

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the	)	
Fuel Adjustment Clauses for Columbus	)	Case No. 11-5906-EL-FAC
Southern Power Company and Ohio	)	
Power Company and Related Matters.	)	

In the Matter of the Fuel Adjustment	)	
Clauses for Columbus Southern Power	)	Case No. 12-3133-EL-FAC
Company and Ohio Power Company and	)	
Related Matters.	)	

In the Matter of the Fuel Adjustment	)	
Clauses for Columbus Southern Power	)	Case No. 13-572-EL-FAC
Company and Ohio Power Company and	)	
Related Matters.	)	

In the Matter of the Fuel Adjustment	)	
Clauses for Columbus Southern Power	)	Case No. 13-1286-EL-FAC
Company and Ohio Power Company and	)	
Related Matters.	)	

In the Matter of the Fuel Adjustment	)	
Clauses for Columbus Southern Power	)	Case No. 13-1892-EL-FAC
Company and Ohio Power Company and	)	
Related Matters.	)	

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**OHIO POWER COMPANY’S MEMORANDUM CONTRA  
INTERSTATE GAS SUPPLY, INC.’S MOTION TO INTERVENE  
AND RETAIL ENERGY SUPPLY ASSOCIATION’S MOTION TO INTERVENE**

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**I. Introduction**

Ohio Power Company (“AEP Ohio” or the “Company”) opposes the Motion to Intervene filed in this docket on January 12, 2015 by Interstate Gas Supply, Inc. (“IGS”). IGS claims to have a real and substantial interest only with respect to one specific issue that may or may not even arise in these proceedings: how any credit or refund, if ordered, would be implemented.

Similarly, Retail Energy Supply Association (“RESA”) filed a Motion to Intervene in this docket on January 16, 2015 and seeks to intervene because it is concerned with how any refund will be implemented. Consequently, pursuant to Rule 4901-1-11(D)(1), Ohio Administrative Code (“O.A.C.”), the Public Utilities Commission of Ohio (“Commission”) should deny general party status to IGS and RESA, instead granting movants only limited intervention in these cases to participate only with respect to the one issue in which movants have a real and substantial interest.

## **II. Argument**

Rule 4901-1-11(B), O.A.C., sets forth requirements the Commission shall consider in deciding whether to permit a party intervention. Neither IGS’ Motion to Intervene nor RESA’s Motion to Intervene satisfies the requirements found under Rule 4901-1-11(B)(1), O.A.C., with respect to issues beyond how any credit or refund, if ordered, would be implemented. Subsection (B)(1) reads that the Commission shall consider, “[t]he nature and extent of the prospective intervenor’s interest.” As discussed below, the nature and extent of IGS’ and RESA’s interests are related only to the implementation of any credit or refund. Neither IGS nor RESA has a real and substantial interest in the issues related to the Company’s Fuel Adjustment Clause (a bypassable retail rate not related to competitive service) or the threshold determination of double recovery (which is a predicate to any customer refund or credit) that will also be addressed in these proceedings.

IGS’ Motion to Intervene and RESA’s Motion to Intervene also fail to satisfy the consideration found in Rule 4901-1-11(B)(2), O.A.C., for the same reason as subsection (B)(1). Under this subsection the Commission must consider, “[t]he legal position advanced by the prospective intervenor and its probable relation to the merits of the case.” Because IGS’ and

RESA's interest in these proceedings concerns only the implementation of any credit or refund, movants are likely to advance legal positions only on that one issue. Beyond that one specific issue, movants' legal positions will likely not relate to the merits of the vast majority of issues presented by these cases. Accordingly, RESA's and IGS' participation should be limited to the one issue on which it is likely to present a relevant legal position and in which it has a real and substantial interest. Neither IGS' Motion to Intervene nor RESA's Motion to Intervene satisfy the requirements found under Rule 4901-1-11(B), O.A.C., with respect to issues beyond how any ordered credit or refund would be implemented.

Both Motions to Intervene confirm that movants have a real and substantial interest only with respect to the competitive impact of how any ordered credit or refund would be implemented. In its Motion to Intervene, IGS states, "[t]o the extent that the Commission determines that AEP-Ohio has double recovered its purchased power costs, any improperly structured credit or refund could negatively impact competitive conditions in AEP-Ohio's service territory." (IGS's Motion to Intervene at 2). Furthermore, IGS states in its Memorandum in Support that "if the Commission determines to allocate the credit or refund exclusively to standard service offer ("SSO") customers, it could tilt the playing field in AEP-Ohio's service territory toward the SSO product." (IGS's Memo in Support at 5). In its Motion to Intervene, "RESA is concerned with the manner in which any double recovery is returned/credited to customers." (RESA's Memo in Support at 3). Thus, based on movants' own characterization of their interest in these proceedings, it is clear that IGS and RESA have a real and substantial interest only with respect to the specific issue of how any ordered credit or refund would be implemented.

Rule 4901-1-11(D)(1) provides that the Commission may “[g]rant limited intervention, which permits a person to participate with respect to one or more specific issues, if the person has no real and substantial interest with respect to the remaining issues. . . .” As demonstrated above, IGS and RESA have a real and substantial interest only with respect to the specific issue of how any credit or refund, if ordered, would be implemented. A review of the requirements the Commission shall consider in deciding whether to permit a party intervention demonstrates that, beyond the specific issue related to the implementation of any credit or refund, IGS and RESA do not have a real and substantial interest with respect to the remaining issues in these proceedings. Indeed, in its own Motion to Intervene IGS characterizes its interest as relating solely to the specific issue of how any ordered credit or refund would “impact competitive conditions in AEP-Ohio’s service territory.” (IGS’s Motion to Intervene at 2). Similarly, RESA’s only stated interest relates to implementation of a potential refund/credit. (RESA’s Memo in Support at 3). Consequently, the Commission should deny general intervention to IGS and RESA and instead grant movants only limited intervention in these cases, permitting participation only with respect to the one issue in which movants have a real and substantial interest.

### **III. Conclusion**

IGS and RESA have a real and substantial interest only with respect to one specific issue that may or may not even arise in these proceedings: how any credit or refund, if ordered, would be implemented. Movants do not have a real and substantial interest with respect to the remaining issues in these proceedings. In order to narrowly tailor the requested intervention to the expressly limited purpose of intervention, AEP Ohio respectfully requests that the Commission, pursuant to Rule 4901-1-11(D)(1), O.A.C., grant IGS and RESA only limited

intervention in these cases, permitting movants to participate only with respect to the specific issue related to the implementation of any ordered credit or refund.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing was served via electronic mail upon the individuals listed below this 27<sup>th</sup> day of January, 2015.

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Summary: Memorandum Contra Interstate Gas Supply, Inc.'s Motion to Intervene and Retail  
Energy Supply Association's Motion to Intervene  
electronically filed by Mr. Yazen Alami on behalf of Ohio Power Company