BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Duke Energy Ohio, Inc. for the Establishment of a Charge Pursuant to Section 4909.18, Revised Code.	)	**Case No. 12-2400-EL-UNC**
In the Matter of the Application of Duke Energy Ohio, Inc. for Approval to Change Accounting Methods.	)	**Case No. 12-2401-EL-AAM**
In the Matter of the Application of Duke Energy Ohio, Inc. for the Approval of a Tariff for a New Service.	)	**Case No. 12-2402-EL-ATA**

REPLY OF INTERSTATE GAS SUPPLY, INC.

Pursuant to Rule 4901-1-12(B)(2) of the Ohio Administrative Code, Interstate Gas Supply, Inc. ("IGS") respectfully submits this Reply to Duke Energy's October 16, 2012 Memorandum Contra. For the reasons set forth in this Reply, the legal arguments raised by Duke Energy Ohio, Inc. (Duke) should be rejected and IGS granted intervention as a full party of record.

INTRODUCTION

Duke Energy Ohio, Inc. ("Duke") filed an Application in these cases on August 29, 2012. Duke alleged that its Application was made pursuant to Section 4905.04, .05, .06, .13 and 4909.18, Revised Code. Duke indicated that it was seeking an order from the Commission under the authority of Sections 4905.04, .05 and .06 Revised Code establishing the amount of the costs-based charge pursuant to Ohio's newly adopted state compensation mechanism, for the provision by Duke of capacity services throughout its service territory. Duke cited a July 2, 2012 opinion and order in In Re Commission Review of the Capacity Charges of Ohio Power Company and Columbus Southern Power Company, Case No. 10-2929-El-UNC, Opinion and Order, July 2,

of capacity by an FRR entity.

Duke also recited its status as an FRR entity which obligates it to ensure the existence of adequate capacity resources in its footprint for the duration of its FRR plan which terminates on May 31, 2015. Duke also cited Section 4909.18, Revised Code, which allows a public utility to file an application with the Commission to establish any charge and to amend its tariffs. Duke alleged that where the application related to a new service or is otherwise not for an increase in an existing charge, the Commission may approve such application without a hearing, unless the Commission determines that it may be unjust or unreasonable. Duke stated that it was currently receiving for the capacity it self supplies as an FRR entity, only the auction-based Final Zonal Capacity Price ("FZCP") in effect for the rest of the PJM region for the current PJM delivery year. It stated that the FZCP structure, which will persist through May 31, 2015, will apply with regard to all retail load in Duke's service territory. It also stated that the FZCP is significantly less than Duke's cost of providing capacity sufficient to meet its FRR obligations.

Duke goes on to indicate that it seeks the determination of a charge derived from the state compensation mechanism implemented by the Commission on July 2, 2012 and that this final mechanism would supplant the interim mechanisms previously in place. Specifically, Duke asked that the Commission determine that the rate for capacity services associated with its FRR obligations is $224.15/mw-Day calculated using the formula the Commission had previously determined to be reasonable in respect of another FRR entity (Ohio Power Company) under its jurisdiction in Case No. 10-2929-EL-UNC.

In addition to this requested determination, Duke sought authority pursuant to Section 4905.13, Revised Code, to defer commencing with August 29, 2012 the difference between the amount that it would have a right to collect pursuant to such state mechanism and the FZCP. Duke submitted that for the remaining term of its FRR plan, the average FZCP will proximate

$66.06/mw-Day. Therefore, reducing Duke's alleged capacity cost of $224.15 by the estimated amount charged to suppliers of $66.06 would yield an incremental difference of approximately $158.08/mw-Day. Duke was seeking carrying charges on the unrecovered balance of the deferral, calculated at a long term debt rate. Subsequently, Duke would request approval to begin collection of the deferred amounts, including carrying costs.

Finally, Duke sought approval of a new tariff, designated as Rider Deferred Recovery-Capacity Obligation ("RDR-CO"), which would allow for the collection, overtime of the deferred difference between the amount collectible pursuant to Ohio's state compensation mechanism and the FZCP.

On October 15, 2012, Interstate Gas Supply, Inc. ("IGS") filed its motion for leave to intervene in these cases. IGS alleged that it is a Certified Retail Electric Service ("CRES") provider in the state of Ohio certified to provide customers with electric service in the Duke service territory. IGS participated in and was a signatory of the stipulation and recommendation in Case No. 11-3549-EL-SSO. IGS also alleged that it is both licensed to provide competitive retail electric service and has existing and potential future retail customers that would be affected by the relief requested in these matters. IGS based its understanding of the stipulation in the Duke ESP II case as well as the Commission's Opinion and Order In Re Duke Energy Ohio, Inc., Case No. 11-3549-EL-SSO and made its business plans assuming a capacity rate based on the PJM price established by the RPM price.

