



**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Complaint of
The Office of the Ohio Consumers'
Counsel, et al.,**

Complainants,

y.

Interstate Gas Supply, Inc.

Respondent.

Case No. 10-2395-GA-CSS

MOTION TO QUASH SUBPOENA

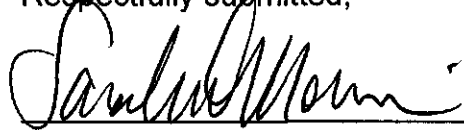
Pursuant to the Ohio Rules of Civil Procedure and the Ohio Administrative Code ("OAC") 4901-1-45 (C), the Respondent, Interstate Gas Supply, Inc. ("IGS") respectfully moves this Commission to quash the November 1, 2011 Subpoena issued by the Northeast Ohio Public Energy Council ("NOPEC") to IGS President Scott White and one or more of IGS' officers, agents, employees or other persons duly authorized to testify on its behalf at a deposition scheduled for 10:00 A.M. on November 3, 2011 at the offices of Bricker and Eckler LLP, 100 South Third Street, Columbus, Ohio 43215. Further, IGS hereby responds to the November 1, 2011 Motion For Subpoenas by NOPEC.

The reasons for this Motion and Response thereto are more fully set forth in IGS' Motion for Protective Order filed at the Commission on November 1, 2011 (attached hereto as Exhibit 1) and the attached Memorandum In Support.

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Respectfully submitted,

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)	
The Office of the Ohio Consumers')	
Counsel, et al.,)	Case No. 10-2395-GA-CSS
)	
Complainants,)	
)	
v.)	
)	
Interstate Gas Supply, Inc.)	
)	
Respondent.)	

**MEMORANDUM IN SUPPORT OF
MOTION TO QUASH SUBPOENAS**

O.R.C. Section 4903.082 states, "All parties and intervenors shall be granted ample rights of discovery. ... *Without limiting the commission's discretion the Rules of Civil Procedure should be used wherever practicable.*" (Emphasis added).

With respect to depositions, O.R.C. Section 4903.06 provides, "In an investigation, the public utilities commission or any party to the investigation may cause the depositions of witnesses residing within or without the state to be taken *in the manner prescribed for depositions in civil actions in the court of common pleas.*" (Emphasis added).

Within the context of these clear statutory rules of law, the Ohio Civil Rule of Procedure R. 45(A) states "[a] subpoena may not be used to obtain the attendance of a party or the production of documents by a party in discovery. Rather, a party's attendance at a deposition may be obtained only by notice under Civ. R. 30, and documents or electronically stored information may be obtained from a party in discovery only pursuant to Civ. R. 34." (Emphasis added).

The subpoena of Mr. White and other IGS' officers, agents, employees or persons is in clear contravention of the Ohio Rules of Civil Procedure. Mr. White and IGS' officers, agents, employees or persons are parties to this case and may not be subpoenaed for purposes of discovery in this case. For this reason, IGS respectfully request that the Commission quash the Subpoena issued by NOPEC on November 1, 2011.

Additionally, OAC 4901-1-25(C) states that a Subpoena may be quashed if it is unreasonable or oppressive. IGS submits that the subpoenas of Mr. White and one or more of IGS' officers, agents, employees or other persons duly authorized to testify on its behalf are unreasonable and oppressive.

On October 26, 2011, NOPEC filed with the Public Utilities Commission ("Commission") a Notice of Deposition, *Duces Tecum*, Upon Oral Examination of Interstate Gas Supply, Inc. Witnesses ("Notice"). On October 28, 2011, counsel for IGS contacted NOPEC regarding its Notice to inform NOPEC that their Notice was untimely and unduly burdensome, and that IGS would be filing a Motion for Protective Order barring NOPEC from taking the depositions Scott White and other IGS witnesses. (attached hereto as Exhibit 2). In response to IGS' email, counsel for NOPEC stated: "In the event that IGS does not agree to produce the noticed deponent(s) on November 3rd (or a mutually agreed upon alternative date), *NOPEC will have no choice but to file a motion to compel and request an extension of the November 7th hearing date.*" (attached hereto as Exhibit 3). IGS and NOPEC did not come to an agreement regarding NOPEC's notice.

Now, On November 1, 2011, six days prior to the hearing date set in this matter, NOPEC filed a Motion for Subpoenas of IGS President Scott and White and one or more of IGS' officers, agents, employees or other persons duly authorized to testify on its behalf.¹ NOPEC filed this Motion for Subpoenas at 11:39 a.m. as indicated on the Commission's time-stamp on the motion (attached hereto as Exhibit 4). IGS was electronically served with the Motion for Subpoenas on November 1, 2011 at 2:59 p.m (attached hereto as Exhibit 5). By 2:59 p.m. on November 1, 2011, the Motion for Subpoenas had already been granted without NOPEC making any attempt to inform IGS that NOPEC would be seeking an *ex parte* order from the Attorney Examiner to issue the subpoena. NOPEC's actions are especially egregious considering they misrepresented to IGS that NOPEC would seek a motion to compel if IGS would not make Mr. White available for the November 3, 2011 deposition.

Moreover the Subpoena of Mr. White is both unreasonable and oppressive because the Subpoena is extremely late and because Mr. White will not be in Columbus, Ohio on November 3, 2011.² Mr. White and Vincent Parisi, IGS' General Counsel, have had a prearranged important business meeting out of state on November 3, 2011.³ The meeting has been set for over three weeks, and cannot be rescheduled as it is time sensitive and the parties with whom IGS is meeting have only this window available.⁴

¹ Also on November 1, 2011, Stand Energy Corporation filed a Motion for Subpoena for Scott White to appear as a witness at the November 7, 2011 hearing in this case. The Motion for Subpoena was granted on November 1, 2011 and a subpoena was issued on November 1, 2011. IGS will not contest the subpoena, and Mr. White will be in attendance at the hearing.

