

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Duke                     )  
Energy Ohio, Inc. for a Waiver of Specific                 )     Case No. 22-0043-GE-WVR  
Sections of the Ohio Administration Code.                 )

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**MOTION TO INTERVENE  
AND MEMORANDUM IN SUPPORT OF INTERSTATE GAS SUPPLY, INC.**

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**MOTION TO INTERVENE**

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Pursuant to R.C. 4903.221 and Ohio Administrative Code (“OAC”) Rule 4901-1-11, Interstate Gas Supply, Inc. (“IGS”) moves to intervene in the above-captioned proceeding in which Duke Energy Ohio, Inc. (“Duke”) seeks a temporary waiver of certain provisions of the Ohio Administrative Code and/or its tariffs from the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to support its transition to a new customer information system (“CIS”). Duke’s application indicates that “major legacy systems” will have limited or no availability during the cutover period (i.e., March 30 – April 6) to the new CIS.<sup>1</sup> The systems and services that will be impacted by the transition include, but are not limited to, billing, payments, choice transactions and customer communications.<sup>2</sup> Each of these systems and services play an integral role in the operation and administration of the electric and natural gas choice program in the Duke service territory.

As a competitive retail natural gas and electric services provider, IGS has a real and substantial interest in this proceeding that will not be protected in the absence of IGS’ intervention. The interest of IGS is not represented by any other party in the proceeding.

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<sup>1</sup> *In the Matter of the Application of Duke Energy Ohio, Inc., for a Waiver of Specific Sections of the Ohio Administration Code* at 1, Case No. 22-0043-GE-WVR (Jan. 19, 2022). (hereinafter “Application”)

<sup>2</sup> *Id.* at 2.

The outcome of this proceeding will also impact the operation and administration of the choice program in Duke's service territory during the period(s) described in its application.

As set forth in the attached Memorandum in Support, IGS submits that it has a direct, real, and substantial interest in the issues and matters involved in the above-captioned proceeding, and that it is so situated that the disposition of this proceeding without IGS' participation may, as a practical matter, impair or impede IGS' ability to protect that interest. IGS further submits that its participation in this proceeding will not cause undue delay, will not unjustly prejudice any existing party, and will contribute to the just and expeditious resolution of the issues and concerns raised in this proceeding.

IGS' interests will not be adequately represented by other parties to this proceeding and, therefore, IGS is entitled to intervene in this proceeding with the full powers and rights granted to intervening parties.

Respectfully submitted,

/s/ Michael Nugent

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**MEMORANDUM IN SUPPORT**

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As a retail energy supplier, IGS has over 30 years' experience serving customers in Ohio's competitive gas and electric markets. IGS serves over 1 million customers nationwide and sells natural gas and electricity to customers in 11 states and in over 40 utility service territories. In Ohio, IGS currently serves gas customers of various sizes in the Columbia Gas of Ohio, Dominion Energy Ohio, Duke Energy Ohio, and Vectren service territories. The IGS family of companies (which include IGS Solar, IGS Generation, IGS Home Services, and IGS CNG Services) also provide customer-focused energy solutions that complement IGS Energy's core commodity business, including: distributed generation, demand response, compressed natural gas refueling, back-up generation, and utility line protection.

In this proceeding, Duke seeks Commission approval to temporarily waive various provisions of the Ohio Administration Code and/or its supplier tariffs while it suspends or alters many of its system processes to facilitate the conversion to its new CIS. During the projected conversion period, Duke indicated that the following legacy system services will be temporarily suspended or altered: inbound transactions for CRES and CRNGS

enrollments, reinstatements and drops<sup>3</sup>; CRES requests for changes in rate code, reinstatements, and historical usage requirements<sup>4</sup>; and bill-ready transactions for CRES suppliers.<sup>5</sup> Given that the temporary suspension of its legacy CIS will directly impact electric and natural gas choice administration, Duke also seeks a waiver of specific tariff provisions and Commission rules that govern the interaction between CRES and CRNGS suppliers, their customers, and Duke in its capacity as the local distribution utility.<sup>6</sup>

IGS participates in Duke's Choice program and serves residential and commercial electric and natural gas customers throughout its service territory. Accordingly, IGS seeks intervention in this proceeding to ensure that the administrative rules being waived, do not unduly incumber its ability to provide service to customers.

