ("Subpoena") directed to Duke Energy Ohio, Inc. ("Duke") that compels Duke to produce a person(s) to attend and give deposition testimony upon oral examination at a location of IGS's and Duke's mutual agreement on April 15, 2015, at 10:00 a.m. ET.¹

¹ At the prehearing conference held on March 31, 2015, the Attorney Examiner granted IGS's oral motion for a third party subpoena duces tecum directed to Duke Energy Ohio, Inc. The transcript for that hearing was not available at the time IGS filed this motion. For clarity of the record, IGS hereby requests formal approval of this Subpoena pursuant to this motion.

This Subpoena² compels Duke to produce documents to IGS covering the same topics by April 9, 2015, at 5:00p.m. ET. See Ohio Administrative Code § 4901-1-25(D).³ Because IGS seeks expedited treatment, this motion and the subpoena were presented to the attorney examiner in person. See Ohio Administrative Code § 4901-1-25(A)(2). The executed subpoena is attached hereto as Exhibit A.

As described in the enclosed subpoena, IGS requests that the Commission order Duke to produce all documents within its possession, custody, or control that are relevant to the following topics.⁴

1. All forecasts of the future price of electricity, natural gas, and coal for the PJM Interconnection region created by Judah Rose since or under his direction since 2010, as well as any work papers. This request is limited to documents within the possession or control of Duke;
2. An unredacted copy of Judah Rose's testimony in Case Nos. 11-3549-EL-SSO, *et al.*, (filed on June 20, 2011) and all work papers.

IGS further requests that the Commission order Duke to produce a person (or persons) with knowledge and expertise regarding the aforementioned topics.

Each of these topics is relevant to the Commission's decision in this case, as the Ohio Edison Company, Cleveland Electric Company, and Toledo Edison Company ("First Energy") have put the projected economic value of the Sammis, Davis-Besse, Clifty Creek, and Kyger Creek plants at the heart

² The Subpoena is attached as Exhibit A.

³ IGS is willing to negotiate the time and place of the deposition. Additionally, IGS is willing to accept delivery of the requested documents in lieu of Duke presenting a witness for deposition.

⁴ See Ohio Administrative Code § 4901-1-25(D).

of this proceeding.⁵ FirstEnergy has relied upon projections of future market prices of electricity, natural gas, and coal prices created by Judah Rose to support its application, including the economic viability of the Sammis, Davis-Besse, Clifty Creek, and Kyger Creek plants. In response to several discovery questions propounded by IGS regarding Mr. Rose's past testimony and projections—including case No. 11-3549-EL-SSO, *et. al*, specifically—FirstEnergy has claimed that it does not have possession, custody, or control of the requested documents and that Mr. Rose is precluded from producing the documents by contractual obligations with other parties, including Duke.⁶

While Duke was a party to this proceeding, IGS attempted to obtain the above-referenced documents from Duke in discovery.⁷ Duke, however, withdrew from this proceeding on December 18, 2014. While IGS contested Duke's notice of withdrawal, on March 31, 2015 the Attorney Examiner issued an oral ruling indicating that a party need not obtain Commission approval to withdraw from a proceeding. Thus, as a non-party, Duke is not subject to the Commission's normal discovery rules.

Because FirstEnergy does not have access to the requested documents and Duke is no longer a party to this proceeding, IGS has no

⁵ See also *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to R.C. 4928.143, in the Form of an Electric Security Plan*, Opinion and Order at 24-25 (Feb. 25, 2015).

⁶ See IGS Energy's Motion to Compel or in the Alternative Motion to Strike and Request for Expedited Treatment and Memorandum in Support, Attachment 1(Response to IGS Set 1, RPD-3 and RPD-6) (Dec. 10, 2014).

⁷ Response to Notice of Withdrawal of Duke Energy Ohio, Inc., Attachment 1 (IGS First Set of Discovery to Duke, RPD 3.1.) (Dec. 30, 2014).

other option than to obtain these documents from the non-party (Duke) that does have access to such information. Access to these documents is necessary for the development of a more full record in this case. For these reasons, and those set forth in the accompanying memorandum, IGS requests that this motion be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph Olikar", is written over a horizontal line.

Joseph Olikar
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IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016

Attorney for IGS Energy

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**MEMORANDUM IN SUPORT OF INTERSTATE GAS
SUPPLY, INC.'S MOTION FOR A THIRD PARTY
SUBPOENA
DUCES TECUM DIRECTED TO DUKE ENERGY OHIO,
INC**

In this proceeding, FirstEnergy seek approval of, among other things, Rider RRS. If approved, Rider RRS would require FirstEnergy's customers to bear the risks of ownership—either receiving a credit if revenues exceed costs or a charge if costs exceed revenues—for, as relevant to this motion, four generation facilities owned by FirstEnergy's affiliate, FirstEnergy Solutions Corp. The Rider RRS would remain in effect from June 1, 2016 to May 31, 2031. Accordingly, costs and revenue projections, and information relevant to making such projections, are of critical importance to the Commission's consideration of this case.

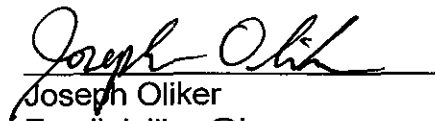
FirstEnergy's projection of the economic impact of the RRS on customers is largely driven by a forecast of electric, natural gas, and coal prices produced by witness Judah Rose. IGS has propounded discovery to FirstEnergy seeking information related to other forecasts produced by Mr.