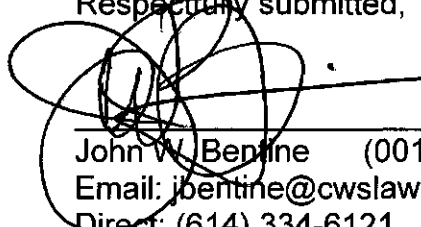
² Parisi Aff. Ex. 6.

³ *Id.*

⁴ *Id.*

For the foregoing reasons and the reasons set forth in IGS' Motion for a Protective Order filed this day, which is incorporated by reference as if fully re-written herein, IGS respectfully requests that the Subpoenas of IGS President Scott and White and one or more of IGS' officers, agents, employees or other persons duly authorized to testify on its behalf be quashed.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "John W. Bentine", is written over a horizontal line. The signature is stylized with large, overlapping loops.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Motion to Quash Subpoena* was served this 1st day of November, 2011 by U.S. First Class Mail and electronic mail upon the following:

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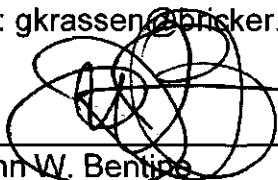
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John W. Bentine

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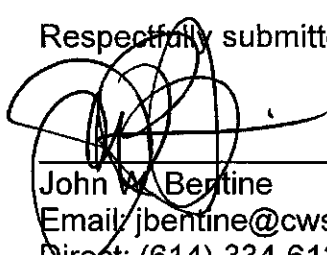
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MOTION FOR PROTECTIVE ORDER

Pursuant to Ohio Administrative Code ("O.A.C.") Section 4901-1-24, Respondent Interstate Gas Supply, Inc. ("IGS") respectfully moves for a protective order prohibiting Complainant Northeast Ohio Public Energy Counsel ("NOPEC") from taking the depositions, *duces tecum*, of President of IGS Scott White and IGS witnesses authorized to testify on IGS' behalf. Pursuant to O.A.C. § 4901-1-24-(B), a copy of NOPEC's discovery request, and an affidavit of counsel are attached hereto as Attachments 1 and 2, respectively, to the accompanying Memorandum in Support.

Respectfully submitted,



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EXHIBIT

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Attorneys for IGS

MEMORANDUM IN SUPPORT

I. INTRODUCTION

After having over a year to conduct discovery in this case and days before the continued hearing date of November 7, 2011, NOPEC has suddenly decided it wants to conduct broad discovery including depositions of Scott White, the President of IGS (who is not a witness in this proceeding), and other officers authorized to testify on IGS' behalf. On October 26, 2011, NOPEC filed with the Public Utilities Commission ("Commission") a Notice of Deposition, *Duces Tecum*, Upon Oral Examination of Interstate Gas Supply, Inc. Witnesses ("Notice"). In that Notice, NOPEC also seeks to obtain broad discovery from IGS, including all correspondence and documents pertaining to:

- (1) IGS' use of the trade name Columbia Retail Energy ("CRE");
 - (2) IGS' discussions with staff at the Commission about using the trade name CRE;
 - (3) the licensing agreement between IGS and NiSource regarding the use of the Columbia name and starburst logo;
 - (4) CRE's marketing materials; and
 - (5) IGS' communications with NiSource and the Commission Staff related to the use of the trade name CRE.
- (NOPEC's Notice of Deposition, Attachment 1 hereto).

Because the Complainant's Notice of Deposition is on its face unreasonable and is in violation of the Commission's rules allowing twenty days to respond to requests for

production of documents, and because the deposition notice and document request will be an undue burden and expense on IGS if the deposition *duces tecum* goes forward, IGS respectfully requests a protective order prohibiting NOPEC's from taking the requested depositions and from seeking the documents identified in the Notice.

II. ARGUMENT

As an initial matter, the Commission's Rules state that "[a]ny party desiring to take the deposition of any person upon oral examination shall give **reasonable** notice in writing to the deponent, to all parties, and to the commission." (emphasis added) O.A.C. § 4901-1-24(B). The timing of NOPEC's Notice of Deposition is patently unreasonable in violation of O.A.C. 4901-1-24(B). This case was filed by Complainants, including NOPEC, on October 21, 2010. It was originally set for hearing on October 4, 2011, and by Entry dated September 27, 2011 was continued to November 7, 2011. NOPEC has had more than ample time to conduct discovery, including depositions and did not do so.

Further, O.A.C. 4901-1-16, provides the purpose of the Commission's discovery rules is "... to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparations for participation in Commission proceedings." NOPEC's late discovery is quite the opposite of "prompt and expeditious" and indeed disrupts IGS' "thorough and adequate preparation for ..." the November 7, 2011 hearing. Similarly, O.A.C. 4901-1-17 requires that discovery "... should be completed as expeditiously as possible." Here NOPEC served interrogatories upon IGS on March 11, 2011, and IGS responded on April 8, 2011. NOPEC has conducted no other discovery until it served the Notice at issue herein – a period of nearly seven (7)

months. Mr. White is not available on the date of the proposed deposition or any other date leading up to the hearing. To burden IGS' President, who is not even a witness in the case, with preparation and attendance at an eleventh hour deposition regarding a 51 paragraph, 81 page complaint and exhibits, and to interrupt IGS and its counsel's hearing preparations and other pressing business¹ is unfair and burdensome to Mr. White and IGS. The Commission should neither accommodate nor reward NOPEC's lack of diligence in preparation for hearing.

