

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke
Energy Ohio, Inc. for Approval to Modify
Rider FBS and Rider EFBS

Case No. 10-241-GA-ATA

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**MOTION FOR INTERVENTION AND MEMORANDUM IN SUPPORT OF
INTERSTATE GAS SUPPLY, INC.**

I. MOTION FOR INTERVENTION

Pursuant to Ohio Revised Code ("RC") §4903.221 and Ohio Administrative Code ("OAC") 4901-1-11, Interstate Gas Supply, Inc. ("IGS") respectfully moves the Commission for leave to intervene in the above-captioned docket, for the reasons more fully set forth below in the Memorandum in Support.

II. MEMORANDUM IN SUPPORT

IGS respectfully submits that it is entitled to intervene in this proceeding. For purposes of considering requests for leave to intervene in a Commission proceeding, OAC 4901-1-11(A) provides that:

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

Further, RC §4903.221(B) and OAC 4901-1-11(B) 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 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.


OAC 4901-1-11(B) also provides that an additional factor in considering a request to intervene will be the extent to which the person's interest is represented by existing parties.

IGS is a certificated competitive natural gas supplier that serves substantial end-user loads in the Duke Energy of Ohio, Inc. ("Duke") service territory. In this proceeding, Duke is applying to modify its Rider FBS and Rider EFBS which are designed to recover the costs associated with performing balancing services for end users that secure their own upstream pipeline capacity. If Duke's Application is approved, IGS may end up paying substantially more to supply natural gas to its customers. Accordingly, IGS has direct, real, and substantial interests in this proceeding. The disposition of this proceeding without IGS's full participation will prejudice and impede IGS's ability to protect its substantial business interests in this proceeding. Further, 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. IGS submits that its unique perspectives will contribute to the full, equitable, and expeditious resolution of this proceeding. Finally, IGS's timely intervention will not unduly delay the proceeding, or unjustly prejudice the interests of any existing party to this proceeding.

III. CONCLUSION

For the reasons set forth above, IGS respectfully requests the Commission grant IGS's request to intervene in the above-captioned docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion For Intervention and Memorandum In Support Of Interstate Gas Supply, Inc.* was served upon the following parties of record or as a courtesy, via U.S. Mail postage prepaid, express mail, hand delivery, or electronic transmission, on March 8, 2010.

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A handwritten signature in black ink, appearing to read 'Matthew S. White', written over a horizontal line.

Matthew S. White, Esq.

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