On October 16, 2012, Duke filed its memorandum contra opposing IGS's motion to intervene. Duke argues that the proposed application has no impact on IGS or its business plans. Duke states at pages 3-4 of its memorandum contra:

> As the Commission has just adopted the state compensation mechanism and approved the determination of a charge pursuant thereto, with a deferral and subsequent recovery over time for a comparable entity, the Application here cannot be deemed unjust

> or unreasonable. The Application merely seeks arithmetic calculations and the application of an outcome that is already been found to be just and reasonable. It is indisputable that the Application does not require a hearing. Thus, IGS's effort to intervene in these proceedings can have no other impact than to delay the resolution. As there is no factual inquiry to be made, since the state mechanism relies on existing federal filings, IGS's input will not provide a significant contribution to development or resolution of factual issues.

ARGUMENT

The memorandum contra the intervention of IGS filed by Duke, as well as the four virtually identical Duke pleadings opposing the intervention of all the other active suppliers in the Duke service territory lack legal merit. Duke makes the factual assumption that so long as it does not directly charge IGS or any competitive retail electric service (CRES) a capacity fee, the fact that adds a new capacity fee to the customers of a CRES will not effect them. That factual assumption is incorrect. For IGS or any other CRES provider doing business in the Duke service area, the capacity rate and the design of the capacity rates has direct, substantial and real effect on the market for electric services and the competitive energy products that can be offered.

Duke filed its application pursuant to Section 4905.04, 4905.05, 4905.06, 4905.13 and 4909.18, Revised Code. In its October 17, 2012 Entry on Rehearing in Case No. 10-2929-EL-UNC, the Commission granted rehearing for the limited purpose of clarifying that the July 2, 2012 Capacity order was issued in accordance with the Commission's authority found in Section 4905.26, Revised Code as well as Sections 4905.04, 4905.05, 4905.06, Revised Code. Thus, upon the initiative of the Commission, if it appears to the Commission any rate, service or practice affecting or relating to any service furnished by a public utility is or will be in any respect unreasonable, unjust, insufficient, unjustly discriminatory, or unjustly preferential, or that any service is or will be inadequate or cannot be obtained and if it appears that reasonable grounds are stated, the Commission can fix a time for hearing and notify the public utility

thereof.

Duke also has the mistaken notion that the Commission has established "the" state compensation mechanism. Duke's assumption is erroneous. At page 32 of its October 17, 2012 Entry on Rehearing in Case No. 10-2929, the Commission stated:

> The Commission initiated this proceeding solely to review AEP-Ohio's capacity costs and determine an appropriate capacity charge for its FRR obligations. We have not considered the costs of any other capacity supplier subject to our jurisdiction nor do we find it appropriate to do so in this proceeding.

Thus, the Commission did not establish "the" state compensation mechanism but simply established a state capacity mechanism for AEP Ohio.

This is also reinforced by the Commission's Finding (71) at page 28 of its October 17, 2012 Entry on Rehearing where it stated:

> The Commission concluded that we have an obligation under traditional rate regulation to ensure that the jurisdictional utilities receive just and reasonable compensation for the services that they render. However, rehearing is granted to clarify that the Commission is under no obligation with regard to the specific mechanism used to address capacity costs. Such costs may be addressed through an SCM that is specifically crafted to meet the stated need of a particular utility or through a rider or other mechanism.

Thus, Duke is wrong when it assumes that this application will be merely an arithmetic calculation with no factual inquiry. Thus, while Duke has filed its application, the Commission is not limited in any way to establish a state compensation mechanism for Duke that will necessarily be similar or identical to that which was established in Case No. 10-2929 for AEP Ohio. Based on IGS' understanding of the stipulation and the Commission's Opinion and Order in Case No. 11-3549-EL-SSO, IGS made its business plans assuming a capacity rate based on the PJM price established by the RPM price. There is no certainty that the Commission will

establish a similar state compensation mechanism for Duke. Thus, IGS does in fact have a real and substantial interest in this case which is not being adequately represented by any other party.

Therefore, Interstate Gas Supply, Inc. respectfully requests that the Commission grant its motion for leave to intervene and that it be made a full party of record.

WHEREFORE, Interstate Gas Supply, Inc. respectfully requests that the Commission grant this motion for leave to intervene and that it be made a full party of record.

Respectfully Submitted,

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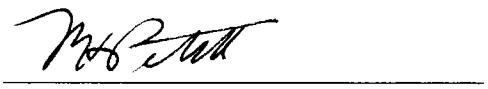
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing documents was served this 23rd day of October, 2012 by electronic mail, upon the persons listed below.



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Summary: Reply Reply of Interstate Gas Supply, Inc. electronically filed by M HOWARD PETRICOFF on behalf of Interstate Gas Supply, Inc.