Additionally, while a notice of deposition may include a request for production of documents, it must be made "in compliance" with the Commission's rules governing the production of documents during discovery O.A.C. 4901-1-21(E). Specifically, O.A.C. § 4901-1-20(C) provides that a party who receives a request for production "... shall serve a written response within twenty days after the service of the request, or within such a shorter or longer time as the commission, the legal director, or an attorney examiner may allow." According to the Commission's Rules, IGS has, at a minimum, twenty days to respond to NOPEC's request. NOPEC filed the notice on October 26, 2011. Thus, even if the Notice was properly and timely served,, IGS has until November 15, 2011 to respond to NOPEC's request. However, the hearing in this case is set for November 7, 2011. NOPEC only provided five business days for IGS to comply with its request. For this reason alone, NOPEC should be prohibited from taking the depositions, *duces tecum*, of any IGS witnesses.

Moreover, NOPEC's failure to timely seek all of the discovery it wants operates as a waiver of its right to seek such discovery. NOPEC's notice is not a minor request for follow-up discovery seeking to tie up a few loose-ends before the hearing. Rather,

¹ E.g. see Bentine Affidavit, Attachment 2 hereto..

NOPEC's request is broad and it seeks discovery related to all matters in the Complaint. NOPEC, which served the Notice electronically at 4:48 p.m. on October 26, 2011², a scant seven (7) business days before hearing, is attempting to engage in a massive fact-collecting deposition pertaining to:

- (1) IGS' use of the trade name Columbia Retail Energy ("CRE");
- (2) IGS' discussions with staff at the Commission about using the trade name CRE;
- (3) the licensing agreement between IGS and NiSource regarding the use of the Columbia name and starburst logo;
- (4) CRE's marketing materials; and
- (5) IGS' communications with NiSource and the Commission Staff related to the use of the trade name CRE.

All of these matters could and should have been the subject of discovery earlier. (NOPEC's Notice of Deposition, Attachment 1 hereto).

Here, Mr. White has not been listed as a potential witness by IGS. (IGS' Disclosure of Witnesses, attached hereto as Attachment 3). NOPEC did not file a Witness Disclosure List in this case and OCC's witness list did not include Mr. White. As such, no party³ will be calling Mr. White as a witness at the hearing. Deposing Mr. White at this point in the proceedings would only serve to create an undue burden on IGS.

With such limited time to appropriately respond to NOPEC's request and given the imminent hearing date, IGS would be unduly burdened and would face undue

² Id.

³ Mr. White was noticed as a possible witness on Stand's witness list, but no further notice or subpoena has been issued.

expense responding to NOPEC's deposition notice and request for production of documents. IGS and counsel for IGS are currently preparing for the upcoming hearing, and if NOPEC's last-minute request is permitted, IGS would be unduly burdened by the collection of documents and finding the appropriate IGS witnesses to respond to NOPEC's overly broad discovery request. IGS will be prejudiced as a result of the time and money spent complying with NOPEC's request, rather than preparing for the upcoming hearing.

IGS would also object to any request seeking to further delay the hearing to allow NOPEC time to conduct discovery. IGS' business interests continue to be adversely affected by the pendency of this case. It is time for hearing. Accordingly, IGS respectfully requests a protective order prohibiting the depositions, *duces tecum*, of Mr. White and other IGS witnesses authorized to testify on its behalf.

Finally, in accordance with O.A.C. 4901-1-24(B), counsel for IGS and NOPEC have discussed resolving these issues with no success.⁴

III. CONCLUSION

For all the foregoing reasons, IGS respectfully requests that the Commission find:

- 1) that NOPEC has not given reasonable notice for the depositions as required by O.A.C. 4901-1-24(B);
- 2) that NOPEC has not pursued discovery expeditiously as required by O.A.C. 4901-1-16;

⁴ See Bentine Affidavit.

- 3) that allowing the deposition at this late date would disrupt IGS' right to thorough and adequate preparation of its defense of this Complaint in violation of O.A.C. 4901-1-16; and
- 4) that granting IGS' motion for a protective order prohibiting NOPEC from taking the depositions, *duces tecum*, of Mr. White and other IGS witnesses authorized to testify on its behalf, is appropriate and order that depositions not be held.

Respectfully submitted,



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Attorneys for IGS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Motion for Protective Order* was served this 1st day of November, 2011 by U.S. First Class Mail and electronic mail upon the following:

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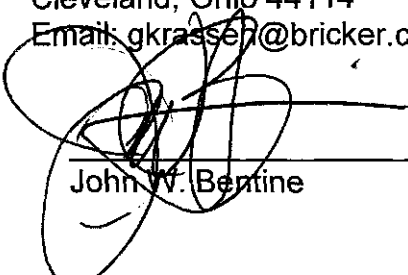
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John W. Bentine

ATTACHMENT 1

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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,)

v.)

Interstate Gas Supply, Inc.)

Respondent.)

Case No. 10-2395-GA-CSS

NOTICE OF DEPOSITION, DUCES TECUM, UPON ORAL EXAMINATION OF
INTERSTATE GAS SUPPLY, INC. WITNESSES

PLEASE TAKE NOTICE that, pursuant to Rule 4901-1-21(A) of the Ohio Administrative Code ("OAC"), counsel for the Northeast Ohio Public Energy Council ("NOPEC") will take the deposition of Scott White, President, Interstate Gas Supply, Inc., 6100 Emerald Parkway, Dublin, Ohio 43016.

