BEFORE

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio for Approval of the Fourth  Amended Corporate Separation Plan under Section 4928.17, Revised Code, and Chapter 4901:1-37, Ohio Administrative Code.  In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Retail Tariff, P.U.C.O. No. 19. | )  )  )  )  ) | Case No. 14-0689-EL-UNC  Case No. 14-0690-EL-ATA |

**MOTION TO INTERVENE**

**AND MEMORANDUM IN SUPPORT OF IGS ENERGY**

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***Attorneys for IGS Energy***

**May 9, 2014**

BEFORE

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**MOTION TO INTERVENE**

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 proceedings, in which Duke Energy Ohio (“Duke”) seeks approval of an amendment to its corporate separation plan and authority to amend its Retail Tariff, P.U.C.O. No. 19, Sheet 23, (Tariff Sheet) to correspond with changes in the plan.

Duke claims that its proposed amendments “will allow Duke Energy Ohio the flexibility to offer additional electric-related services to customers, as has been allowed elsewhere in the state since the beginning of deregulation. Duke Energy Ohio proposes this amendment, contingent on the Commission allowing all costs and revenues related to such services being treated, for ratemaking purposes, in parallel fashion.”[[1]](#footnote-1)

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 these proceedings without IGS’ participation may, as a practical matter, impair or impede IGS’ ability to protect that interest. IGS further submits that its participation in these proceedings 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 these proceedings.

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

Respectfully submitted,

*/s/ Joseph Oliker*

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**MEMORANDUM IN SUPPORT**

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 AEP, Duke Energy Ohio, FirstEnergy and the Dayton Power & Light service territories. The IGS family of companies (which 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, CNG refueling, back-up generation and utility line protection.

IGS respectfully submits that it is entitled to intervene in these proceedings because IGS has a real and substantial interest in these proceedings, the disposition of which may impair or impede IGS’ 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.[[2]](#footnote-2)

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 these proceedings, insofar that Duke requests that the Commission authorize its distribution utility to offer services that may compete with services offered by competitive retail electric service (“CRES”) providers.

Accordingly, IGS has direct, real, and substantial interests in these proceedings. IGS’ intervention will not unduly delay these proceedings. Further, IGS is so situated that without IGS’ ability to fully participate in these proceedings, its substantial interest will be prejudiced. Others participating in these proceedings do not represent IGS’ interests. Inasmuch as others participating in these proceedings cannot adequately protect IGS’ interests, it would be inappropriate to determine these proceedings without IGS’ participation.

Finally, the Supreme Court of Ohio has held that intervention should be liberally allowed for those with an interest in the proceeding.[[3]](#footnote-3) In light of the liberal interpretation of the intervention rules, IGS clearly meets the standards for intervention in these proceedings.

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

Respectfully submitted,

*/s/ Joseph Oliker\_\_\_\_\_\_\_\_\_*

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***Attorneys for IGS Energy***

**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 9th day of May 2014 via electronic mail upon the following:

*/s/ Joseph Oliker\_\_\_\_\_\_\_*

Joseph Oliker

[Amy.Spiller@duke-energy.com](mailto:Amy.Spiller@duke-energy.com)

[Jeanne.Kingery@duke-energy.com](mailto:Jeanne.Kingery@duke-energy.com)

1. Application at 3 (citation omitted). [↑](#footnote-ref-1)
2. Rule 4901-1-11(A), OAC. [↑](#footnote-ref-2)
3. *Ohio Consumers' Counsel v. Pub. Util. Comm.,* (2006) 111 OhioSt.3d 384, 388. [↑](#footnote-ref-3)