

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO  
RECEIVED-DOCKETING DIV  
2011 JUL -6 PM 5:00

In the Matter of the Application of Duke Energy Ohio, Inc. for Authority to Establish a Standard Service Offer Pursuant to § 4928.143, Ohio Rev. Code, in the Form of an Electric Security Plan, Accounting Modifications, and Tariffs for Generation Service.	)	)	Case No. 11-3549-EL-SSO
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Certified Supplier Tariff, P.U.C.O. No. 20.	)	)	Case No. 11-3550-EL-ATA
In the Matter of the Application of Duke Energy Ohio for Authority to Amend its Corporate Separation Plan.	)	)	Case No. 11-3551-EL-UNC

---

**INTERSTATE GAS SUPPLY, INC.'S MOTION TO INTERVENE  
AND MEMORANDUM IN SUPPORT**

---


Pursuant to O.R.C. § 4903.221 and O.A.C. 4901-1-11, Interstate Gas Supply, Inc. ("IGS") moves to intervene in the above captioned proceeding, in which Duke Energy Ohio, Inc. ("Duke Ohio") seeks approval of its proposed electric security plan ("ESP").

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.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
 Technician fe Date Processed 7/6/2011

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

Respectfully submitted,

Matthew White per telephone authentication 

Vincent Parisi (073283)  
Email: vparisi@igsenergy.com  
Matthew White (0082859)  
Email: mswhite@igsenergy.com  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
Facsimile: (614) 659-5073

**Attorneys for  
Interstate Gas Supply, Inc.**

## MEMORANDUM IN SUPPORT

IGS respectfully submits that it is entitled to intervene in these proceedings because IGS has a real and substantial interest in the proceedings, the disposition of which may impair or impede IGS's ability to protect that interest. For purposes of considering requests for leave to intervene in a Commission proceeding, the Ohio Administrative Code 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.

OAC 4901-1-11(A).

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 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.

In the above-captioned proceeding, Duke Ohio is seeking authority from the Commission to establish a standard service offer ("SSO") in the form an electric security plan ("ESP"). IGS is a certified retail natural gas supplier in the state of Ohio. IGS also recently received certification as a retail electric supplier in the states of Illinois, Maryland and Pennsylvania. IGS has been closely monitoring the competitive retail electric market in Ohio, and expects to seek certification as an Ohio retail electric

supplier. Accordingly, IGS has a substantial interest in the Duke ESP proceeding, insofar as the ESP proceeding will establish the generation rates, including a nonbypassable capacity charge for Duke customers, which are the rates that IGS will likely compete against as it enters the competitive retail electric markets of Ohio.

In addition to IGS's interest in competitive electric markets in the Duke service territory, IGS supplies a significant amount of natural gas load to Duke natural gas customers. In 2011 Duke announced plans for a merger with Progress Energy ("Progress") which will involve both the Duke electric distribution company and the Duke natural gas distribution company. IGS has a substantial interest in the merger between Duke and Progress as it may affect the natural gas customers IGS serves. Further, in FirstEnergy ESP proceeding, the Commission effectively approved the merger between FirstEnergy and Allegheny Power.<sup>1</sup> In light of precedent for merger issues being resolved in ESP proceedings, it is important that IGS is able to intervene in the Duke ESP proceeding as any resolution of the Duke Progress merger may affect IGS natural gas customers.

If the Commission approves Duke Ohio's application, the rights of IGS could be affected by the ESP's impact on the competitive retail electricity and natural gas markets. Accordingly, IGS has direct, real, and substantial interests in this proceeding. IGS's intervention will not unduly delay this proceeding and is filed in accordance with this Commission's procedural Order in this case dated June 21, 2011. Further, IGS is so situated that without IGS's ability to fully participate in this proceeding, IGS's

---

<sup>1</sup> In the FirstEnergy ESP proceeding, the Commission approved a Stipulation entered into between the Parties agreeing, *inter alia*, that the Commission will not assert review of the FirstEnergy Allegheny merger. See, *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*. PUCO Case No. 10-0388; Opinion and Order (Aug. 25, 2010) at p. 17.

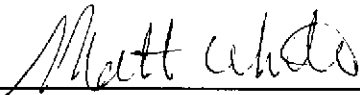
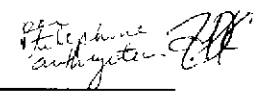
substantial interest will be prejudiced. Others participating in this proceeding do not represent IGS's interests. Inasmuch as others participating in this proceeding cannot adequately protect IGS's interests, it would be inappropriate to determine this proceeding without IGS's participation.

Finally, the Supreme Court of Ohio has held that intervention should be liberally allowed for those with an interest in the proceeding.<sup>2</sup> In light of the liberal interpretation of the intervention rules, IGS clearly meets the standards for intervention in this proceeding.