Additionally, and pursuant to OAC 4901-1-21(F), IGS shall choose one or more of its officers, agents, employees, or other persons duly authorized to testify on its behalf, and shall set forth, for each person designated, the matters on which he or she will testify. The persons so designated shall testify as to matters known or reasonably available to IGS.

In accordance with OAC Rule 4901-1-21(E), NOPEC requests that the witness(es) subject to this deposition bring all documents and correspondence related to the matters that will be examined during the deposition. The deposition is requested to examine Mr. White, and any other persons duly authorized by IGS to testify on its behalf, on matters pertaining to: (1) IGS' use of the trade name Columbia Retail Energy; (2) IGS' discussions with staff at the Public Utilities Commission of Ohio

about using the trade name Columbia Retail Energy; (3) the licensing agreement between IGS and

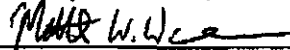
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NiSource regarding the use of the Columbia name and starburst logo; (4) Columbia Retail Energy's marketing materials; and (5) IGS' communications with NiSource and the Commission Staff related to the use of the trade name Columbia Retail Energy.

Such depositions will take place at 10:00 A.M. on November 3, 2011, at the offices of Bricker & Eckler LLP, 100 South Third Street, Columbus, Ohio 43215; or at an alternative time and place to be agreed upon by counsel, and will continue from day to day thereafter until completed. The depositions will be taken by a person authorized to administer oaths in the place where the depositions are taken.

Respectfully submitted,



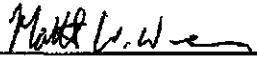
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Attorneys for Northeast Ohio Public Energy Council

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 26th day of October 2011.


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ATTACHMENT 2

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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)	
Respondent.)	

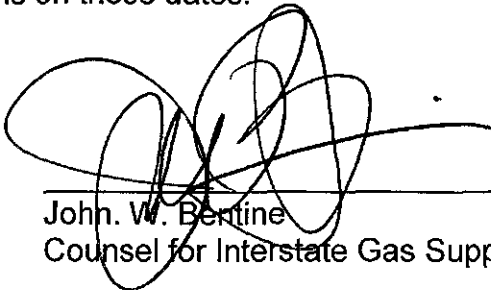
AFFIDAVIT OF JOHN W. BENTINE

John W. Bentine, being first duly sworn and cautioned according to law, does swear and depose that:

1. I, John W. Bentine, of the law firm Chester Willcox & Saxbe, LLP located at 65 E. State St., Columbus, Ohio 43215, am counsel for Interstate Gas Supply, Inc. ("IGS") in PUCO Case No. 10-2395-GA-CSS. I make this affidavit based on my own personal knowledge regarding the matters herein; and,
2. On October 26, 2011, Northeast Ohio Public Energy Council ("NOPEC") filed a Notice of Deposition, *duces tecum*, upon oral examination of Scott White, President of IGS, and other IGS witnesses authorized to testify on IGS' behalf. NOPEC scheduled the depositions for November 3, 2011. Notice was served electronically and received by me at 4:48 p.m. on October 26, 2011 (See Exhibit 1 hereto). The hearing in this matter is scheduled for November 7, 2011;

3. IGS and the undersigned determined that it was infeasible and impracticable to respond to such a broad discovery request so close to the date of the hearing, and to do so, would cause IGS undue burden and expense;
4. On October 28, 2011, my co-counsel, Zachary D. Kravitz, emailed counsel for NOPEC, Glenn Krassen, Matthew Warnock, and Thomas O'Brien to inform them of our objection to the notice of deposition and our intent to seek a protective order prohibiting NOPEC from taking the depositions;
5. On October 28, 2011, counsel for NOPEC responded to Mr. Kravitz via email to inform IGS that NOPEC would be seeking a motion to compel the depositions, *duces tecum*, upon oral examination of Scott White and other IGS' witnesses.
6. On October 31, 2011 I engaged in a discussion with Thomas O'Brien, co-counsel for NOPEC in response to an email from NOPEC co-counsel Matthew Warnock in an attempt to resolve our differences. That discussion was unsuccessful.
7. I am in New York City on business for another client on November 2, 3, and 4 and unable to attend depositions on those dates.

Further affiant sayeth naught.



John. W. Bentine
Counsel for Interstate Gas Supply, Inc.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

On this 31st day of October 2011, John W. Bentine appeared before me, a notary public for the State of Ohio, and subscribed and swore that the foregoing is true and accurate to the best of his knowledge and belief.



Notary Public



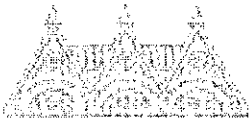


Christine L. Schulenberg
Notary Public, State of Ohio
My Commission Expires on 10/24/12

AFFIDAVIT EXHIBIT 1

John W. Bentine

From: Orahood, Teresa [TORAH@BE.BRICKER.COM]
Sent: Wednesday, October 26, 2011 4:48 PM
To: Zachary D. Kravitz; JOE SERIO; LARRY SAUER; lgearhardt@ofbf.org; John M. Dosker; brian@mcintoshlaw.com; whitt@carpenterlipps.com; thompson@CarpenterLipps.com; dconway@porterwright.com; Gallon, Eric; tmrodgers@nisource.com; sseiple@nisource.com; bleslie@nisource.com; vparisi@igsenergy.com; John W. Bentine; Sarah D. Morrison
Cc: Krassen, Glenn; Warnock, Matthew; O'Brien, Thomas
Subject: OCC, et al. v. IGS, PUCO Case No. 10-2395-GA-CSS
Attachments: Memo Contra.PDF; Notice of Dep.PDF

Attached is a copy of NOPEC's Memo Contra and Notice of Deposition which were filed today, October 26, 2011 in the above referenced proceeding.