Rose, and, as relevant to this Motion, a forecast Mr. Rose provided in Case Nos. 11-3549-EL-SSO, *et al.*, for Duke.

FirstEnergy and Mr. Rose claim that the forecast provided by Mr. Rose to Duke is not in their possession, custody, or control but, instead, is in the possession, custody, or control of Duke. To the extent that FirstEnergy and Mr. Rose do not have the requested information, Duke is best placed to provide it.

Thus, the Commission should require Duke to provide the requested information as described in the executed Subpoena attached to IGS's motion. Due to the significant economic consequences of Rider RRS for FirstEnergy's customers, parties are entitled to the best available information to forecast costs and revenues, including information that relates to the credibility of Mr. Rose and his forecasts. In order to more fully develop the record in this case, IGS seeks to depose person(s) from Duke and receive relevant documents from Duke. IGS respectfully asks that the Commission grant this motion.

Respectfully submitted,


Joseph Olik
Email: joliker@igsenergy.com
Counsel of Record
IGS Energy
6100 Emerald Parkway
Dublin, Ohio 43016

Attorney for IGS Energy

CERTIFICATE OF SERVICE

I certify that IGS's Motion for Third Party Subpoena Duces Tecum Directed to Duke Energy Ohio and Memorandum in Support was electronically served on the following parties this 1st day of April, 2015:

Thomas.mcnamee@puc.state.oh.us Thomas.lindgren@puc.state.oh.us Ryan.orourke@puc.state.oh.us mkurtz@BKLawfirm.com kboehm@BKLawfirm.com jkylercohn@BKLawfirm.com stnourse@aep.com mjsatterwhite@aep.com yalami@aep.com joseph.clark@directenergy.com ghull@eckertseamans.com myurick@taftlaw.com zkravitz@taftlaw.com Schmidt@sppgrp.com ricks@ohanet.org tobrien@bricker.com mkl@bbrslaw.com gas@bbrslaw.com ojk@bbrslaw.com wttpmlc@aol.com lhawrot@spilmanlaw.com dwilliamson@spilmanlaw.com blanghenry@city.cleveland.oh.us hmadorsky@city.cleveland.oh.us kryan@city.cleveland.oh.us jscheaf@mcdonaldhopkins.com gkrassen@bricker.com dstinson@bricker.com dborchers@bricker.com drinebolt@ohiopartners.org meissnerjoseph@yahoo.com LeslieKovacik@toledo.oh.gov trhayslaw@gmail.com Jeffrey.mayes@monitoringanalytics.com mhpeticoff@vorys.com mjsettineri@vorys.com glpetrucci@vorys.com msoules@earthjustice.org sfisk@earthjustice.org Larry.sauer@occ.ohio.gov	burkj@firstenergycorp.com cdunn@firstenergycorp.com jlang@calfee.com talexander@calfee.com dakutik@jonesday.com sam@mwncmh.com fdarr@mwncmh.com mpritchard@mwncmh.com cmooney@ohiopartners.org callwein@wamenergylaw.com mswhite@igsenergy.com Bojko@carpenterlipps.com Allison@carpenterlipps.com hussey@carpenterlipps.com barthroyer@aol.com athompson@taftlaw.com Christopher.miller@icemiller.com Gregory.dunn@icemiller.com Jeremy.grayem@icemiller.com blanghenry@city.cleveland.oh.us hmadorsky@city.cleveland.oh.us kryan@city.cleveland.oh.us tdougherty@theOEC.org finnigan@edf.org Marilyn@wflawfirm.com todonnell@dickinsonwright.com matt@matthewcoxlaw.com mfleisher@elpc.org mitch.dutton@fpl.com selisar@mwncmh.com ccunningham@akronohio.gov asonderman@keglerbrown.com sechler@carpenterlipps.com gpoulos@enernoc.com toddm@wamenergylaw.com amy.spiller@duke-energy.com Jeanne.kingery@duke-energy.com dwilliamson@spilmanlaw.com lhawrot@spilmanlaw.com
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Michael.schuler@occ.ohio.gov Kevin.moore@occ.ohio.gov	
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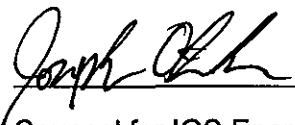

Counsel for IGS Energy

Exhibit A

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SUBPOENA DUCES TECUM

TO: Jeanne Kingery
Duke Energy Ohio, Inc.
c/o Statutory Agent
CT Corporation System 1300
E. 9th Street Cleveland, OH 44114

Upon application of Interstate Gas Supply, Inc. ("IGS"), Duke Energy Ohio, Inc. ("Duke") is hereby required to provide documents related to the following topics:

1. All forecasts of the future price of electricity, natural gas, and coal for the PJM Interconnection region created by Judah Rose or under his direction, as well as any work papers. This request is limited to documents within the possession or control of Duke;
2. An unredacted copy of Judah Rose's testimony in Case Nos. 11-3549-EL-SSO, et al., (filed on June 20, 2011) and all work papers.

Duke is required to produce a person(s) with knowledge and expertise related to the these documents. This person(s) is required to attend and give deposition testimony upon oral examination at a location of IGS's and Duke's mutual agreement on April 15, 2015 at 10:00a.m. ET. The deponent(s) is required to attend from day-to-day until deposition(s) is completed. Such person(s) will be deposed and will be subject to cross examination by IGS in the above-captioned proceeding.

Dated at Columbus, Ohio this 1st day of April 2015.



Gregory Price or Megan Addison
Attorney Examine

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fee for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.