

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of
Columbia Gas of Ohio, Inc. for Approval
of a General Exemption of Certain Natural
Gas Commodity Sales Services or Ancillary
Services from Chapters 4905, 4909, and
4935 except Sections 4905.10, 4935.01, and
4935.03, and from specified sections of
Chapter 4933 of the Revised Code.

Case No. 08-1344-GA-EXM

MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.

By the above-styled application, Columbia Gas of Ohio, Inc. ("COH") seeks, among other things, authority to implement a wholesale gas supply auction to secure gas supply serve its sales customers. Dominion Retail, Inc. ("Dominion Retail") is a Commission-certified CRNGS provider authorized to offer competitive retail natural gas service to customers within the area served by COH. As such, Dominion Retail may be adversely affected by the ultimate disposition of the proposals contained in the application. Accordingly, Dominion Retail hereby moves to intervene pursuant to Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code ("OAC").


As more fully discussed in the accompanying memorandum, Dominion Retail has a real and substantial interest in this proceeding, and is so situated that the disposition of this proceeding may, as a practical matter, impair or impede its ability to protect that interest. Further, Dominion Retail's interest in this proceeding is not represented by any existing party, and its participation in this proceeding will contribute to a just and expeditious resolution of the

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issues involved without unduly delaying the proceedings or unjustly prejudicing any existing party.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



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Case No. 08-1344-GA-EXM

**MEMORANDUM IN SUPPORT
OF
MOTION TO INTERVENE
OF
DOMINION RETAIL, INC.**

By its January 30, 2009 application in this case, COH seeks approval of a proposal to implement a wholesale auction process to secure to secure gas supply to serve its sales customers. This application was filed pursuant to a stipulation submitted in Case Nos. 04-221-GA-GCR, et al., by COH and a number of other parties, many of which are participants in the COH Post-2010 Stakeholder Group ("Stakeholder Group"). The Stakeholder Group has been meeting regularly since April 200 regularly to develop a structure for gas services in COH's service area following the expiration of the stipulated transition period approved by the Commission in its January 23, 2008 order in the COH GCR cases.

Section 4903.221, Revised Code, provides that any "person who may be adversely affected by a public utilities commission proceeding may intervene in such proceeding." As a CRNGS provider in COH's service area, Dominion Retail will ultimately be required to compete

against the new auction pricing mechanism to attract and retain customers. Thus, there can be no question that Dominion Retail may be adversely affected by this proceeding.

Not only does Dominion Retail satisfy the underlying statutory test, but it also satisfies the standards governing intervention set forth in the Commission's rules.

Rule 4901-1-11(A), OAC, provides, in pertinent part, as follows:

(A) Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

(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 ability to protect that interest, unless the person's interest is adequately represented by existing parties.

As a CRNGS supplier, Dominion Retail plainly has a real and substantial interest in a proceeding that will impact a market in which it competes. At this juncture, none of the pending motions to intervene in this proceeding have been granted. Thus, by definition, no existing parties adequately represent Dominion Retail's interest.

Although Dominion Retail does not believe this to be a close question, each of the specific considerations that the Commission may, by rule, take into account in applying the Rule 4901-1-11(A)(2), OAC, standard, also fully support granting Dominion Retail's motion to intervene. Rule 4901-1-11(B), OAC, provides as follows:

In deciding whether to permit intervention under paragraph (A)(2) of this rule, the commission, the legal director, the deputy legal director, or an attorney examiner case shall consider:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case.
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings.

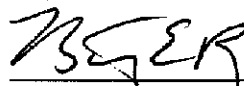
(4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

(5) The extent to which the person's interest is represented by existing parties;

First, as previously explained, Dominion Retail's interest in the proposals contained in the COH application is obviously direct and substantial. Second, Dominion Retail, as a signatory to the stipulation in the GCR cases and an active participant in the Stakeholder Group, will advocate that the auction process be implemented in a manner designed to achieve the objectives stated in the application. Third, in view of the fact that the proceeding has just commenced, granting Dominion Retail's motion to intervene will not unduly delay or prolong the proceeding. Fourth, Dominion Retail has been a frequent participant in cases involving the establishment of competitive electric and gas markets in Ohio and the numerous other states in which it does business. Thus, Dominion Retail will bring substantial experience to bear on the issues raised. Finally, not only are there no existing parties that represent Dominion Retail's interest, but it would be inconsistent with the Commission's stated policy "to encourage the broadest possible participation in its proceedings" (*see, e.g., Cleveland Elec. Illum. Co.*, Case No. 85-675-EL-AIR, Entry dated January 14, 1986, at 2) to apply the Rule 4901-1-11(B)(5) standard in a manner that would favor certain CRNGS providers over others. *See also Ohio Consumers' Counsel v. Pub. Util. Comm.* 111 Ohio St.3d, 384 (2006) (interventions ought to be liberally allowed). Thus, granting Dominion Retail intervenor status is consistent with all the considerations set out in Rule 4901-1-11(B), OAC.

WHEREFORE, Dominion Retail respectfully requests that the Commission grant its motion to intervene.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, this 4th day of May 2009.



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