IGS respectfully submits that it is entitled to intervene in this proceeding because IGS has a real and substantial interest in this proceeding, the disposition of which may impair or impede IGS' ability to protect that interest. For purposes of considering requests for leave to intervene in a Commission proceeding, the Commission's rules provide that:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that: (1) A statute of this state or the United States confers a right to intervene. (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.<sup>7</sup>

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<sup>3</sup> *Id.* at 8.

<sup>4</sup> *Id.* at 10.

<sup>5</sup> *Id.* at 11.

<sup>6</sup> *Id.* at pp.11-14.

<sup>7</sup> Rule 4901-1-11(A), OAC.

Further, RC 4903.221(B) and OAC Rule 4901-1-11(B) provide that the Commission, in ruling upon applications to intervene in its proceedings, shall consider the following criteria:

(1) The nature and extent of the prospective intervenor's interest; (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case; (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

Regarding the first prong of the Commission's criteria, precedent holds that retail suppliers have been granted intervention in Commission proceedings that may impact retail choice programs, customers, and the competitive market. In Duke's GCR proceeding, for example, the Commission stated:

The thrust of [Duke's] argument is that IGS does not have a real and substantial interest in this GCR proceeding. The examiner finds that issues related to the competitive market, competitive suppliers, and their customers may arise in this proceeding. Such issues have been a part of the utility's prior GCR cases before the Commission.<sup>8</sup>

IGS has a substantial interest in this proceeding insofar as it seeks to ensure that the temporary waiver of administrative rules and tariff requirements do not unduly burden choice suppliers and their customers. Duke has requested temporary waivers on provisions governing billing, payments, choice transactions, customer communications, and disconnections, and in one instance seeks a waiver of certain sections of the Ohio Administrative Code to allow it to temporarily suspend acceptance of CRES and CRNG

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<sup>8</sup> *In the matter of the regulation of the purchased gas adjustment clauses contained within the rate schedules of Cincinnati Gas & Electric Company and related matters*, Case No. 05-218-GA-GCR, Entry at 2 (Nov. 15, 2005).

enrollments, reinstatements, and drops.<sup>9</sup> Furthermore, Duke's application includes a series of waiver requests raised on behalf of CRES and CRNGS providers.<sup>10</sup> As a retail choice supplier, IGS is interested in the temporary suspension or alteration of any of Duke's systems that may impact IGS's own operational, administrative, and regulatory processes. As such, IGS has a direct, real, and substantial interest in this proceeding.

IGS' intervention also will not unduly delay this proceeding given that a procedural schedule has not been established. Therefore, IGS' request to intervene is timely, will not prolong the proceeding, and intervention should be granted.

Further, IGS is so situated that without IGS' ability to fully participate in this proceeding, its substantial interest will be prejudiced. Others participating in this proceeding do not represent IGS' interests. Inasmuch as others participating in this proceeding cannot adequately protect IGS' interests, it would be inappropriate to determine this proceeding without IGS' participation.

Finally, the Supreme Court of Ohio has held that intervention should be liberally allowed for those with an interest in the proceeding.<sup>11</sup> In light of the liberal interpretation of the intervention rules, IGS clearly meets the standards for intervention in this proceeding.

For the reasons set forth above, IGS respectfully requests the Commission grant this Motion to Intervene.

Respectfully submitted,

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<sup>9</sup> Application at 8.

<sup>10</sup> *Id.* at 2.

<sup>11</sup> *Ohio Consumers' Counsel v. Pub. Util. Comm.*, (2006) 111 OhioSt.3d 384, 388.

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## **CERTIFICATE OF SERVICE**

I certify that this *Motion to Intervene and Memorandum of Support of Interstate Gas Supply, Inc.* was filed electronically with the Docketing Division of the Public Utilities Commission of Ohio on this 3<sup>rd</sup> day of February 2022.

/s/ Michael Nugent  
Michael Nugent

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Summary: Motion to Intervene and Memorandum in Support of Interstate Gas Supply, Inc. electronically filed by Mr. Michael A. Nugent on behalf of Interstate Gas Supply, Inc.