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ELECTRONIC MAIL

Docketing Division
180 East Broad Street
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**RE: In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates, Tariff Approval, and a Change in Accounting Methods.
Case No. 20-585-EL-AIR, *et al.***

This letter is to advise the Public Utilities Commission of Ohio the Interstate Gas Supply, Inc. (“IGS Energy”) supports the Interlocutory Appeal and Application for Review of One Energy Enterprises LLC and The Environmental Law and Policy Center filed December 14, 2020 in the above-captioned proceedings. The appeal takes up the novel question of when the statutory clock outlined in Ohio Adm. Code 4901-1-17(B) and Revised Code 4909.19(C) should begin when the Commission’s Staff report is amended in its entirety.

The statutory language exists to ensure that all parties are given adequate time to seek discovery and file objections after the view of the Commission Staff is made known through the filing of the Staff Report. From both a logical and textual reading of the statutes, IGS believes that the dates should be set based on the correct and final version of the Staff Report as opposed to basing the statutory deadlines on the filing of a document that, for the purposes of the above captioned proceedings, no longer exists. The Bench determined that as a result of the errors in the Staff Report being “minor in scope” that the originally filed Staff Report did indeed start the Statutory clock for purposes of both objections and discovery requests.

It would be unfair and potentially harmful to allow statutory deadlines to begin based on a document that is later superseded in its entirety by another document. The amount or type of errors contained in



the original document does not matter and making such a distinction only opens the door to more quarrels in later cases. When Commission Staff filed their amended Staff Report on November 25, 2020, page two of the document itself stated that the 30 day clock shall begin upon the filing of the amended document. It is also important to note that Staff has amended Staff Reports in the past that have led to other procedural extensions. In Duke's 2017 rate case, case number 17-0032-EL-AIR, Staff filed a supplement to the Staff Report which triggered an extension of the testimony due date by the Attorney Examiner on October 18, 2017. While no objection was made to the statutory deadlines discussed above in that particular case, exposing parties to new information with truncated deadlines without the possibility of extension should be avoided. Not allowing the statutory clocks to begin upon the filing of the correct and final version of the Staff Report would create a slippery slope, and likely a number of legal tests, in order to determine what errors can and should be considered clerical or minor versus changes that are more substantial in nature requiring a resetting of the clock.

In sum, the Commission should reverse the Attorney Examiner's ruling to not extend the statutory clock based on the filing of the final Staff Report and by doing so shut the door, once and for all, on any ambiguity as to the deadlines based on the filing of such a report in all future proceedings.

By this filing, copies of this letter are being served upon all parties of record.

Sincerely,

/s/ Evan Betterton

Evan Betterton (100089)

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Summary: Correspondence Letter in Support of the December 14, 2020 Joint Interlocutory Appeal and Application for Review of One Energy LLC and The Environmental Law and Policy Center electronically filed by Mr. Evan F Betterton on behalf of Interstate Gas Supply, Inc.