 Bricker & Eckler ATTORNEYS AT LAW	Teresa Orahood Senior Paralegal	Bricker & Eckler LLP 100 South Third Street Columbus, OH 43215-4291
	Direct Dial 614.227.4821 torahood@bricker.com	Main 614.227.2300 Fax 614.227.2390 www.bricker.com
	 	

Think green! Please print only if necessary.

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ATTACHMENT 3

FILE

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

2011 SEP 13 AM 9:45

RECEIVED-DOCKETING DIV

INTERSTATE GAS SUPPLY, INC.'S DISCLOSURE OF WITNESSES

Pursuant to the Attorney Examiner Entry issued on June 16, 2011, Interstate Gas Supply, Inc. ("IGS") hereby reserves the option to call the following persons as witnesses at the hearing held in the above-captioned matter:

1. Vincent Parisi
General Counsel
Interstate Gas Supply, Inc.
6100 Emerald Parkway
Dublin, Ohio 43016

Mr. Parisi is anticipated to testify regarding: IGS' use of the trade name Columbia Retail Energy; IGS's discussions with PUCO staff about using the trade name Columbia Retail Energy; IGS' confidential agreement with NiSource to use the trade name Columbia Retail Energy; and Columbia Retail Energy's marketing materials.

2. Bruce Hayes (as on cross-examination)
Senior Regulatory Analyst
The Office of the Ohio Consumers' Counsel (OCC)
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

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 MJ Date Processed SEP 13 2011

Mr. Hayes is anticipated to testify about: the OCC's investigation and analysis of IGS' use of the trade name Columbia Retail Energy; OCC's practice of comparing fixed rate natural gas rates to variable rate natural gas rates; the deregulation of natural gas markets in Ohio; the practices and procedures at the former OCC call center; the procedures for obtaining a competitive retail natural gas marketer certificate; IGS' and Columbia Retail Energy's marketing solicitations; and all other matters raised by OCC in the pleadings in this case.

3. Leigh Herington (as on cross-examination)
NOPEC Executive Director
NOPEC
31320 Solon Road, Suite 20
Solon, Ohio, 44139

Mr. Herington is anticipated to testify regarding: NOPEC's investigation and analysis of IGS' use of the trade name Columbia Retail Energy; NOPEC's practice of comparing fixed and variable natural gas rates; NOPEC's call centers operated by Dominion Energy Solutions and First Energy Solutions; and all matters raised by NOPEC in the pleadings in this case.

4. Mark Ward (as on cross-examination)
Vice-President of Regulatory Affairs
Stand Energy Corporation
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202.

Mr. Ward is anticipated to testify regarding Stand Energy Corporation's investigation and analysis of IGS' use of the trade name Columbia Retail Energy; Stand Energy Corporation's practice of comparing fixed and variable natural gas rates; Stand Energy Corporation's operations as a competitive retail natural gas supplier; deregulation of the natural gas markets in Ohio; and all matters raised by Stand Energy Corporation in the pleadings in this case.

5. Larry Freeman (as on cross-examination)
Executive Vice-President
Stand Energy Corporation
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202.

Mr. Freeman is anticipated to testify regarding Stand Energy Corporation's investigation and analysis of IGS' use of the trade name Columbia Retail Energy; Stand Energy Corporation's practice of comparing fixed and

variable natural gas rates; Stand Energy Corporation's operations as a competitive retail natural gas supplier; deregulation of the natural gas markets in Ohio; and all matters raised by Stand Energy Corporation in the pleadings in this case.

6. Dale Arnold (as on cross-examination)
Director, Energy Policy
Ohio Farm Bureau Federation
280 North High Street
P.O. Box 182383
Columbus, Ohio 43218-2382

Mr. Arnold is anticipated to testify regarding the Ohio Farm Bureau Federation's investigation and analysis of IGS' use of the trade name Columbia Retail Energy; the Ohio Farm Bureau Federation's practice of comparing fixed and variable natural gas rates; deregulation of the natural gas markets in Ohio; and all matters raised by Stand Energy Corporation in the pleadings in this case.

7. Maria Durban (as on cross-examination)
Consumer Services Division Manager
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Durban is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

8. Anitta Bolin, Compliance Analyst (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Bolin is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

9. Brian Bayless, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Mr. Bayless is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

10. Angela Butler, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Butler is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

11. Lisa Cain (Van Meter), Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Cain is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

12. Beatrice deCourtivron, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. DeCourtivron is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

13. Jeana Deletra, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Deletra is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

14. **Laura Galleger, Compliance Analyst (as on cross-examination)**
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Galleger is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

15. **Matthew Jones, Team Leader (as on cross-examination)**
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Mr. Jones is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

16. **Kim Lee, Compliance Investigator (as on cross-examination)**
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Lee is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

17. **Barbara Mullins, Compliance Investigator (as on cross-examination)**
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Mullins is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

18. **Jackie Stevens, Compliance Investigator (as on cross-examination)**
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Stevens is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

19. Radames Torres, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Mr. Torres is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

20. Brian Vogt, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Mr. Vogt is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

21. Anitra Wheeler, Compliance Investigator (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Wheeler is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

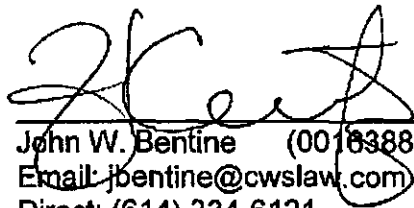
22. Maria Rodriguez, Temp (as on cross-examination)
Consumer Services Division
The Office of the Ohio Consumers' Counsel
10 W. Broad St., Suite 1800
Columbus, Ohio 34215

Ms. Rodriguez is anticipated to testify regarding any and all consumer calls regarding IGS' use of the trade name Columbia Retail Energy and all aspects of the OCC's call center as raised in the pleadings in this case.