### **CONCLUSION**

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

Respectfully submitted,

  
  
\_\_\_\_\_  
Vincent Parisi (073283)  
Email: vparisi@igsenergy.com  
Matthew White (0082859)  
Email: mswhite@igsenergy.com  
Interstate Gas Supply, Inc.  
6100 Emerald Parkway  
Dublin, Ohio 43016  
Telephone: (614) 659-5000  
Facsimile: (614) 659-5073

**Attorneys for  
Interstate Gas Supply, Inc.**

---

<sup>2</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 *Interstate Gas Supply, Inc.'s Motion to Intervene and Memorandum in Support* was served this 6<sup>th</sup> day of July, 2011 via electronic mail upon the following:

Amy B. Spiller  
Elizabeth H. Watts  
Duke Energy Ohio  
155 E. Broad Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215  
Email: amy.spiller@duke-energy.com  
Email: elizabeth.watts@duke-energy.com

David F. Boehm  
Michael L. Kurtz  
Boehm, Kurtz & Lowry  
36 E. Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Email: dboehm@BKLawfirm.com  
Email: mkurtz@BKLawfirm.com

John Jones  
Steven Beeler  
Ohio Attorney General's Office  
Public Utilities Section  
180 E. Broad Street, 9<sup>th</sup> Floor  
Columbus, Ohio 43215-3793  
Email: John.Jones@puc.state.oh.us  
Email: Steven.Beeler@puc.state.oh.us

Christine M.T. Pirik  
Katie Stenman  
Attorney Examiners  
The Public Utilities Commission of Ohio  
180 E. Broad Street  
Columbus, Ohio 43215  
Email: Christine.Pirik@puc.state.oh.us  
Email: Katie.Stenman@puc.state.oh.us

Samuel C. Randazzo  
Frank P. Darr  
Joseph E. Olikier  
McNees Wallace & Nurick  
21E. State Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215  
Email: sam@mwncmh.com  
Email: fdarr@mwncmh.com  
Email: joliker@mwncmh.com

Jeffrey L. Small  
Joseph P. Serio  
Melissa R. Yost  
Office of Ohio Consumer's Counsel  
10 West Broad Street, Suite 1800  
Columbus, Ohio 43215  
Email: small@occ.state.oh.us  
Email: serio@occ.state.oh.us  
Email: yost@occ.state.oh.us

Thomas J. O'Brien  
Bricker & Eckler  
100 South Third Street  
Columbus, Ohio 43215  
Email: tobrien@bricker.com

Colleen L. Mooney  
Ohio Partners for Affordable Energy  
231 W. Lima Street  
Findlay, Ohio 45840  
Email: cmooney2@columbus.rr.com

Trent A. Dougherty  
Nolan Moser  
E. Camille Yancey  
Ohio Environmental Council  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212-3449  
Email: trent@theoec.org  
Email: Nolan@theoec.org  
Email: Camille@theoec.org

Allison E. Haedt  
Jones Day  
325 John H. McConnell Boulevard  
Suite 600  
Columbus, Ohio 43215  
Email: aehaedt@jonesday.com

James F. Lang  
Laura C. McBride  
N. Trevor Alexander  
Calfee, Halter & Griswold, LLP  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
Email: jlang@calfee.com  
Email: lmcbride@calfee.com  
Email: talexander@calfee.com

Lisa G. McAlister  
Matthew W. Warnock  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215  
Email: lmcaster@bricker.com  
Email: mwarnock@bricker.com

Tara C. Santarelli  
Environmental Law & Policy Center  
1207 Grandview Avenue, Suite 201  
Columbus, Ohio 43212  
Email: tsantarelli@elpc.org

Mary W. Christensen  
Christensen & Christensen LLP  
8760 Orion Place, Suite 300  
Columbus, Ohio 43240  
Email: mchristensen@columbuslaw.org

Mark A. Hayden  
FirstEnergy Service Company  
76 South Main Street  
Akron, Ohio 44308  
Email: haydenm@firstenergycorp.com

David A. Kutik  
Jones Day  
North Point  
901 Lakeside Avenue  
Cleveland, Ohio 44114  
Email: dakutik@jonesday.com

Joseph M. Clark  
Director of Regulatory Affairs and  
Corporate Counsel  
Vectren Retail, LLC d/b/a Vectren Source  
6641 North High Street, Suite 200  
Worthington, Ohio 43085  
Email: jmclark@vectren.com

Douglas E. Hart  
441 Vine Street  
Suite 4192  
Cincinnati, Ohio 45202  
Email: dhart@douglasshart.com

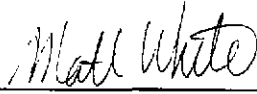
M. Howard Petricoff  
Michael J. Settineri  
Stephen M. Howard  
Vorys, Sater, Seymour & Pease LLP  
52 East Gay Street  
Columbus, Ohio 43216  
Email: mhpetricoff@vorys.com  
Email: mjsettineri@vorys.com  
Email: smhoward@vorys.com

Mark S. Yurick  
Zachary D. Kravitz  
Chester Willcox & Saxbe LLP  
65 E. State Street, Suite 1000  
Columbus, Ohio 43215  
Email: myurick@cwslaw.com  
Email: zkravitz@cwslaw.com

John W. Bentine  
Chester Willcox & Saxbe LLP  
65 E. State Street, Suite 1000  
Columbus, Ohio 43215  
Email: jbentine@cwslaw.com

Matthew J. Satterwhite  
Eric C. Miller  
Anne M. Vogel  
American Electric Power Service Corporation  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215  
Email: mjsatterwhite@aep.com  
Email: ecmiller1@aep.com  
Email: amvogel@aep.com

Gregory J. Poulos  
EnerNOC, Inc.  
101 Federal Street, Suite 1100  
Boston, MA 02110  
Email: gpoulos@enernoc.com

  
*per Telephone authorization ZAC*  
Matthew S. White