



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

Pursuant to OAC 4901-1-11, Interstate Gas Supply, Inc. ("IGS") submits this Reply Memorandum in Support of Motion to Intervene.

Columbus Southern Power Company and Ohio Power Company (collectively, "AEP") argue five grounds for denial of IGS's motion. None have merit.

AEP first claims that there are no extraordinary circumstances justifying late intervention. That IGS's interests did not arise until after the Stipulation was filed is not good enough, according to AEP. But if this is not an extraordinary circumstance, it is hard to say what is. The Stipulation proposes to establish stakeholder and collaborative groups that will meet periodically during the term of the ESP. These groups will address various matters, such as the design and details of a competitive bid process that will satisfy AEP's SSO obligation, the status of various FERC proceedings (listed in Appendix B of the Stipulation) that AEP will file and the status of efforts to securitize RPM priced capacity. (Stipulation, ¶¶ 1r, 1s and 3.) The Stipulation purports to limit participation in these groups to Signatory Parties. (See *id.*) That is not fair. The stakeholder and collaborative groups will establish or recommend policies potentially affecting all CRES providers. As a soon-to-be-certified CRES provider, IGS should be allowed to participate in these groups, regardless of whether it is a Signatory Party. IGS cannot advocate this position unless it is allowed to intervene.

AEP claims that it and all of the intervenors would be prejudiced "if a party that did not participate in the settlement negotiations were now permitted to challenge the Stipulation." (Mem. Contra, p. 2.) AEP should not presume that IGS will challenge the Stipulation; it may decide to support it. But regardless of IGS's position, other parties are already challenging the

Stipulation. Granting intervention to IGS will not change the status quo or otherwise prejudice anyone.

AEP next claims that allowing intervention will cause unwarranted delay. Not so. IGS has agreed to accept the record as it is. It has not requested an extension of any deadlines. Whatever IGS needs to do to "get up to speed" (Mem. Contra., p. 3) will not delay these proceedings.

Third, AEP argues that IGS's interests are already represented by existing CRES providers. This is not true. As already discussed, the Stipulation proposes to exclude non-Signatory Parties from future stakeholder meetings. Consequently, regardless of whether any Signatory Party's interests are aligned with IGS's, IGS will still be shut out of the stakeholder process. In addition, CRES provider support for the Stipulation is not unanimous, demonstrating a divergence of interests among CRES providers. These circumstances make it especially important that IGS be allowed to intervene. It should not be excluded from the debate.

Fourth, AEP claims that allowing intervention "would create an untenable precedent for future late interventions." (Mem. Contra, p.3.) AEP does not explain why this is so. Granting late intervention for extraordinary circumstances is not out of line with precedent; precedent which includes AEP's last SSO case, where late intervention was granted to two parties. See Case No. 08-917-EL-SSO, Entry (October 29, 2008) at Finding (4). Denying intervention to IGS in this proceeding would violate the liberal intervention standard that the Commission is required to observe. See Ohio Consumers' Counsel v. Pub. Util. Comm. (2006), 111 Ohio St.3d 384.

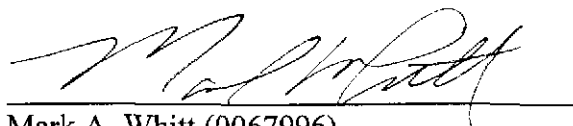
Lastly, AEP claims that IGS's oversight in not serving its motion on AEP's counsel of record is grounds for denial. Now that would be bad precedent. IGS regrets this oversight, but it plainly did not result in prejudice to AEP. The service list for IGS's motion shows that although

Mr. Nourse was omitted, three other individuals in AEP's legal department were served. AEP filed its memo contra less than 48 hours later. The purpose of the service rules has been served. There is no prejudice to remedy.

IGS's interests are real, substantial and cannot be adequately represented by other parties. That these interests did not arise until after the Stipulation was filed is an extraordinary circumstance justifying late intervention. Granting intervention will not unduly delay these proceedings or otherwise prejudice any party. The Commission should grant IGS's Motion to Intervene.

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Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing *Interstate Gas Supply, Inc.'s Reply Memorandum in Support of Motion to Intervene* was served this 14<sup>th</sup> day of October, 2011 via electronic mail upon the following:

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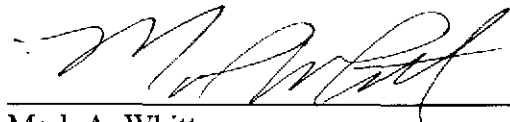
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