

FILE

FAX

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)

The Office of the Ohio Consumers'
Counsel, et al.,)

Complainants,)

v.)

Interstate Gas Supply d/b/a Columbia
Retail Energy,)

Respondent.)

Case No. 10-2395-GA-CSS

PUCO

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**STAND ENERGY CORPORATION'S REPLY TO MEMORANDUM CONTRA FILED
BY COLUMBIA GAS OF OHIO, INC. & NISOURCE CORPORATE SERVICES, INC.**

Stand Energy Corporation, by and through the undersigned counsel, submits the following Reply Memorandum to Memoranda Contra filed by Columbia Gas of Ohio, Inc. and NiSource Corporate Services, Inc.

ANY PARTY CAN INVOKE EQUITY

Columbia Gas of Ohio, Inc. invoked "equity" (Memorandum Contra, Introduction, pg 1) for the proposition it should be allowed, as a non-party, to file its Memorandum Contra to Stand Energy's Motion For Leave To Amend the Complaint To Join Additional Parties. NiSource Corporate Services, Inc., on the other hand, derided Stand Energy for invoking principles of equity (Memorandum Contra, Introduction, pg.2), while also filing a Memorandum contra as a non-party. If joint parties with aligned interests are required to make joint filings when requesting relief, should not the law require joint non-parties with similar aligned interests be required to make joint unauthorized filings? Equity would seem to demand similar treatment for

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similar situations. Stand Energy suggests the best resolution is for the Commission to utilize equity whenever justice so requires. Equity is a necessary component of justice.

AMENDMENT OF THE COMPLAINT

Stand Energy realized the late nature of its filing which is why Stand did not tender a new Complaint with any new or additional claims. Stand is not looking to pursue new or additional claims. Stand is only seeking to have the necessary parties joined in this proceeding. It is not unreasonable for Columbia or NiSource to be subject to the jurisdiction of the Commission when the acts and omissions of those companies have effects in Ohio in matters regulated by the Commission. Stand Energy would accept the Complaint as filed with the incorporation of additional necessary parties as Respondents in order to afford complete relief on the issues.

Columbia Gas of Ohio, Inc. has raised the issue of Stand Energy's General Counsel's failure to seek Pro Hac Vice Admission in this case. Stand Energy's General Counsel, Mr. John Dosker, is addressing these matters directly with the Ohio Supreme Court, which fact has been confirmed to Mr. Gallon on behalf of Columbia Gas of Ohio, Inc. While the Commission could certainly dismiss Stand Energy's claims on this basis, such a procedural dismissal would not resolve the important substantive and competitive issues presented in this Complaint case. The public interest would not be served by dismissing Stand Energy's Complaint.

Stand Energy's only interest in this case is protecting legitimate competition, protecting the reputation of gas marketers and bringing what they consider to be deceptive marketing to a decision by the PUCO Complaint process that is available.

GOOD CAUSE TO AMEND THE COMPLAINT

Columbia and NiSource claim that Stand Energy has not shown "good cause" for amending the Complaint. Stand Energy's reply is that the circumstance of Columbia Gas of

Ohio, Inc, having its name and logo owned by a related subsidiary - in the same Utility Holding Company Family - is a variation of "Three Card Monty". The issue is how Columbia Gas of Ohio, Inc.'s name and logo are being used in Ohio. The issue is not the owner of those rights or the owner's location. Jurisdiction over the issue should not be controlled by the geographic location of the alleged owner of the asset. Doesn't the Commission want to find out how and why NiSource Corporate Services came to allegedly own the rights to the name and logo of Columbia Gas of Ohio, Inc.? NiSource Corporate Services is only a necessary party because that is the entity that Columbia Gas of Ohio, Inc. claims owns the rights to its name and logo.

If a company can avoid the scrutiny and jurisdiction of this Commission, while acting or failing to act in the State of Ohio, which both damages competition and deceives customers in Ohio, all by simply transferring ownership of such assets to subsidiaries (e.g., NiSource Corporate Services), then a very bad and dangerous precedent will be set. Jurisdiction and oversight by this Commission should not be so easily avoided.

UNFORSEEN POLITICAL EVENTS

The Complainant's in this case, OCC, NOPEC and Ohio Farm Bureau and Stand Energy, executed a Joint Defense Confidentiality Agreement and agreed to cooperate in the prosecution of the case as a group. That was the agreement among them and that was their intent.

On or about January of 2011, an un-named legislator proposed legislation as a rider on the budget bill that was eventually signed into law by Governor Kasich. That legislation placed a "gag order" on the OCC, prohibiting the OCC from "taking a position contrary to continued natural gas deregulation." At about the same time the announcement was made by the Governor that the budget of the OCC would be slashed. Over the course of the next few months, the prosecution of this case was essentially in limbo because of these political events.

Ultimately, this past summer, OCC had to make the budgetary decision to close its entire call center and the Ohio Consumers' Counsel resigned a few weeks ago. None of these extreme and adverse political activities could have been reasonably foreseen by Stand Energy. All of these events contributed to the failure of preparation for the final hearing by all the parties.

In the period between the filing of the Complaint and the filing of Stand Energy's Motion for Leave to file an Amended Complaint, Stand Energy consistently advocated among the Complainant group for joining Columbia Gas of Ohio, Inc. and NiSource Corporate Services, Inc. as parties. Stand Energy only became aware weeks ago that the OCC was negotiating "increased disclaimers" as a settlement of its Complaint against IGS. Stand Energy believed similar negotiations were occurring with the other Complainants although the only confirmation of that fact was when IGS and the other Complainants signed off on the Joint Motion to Extend the Procedural Schedule. That document confirmed other Complainants were engaged in Settlement Discussions. Stand Energy declined to entertain settlement discussions on any such limited terms (enhanced disclaimers) but Stand Energy did not oppose the Joint Motion.

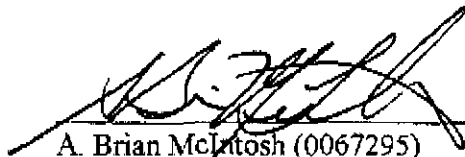
Stand Energy attempted to ascertain and stay abreast of its Co-Complainant's intentions regarding pursuing this case to resolution. Co-Complainant's did not share their individual intentions with Stand Energy, notwithstanding the request. The Joint Motion was Stand Energy's first notice it was the only Complainant that was not going to settle with IGS.

CONCLUSION

The Commission should grant Stand Energy leave to Amend the Complaint to join Columbia Gas of Ohio, Inc. and NiSource Corporate Services, Inc. as necessary parties to protect legitimate competition, protect the reputation of gas marketers and determine the ultimate question of public interest - whether the marketing of IGS Energy as *Columbia Retail Energy* ,

including the use of the name of logo of Columbia, is deceptive marketing. By joining all necessary parties, this issue, which might otherwise escape review by the Commission, will be resolved.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of "A. Brian McIntosh's Notice of Appearance of Additional Counsel on Behalf of Stand Energy Corporation" was served this 14th day of October, 2011 by electronic mail upon the following:

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