Further, IGS reserves the right to call:

23. Other persons identified through further discovery or investigation with knowledge of the claims and defenses alleged in this matter, or whose testimony IGS may yet determine to be relevant.
24. All lay and expert witnesses listed on the witness lists of other parties, or called by another party at any hearing or trial of this matter, as upon cross-examination, and any witness necessary to rebut the witnesses of other parties.
25. Expert witnesses to testify regarding any issues that it may determine are appropriate for expert testimony.

Respectfully submitted,



John W. Bentine (0018388)

Email: jbentine@cwsllaw.com

Direct: (614) 334-6121

Stephen C. Fitch (0022322)

Email: sfitch@cwsllaw.com

Direct: (614) 334-6120

Sarah Daggett Morrison (0068035)

Email: smorrison@cwsllaw.com

Direct: (614) 334-6155

Mark S. Yurick (0039176)

Email: myurick@cwsllaw.com

Direct: (614) 334-7197

Zachary D. Kravitz (0084238)

Email: zkravitz@cwsllaw.com

Direct: (614) 334-6117

CHESTER WILLCOX & SAXBE LLP

65 East State Street, Suite 1000

Columbus, Ohio 43215

Telephone: (614) 221-4000

Facsimile: (614) 221-4012

Attorneys for Interstate Gas Supply, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Interstate Gas Supply, Inc.'s Disclosure of Witnesses* was served this 13th day of September, 2011 by electronic mail upon the following:

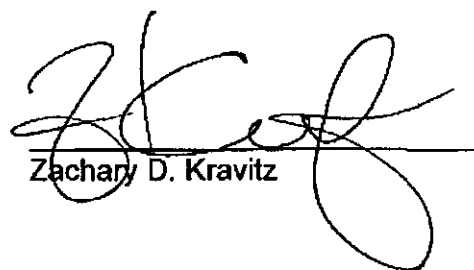
Joseph Serio
Larry S. Sauer
OFFICE OF CONSUMERS' COUNSEL
10 W. Broad Street, Suite 1800
Columbus, Ohio 43215
Email: serio@occ.state.oh.us
sauer@occ.state.oh.us

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Chief Legal Counsel
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Email: LGearhardt@offbf.org

Matthew W. Warnock
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100 South Third Street
Columbus, Ohio 43215
Email: mwarnock@bricker.com

John M. Dosker
STAND ENERGY CORPORATION
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202
Email: jdosker@stand-energy.com



Zachary D. Kravitz

Warnock, Matthew

From: Zachary D. Kravitz [zkravitz@cwsllaw.com]
Sent: Friday, October 28, 2011 4:33 PM
To: Krassen, Glenn; Warnock, Matthew; O'Brien, Thomas
Cc: JOE SERIO; thompson@CarpenterLipps.com; whitt@carpenterlipps.com; bleslie@nisource.com; sseiple@nisource.com; tmrogers@nisource.com; LARRY SAUER; lgearhardt@ofbf.org; dconway@porterwright.com; Gallon, Eric; John M. Dosker; Bentine, John; Sarah D. Morrison; 'Vince Parisi'

Subject: OCC, et al. v. IGS; PUCO Case No. 10-2395-GA-CSS

Glenn, Matt and Tom,

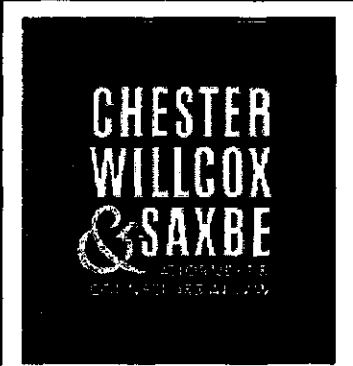
We received NOPEC's notice of deposition, duces tecum, of Scott White and IGS. We believe your Notice is late and will cause IGS, Mr. White and counsel undue burden and expense. The Ohio Rules of Civil Procedure provide 28 days for a party to respond to a deposition duces tecum while the Commission's rules provide twenty days to respond to document requests. Your request provides only eight days to respond. This is simply not enough time to comply with your untimely request and we will not do so.

Moreover, you have had a year to decide to take these depositions. IGS did not list Mr. White as a potential witness in this case and NOPEC never filed a witness list. We do not understand why, at this late hour, you now want to engage in discovery through depositions of a witness neither party intends to call at the hearing.

We object to the Notice of Deposition, do not plan on making Mr. White or any IGS representative available on November 3, and we will be filing a timely motion for protective order for the deposition, duces tecum, of IGS and Mr. White.

Regards,

Zach Kravitz

	<p>Zachary D. Kravitz</p> <p>DIRECT: 614.334.6117 zkravitz@cwsllaw.com Chester Willcox & Saxbe, LLP 65 East State Street, Suite 1000 Columbus, OH 43215 MAIN: 614.221.4000 FAX: 614.221.4012 V-Card Bio Page</p> <p>Check out the new www.cwsllaw.com</p>
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11/1/2011



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 Please consider the environment before printing this email.

Warnock, Matthew

From: Warnock, Matthew
Sent: Monday, October 31, 2011 10:02 AM
To: 'Zachary D. Kravitz'; 'Sarah D. Morrison'; Bentine, John
Cc: 'vparisi@igsenergy.com'; Krassen, Glenn; O'Brien, Thomas
Subject: RE: OCC, et al. v. IGS; PUCO Case No. 10-2395-GA-CSS
Importance: High
 John, Zach and Sarah,

Thank you for your message on Friday afternoon. As required by the Ohio Rules of Civil Procedure, and the PUCO's discovery rules, this email serves as NOPEC's attempt to resolve all issues pertaining to the notice of deposition of Scott White and any corporate designee of IGS.

