

FILE

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Complaint of the Office of the Ohio )  
Consumers' Counsel, Stand Energy Corporation, Border )  
Energy, Incorporated, Northeast Ohio Public Energy )  
Council, and Ohio Farm Bureau Federation )

Complainants, )

Case No. 10-2395-GA-CSS

v. )

Interstate Gas Supply, Inc. )

Respondent. )

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**NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S MEMORANDUM IN SUPPORT OF  
STAND ENERGY CORPORATION'S MOTION FOR LEAVE TO FILE AN AMENDED  
COMPLAINT NAMING COLUMBIA GAS OF OHIO, INC. AND NISOURCE  
CORPORATE SERVICES, INC. AS PARTIES**

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**I. INTRODUCTION**

On September 22, 2011, Stand Energy Corporation ("Stand") filed a Motion for leave to file an amended complaint naming Columbia Gas of Ohio, Inc. ("Columbia") and NiSource Corporate Services, Inc. ("NiSource") as necessary parties. For the reasons in Stand's Motion, and as set forth below, the Northeast Ohio Public Energy Council ("NOPEC") hereby submits this memorandum to: (1) support Stand's request that the Public Utilities Commission of Ohio (the "Commission") add Columbia and NiSource as Co-Respondents in the above-captioned proceeding; and (2) request that the Commission add NiSource Retail Services, Inc. as a necessary and indispensable party.

**II. LEGAL ARGUMENT**

In addition to the reasons set forth in Stand's Motion, NOPEC offers the following legal support for the addition of Columbia, NiSource and NiSource Retail Services, Inc. to the complaint.

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**A. The Commission retains jurisdiction over Columbia as a public utility in the State of Ohio.**

There is no dispute that Columbia is a public utility under Ohio Revised Code Sections (“R.C.”) 4905.02 and 4905.03, and subject to the complaint process set forth in R.C. 4905.26. For this reason, leave should be granted to amend the complaint and add Columbia as a necessary party.

**B. The Commission must join NiSource and NiSource Retail Services as necessary and indispensable parties.**

Although neither the statutes nor regulations governing the Commission’s powers address the issue of joinder, Ohio Administrative Code (“OAC”) Rule 4901-1-10 specifically identifies as a proper party “[a]ny other person expressly made a party by order of the commission.” Based upon this provision, and the reasons set forth below, NiSource and NiSource Retail Services, Inc. must be joined as necessary and indispensable parties.

**C. The Commission retains jurisdiction over NiSource under R.C. 4905.05.**

R.C. 4905.05 sets forth the Commission’s general supervisory powers, including the following: “The jurisdiction, supervision, powers, and duties of the public utilities commission extend to. . . the persons or companies owning, leasing, or operating such public utilities.” NiSource is the parent company of both Columbia Gas of Ohio, Inc. and NiSource Retail Services, Inc., and therefore falls directly within the scope of the Commission’s supervisory powers. For this reason, NiSource should properly be joined as a party to this complaint proceeding.

**D. The Commission retains jurisdiction over NiSource Retail Services under R.C. 4905.05.**

NiSource Retail Services, Inc. is the entity with which IGS entered into a licensing agreement for the use of the “Columbia” name and logo. NiSource Retail Services, Inc. is an affiliate of NiSource, but appears to be “leasing” or at least “operating” the licensing function of

Columbia Gas of Ohio, Inc. (the public utility), and therefore falls within the scope of the Commission's supervisory powers under R.C. 4905.05. Further, as the licensing counterpart to IGS (the sole respondent in the complaint case as of the filing of this Memorandum in Support), NiSource Retail Services, Inc. is a necessary and indispensable party without whom, NOPEC's prosecution of the case would be unfairly prejudiced.

### **III. CONCLUSION**

For the reasons set forth in Stand's Motion and NOPEC's memorandum in support, and in light of the unique circumstances presented to the Commission in this complaint case, NOPEC respectfully requests that Stand be granted leave to amend the complaint.

Respectfully submitted,




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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following parties of record by regular U.S. mail or electronic mail, this 7<sup>th</sup> day of October 2011.



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