First, the timing of the deposition notice should not be an issue in this case. The PUCO's discovery rules do not limit the time during which a discovery deposition may occur; and, in fact, the PUCO's discovery rules simply require that discovery be completed prior to the start of the evidentiary hearing. Here, NOPEC's deposition comports with the requirements in OAC Rule 4901-1-21(B), establishes a proposed deposition date of November 3rd (which is before the start of the evidentiary hearing), and specifically offers to work with counsel for IGS regarding alternative dates for the deposition(s). Further, the deposition notice was filed and served on October 28th, or approximately six (6) days prior to the proposed deposition date. This is similar to the time frame set forth in IGS' recently filed amended notice of deposition to NOPEC (and a time frame in which NOPEC worked with counsel for IGS to arrange for an alternative time, date and location amenable to all parties).

Second, the fact that neither IGS nor NOPEC identified Mr. White as a witness in this case has no bearing on the deposition notice. The only requirement for discovery, including the holding of a deposition, is that it pertain to "any matter, not privileged, which is relevant to the subject matter of the proceeding." OAC Rule 4901-1-16(B). It is beyond dispute that questioning the President of IGS (Scott White) and any corporate representative designed by IGS is relevant to a case in which IGS is the sole respondent, and that focuses on IGS' use of the Columbia trade name and starburst logo. In addition to being relevant, the deposition of Mr. White is necessary because Stand Energy, one of the co-complainants in this case, identified Mr. White on its witness list. This alone is enough to justify the deposition of Mr. White.

With this information in mind, NOPEC is willing to amicably resolve this dispute by: (1) continuing with the properly noticed depositions of Mr. White and any other corporate designee of IGS without the documents requested in the deposition notice; (2) holding the properly noticed depositions of Mr. White and any other corporate designee of IGS at a mutually agreeable time, date and location as long as it occurs prior to Friday, November 4th; and (3) resolving the duces tecum/document production portion of the deposition notice through pleadings (e.g. a motion for protective order and/or motion to compel). In essence, NOPEC will not require the deponents to bring documents to the deposition, but IGS agrees to produce Mr. White and any other corporate designee for a deposition on November 3rd or an alternative date prior to the evidentiary hearing.

In the event IGS does not agree to produce the noticed deponent(s) on November 3rd (or a mutually agreed upon alternative date), NOPEC will have no choice but to file a motion to compel and request an extension of the November 7th hearing date. Because a court reporter has already been scheduled for November 3rd, we look forward to hearing from you at your earliest convenience, and by no later than the close of business today (Monday, October 31, 2011).

Because the deposition of Mr. Herington is taking place this afternoon, please follow up with Mr. O'Brien (phone: 614-227-2335; email: lobrien@bricker.com) if you have any questions this afternoon.

Matt Warnock
 Bricker & Eckler LLP

11/1/2011



Direct Dial - 614-227-2388

From: Zachary D. Kravitz [mailto:zkravitz@cwslaw.com]
Sent: Friday, October 28, 2011 4:33 PM
To: Krassen, Glenn; Warnock, Matthew; O'Brien, Thomas
Cc: JOE SERIO; thompson@CarpenterLipps.com; whitt@carpenterlipps.com; bleslie@nisource.com; sseiple@nisource.com; tmrodgers@nisource.com; LARRY SAUER; lgearhardt@ofbf.org; dconway@porterwright.com; Gallon, Eric; John M. Dosker; Bentine, John; Sarah D. Morrison; 'Vince Parisi'
Subject: OCC, et al. v. IGS; PUCO Case No. 10-2395-GA-CSS

Glenn, Matt and Tom,

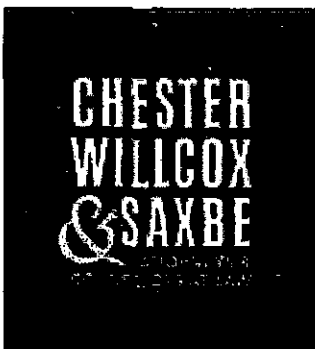
We received NOPEC's notice of deposition, duces tecum, of Scott White and IGS. We believe your Notice is late and will cause IGS, Mr. White and counsel undue burden and expense. The Ohio Rules of Civil Procedure provide 28 days for a party to respond to a deposition duces tecum while the Commission's rules provide twenty days to respond to document requests. Your request provides only eight days to respond. This is simply not enough time to comply with your untimely request and we will not do so.

Moreover, you have had a year to decide to take these depositions. IGS did not list Mr. White as a potential witness in this case and NOPEC never filed a witness list. We do not understand why, at this late hour, you now want to engage in discovery through depositions of a witness neither party intends to call at the hearing.

We object to the Notice of Deposition, do not plan on making Mr. White or any IGS representative available on November 3, and we will be filing a timely motion for protective order for the deposition, duces tecum, of IGS and Mr. White.

Regards,

Zach Kravitz

 <p>CHESTER WILCOX & SAXBE ATTORNEYS AT LAW</p>	<p>Zachary D. Kravitz</p> <p>DIRECT: 614.334.6117 zkravitz@cwslaw.com Chester Willcox & Saxbe, LLP 65 East State Street, Suite 1000 Columbus, OH 43215 MAIN: 614.221.4000 FAX: 614.221.4012 V-Card Bio Page</p> <p>Check out the new www.cwslaw.com</p>
---	---

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Please consider the environment before printing this email.

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

11
RECEIVED-DOCKETING DIV
2011 NOV -1 AM 11:39
PUCO

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,)

v.)

Interstate Gas Supply, Inc.)

Respondent.)

Case No. 10-2395-GA-CSS

MOTION FOR SUBPOENA

Pursuant to Ohio Administrative Code ("OAC") Rule 4901-1-25, the Northeast Ohio Public Energy Council ("NOPEC") hereby moves the Public Utilities Commission of Ohio ("Commission") for the issuance of a subpoena to command Scott White, President of Interstate Gas Supply, Inc. ("IGS"), and one or more of IGS' officers, agents, employees, or other persons duly authorized to testify on its behalf, to appear at a previously noticed deposition scheduled for 10:00 A.M. on November 3, 2011, at the offices of Bricker & Eckler LLP, 100 South Third Street, Columbus, Ohio 43215. The deposition notice was filed in this docket on October 26, 2011

On October 26, 2011, and pursuant to OAC Rule 4901-1-21, NOPEC filed and served a notice for the depositions of Mr. White and one or more of IGS' officers, agents, employees, or other persons duly authorized to testify on its behalf relating to: (1) IGS' use of the trade name Columbia Retail Energy; (2) IGS' discussions with staff at the Public Utilities Commission of Ohio about using the trade name Columbia Retail Energy; (3) the licensing agreement between IGS and NiSource regarding the use of the Columbia name and starburst logo; (4) Columbia





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 [Signature] Date Processed 11-01-11

John W. Bentine

From: Orahood, Teresa [TORAH@BE.BRICKER.COM]
Sent: Tuesday, November 01, 2011 2:59 PM
To: Zachary D. Kravitz; JOE SERIO; LARRY SAUER; lgearhardt@ofbf.org; John M. Dosker; brian@mcintoshlaw.com; whitt@carpenterlipps.com; thompson@CarpenterLipps.com; dconway@porterwright.com; Gallon, Eric; tmrodgers@nisource.com; sseiple@nisource.com; bleslie@nisource.com; vparisi@igsenergy.com; John W. Bentine; Sarah D. Morrison
Cc: Krassen, Glenn; Warnock, Matthew; O'Brien, Thomas
Subject: OCC, et al. v. IGS, PUCO Case No. 10-2395-GA-CSS
Attachments: Motion for Subpoena.PDF; Proof of Service.PDF

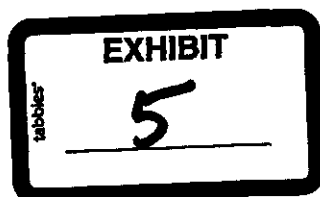
Attached is a copy of Motion for Subpoena and proof of service which were both filed today, November 1, 2011 in the above referenced proceeding.

	<p>Teresa Orahood Senior Paralegal</p> <p>Direct Dial 614.227.4821 torahood@bricker.com</p> <p> Website</p>	<p>Bricker & Eckler LLP 100 South Third Street Columbus, OH 43215-4291</p> <p>Main 614.227.2300 Fax 614.227.2390 www.bricker.com</p>
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Think green! Please print only if necessary.

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**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.)

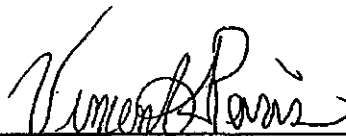
Case No. 10-2395-GA-CSS

AFFIDAVIT OF VINCENT A. PARISI

Vincent A. Parisi, being first duly sworn and cautioned according to law, does swear and depose that:

1. I, Vincent A. Parisi, am General Counsel for Interstate Gas Supply, Inc. ("IGS"). I am authorized by IGS to make this affidavit, and I make this affidavit based on my own personal knowledge regarding the matters herein; and,
2. Scott White and Vincent Parisi have had a prearranged important business meeting out of state on November 3, 2011 and will not be available for deposition on November 3. The meeting has been set for over 3 weeks, and cannot be rescheduled as it is time sensitive and the parties with whom IGS is meeting had only this window available.

Further affiant sayeth naught.



Vincent A. Parisi
General Counsel
Interstate Gas Supply, Inc.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

On this 1st day of November 2011, Vincent A. Parisi appeared before me, a notary public for the State of Ohio, and subscribed and swore that the foregoing is true and accurate to the best of his knowledge and belief.



Notary Public

**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)
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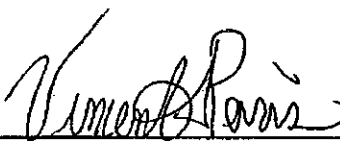
Case No. 10-2395-GA-CSS

AFFIDAVIT OF VINCENT A. PARISI

Vincent A. Parisi, being first duly sworn and cautioned according to law, does swear and depose that:

1. I, Vincent A. Parisi, am General Counsel for Interstate Gas Supply, Inc. ("IGS"). I am authorized by IGS to make this affidavit, and I make this affidavit based on my own personal knowledge regarding the matters herein; and,
2. Scott White and Vincent Parisi have had a prearranged important business meeting out of state on November 3, 2011 and will not be available for deposition on November 3. The meeting has been set for over 3 weeks, and cannot be rescheduled as it is time sensitive and the parties with whom IGS is meeting had only this window available.

Further affiant sayeth naught.



Vincent A. Parisi
General Counsel
Interstate Gas Supply, Inc.

STATE OF OHIO
COUNTY OF FRANKLIN, SS:

On this 1st day of November 2011, Vincent A. Parisi appeared before me, a notary public for the State of Ohio, and subscribed and swore that the foregoing is true and accurate to the best of his knowledge and belief.


Notary Public