

within the Retail Suppliers Group. WPS-ESI though would like to formalize its status so that if during the course of this proceeding if its position should differ from the Retail Suppliers Group, WPS-ESI may voice its views.

The facts supporting this motion for leave to intervene are set forth in the accompanying Memorandum in Support.

WHEREFORE, WPS Energy Services, Inc. respectfully requests that its motion for leave to intervene be granted and that it be made a full party of record.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

Section 4903.221(B), Revised Code provides 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 interests;
- (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.

Rule 4901-1-11 of the Ohio Administrative Code states:

Upon timely motion any person shall be permitted to intervene in a proceedings upon a showing that:

- (2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceedings 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.

Among the factors to be considered are the nature of the intervenor's interest, the extent those interests are represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. WPS-ESI meets the criteria in the statute and the rule.

WPS-ESI has a real and substantial interest in these cases. It is a Certified Competitive Retail Electric Service provider which has been issued Renewal Certificate No. 00-013(2) on November 1, 2002, to provide electric generation, power marketer, power broker, and aggregator services within Ohio. WPS-ESI, is a registered supplier with CG&E and, in Case No. 00-1822, indicated that it sought to serve customers in the CG&E service territory. WPS-ESI is

evaluating whether to enter the CG&E market. It reviewed the original application in this case, had a representative present for the February 12, 2003 and March 2, 2004 technical conferences, filed joint initial and reply comments as part of the Retail Suppliers group, and also filed joint objections as part of the Retail Suppliers group on March 9, 2004.

On January 10, 2003, the Cincinnati Gas & Electric Company ("CG&E") filed an application to establish a Market Based Standard Service Offer ("MBSSO") rate and a Competitive Bid Process ("CBP") for non-residential end-use customers pursuant to § 4928.14, Revised Code. CG&E proposed that neither the MBSSO nor the CBP would be effective until after the end of CG&E's Market Development Period.

By Entry of December 9, 2003, the Commission requested that CG&E file a rate stabilization plan by January 26, 2004 and ordered that Case Nos. 03-93, 03-2079, 03-2080, and 03-2081 be consolidated. Further, the Commission set forth a procedural schedule which was subsequently changed. The deadline for filing for intervention was March 9, 2004, the same date that objections were due.

The Retail Suppliers Group consisting of Mid-American Energy Company, Strategic Energy, LLC, Constellation NewEnergy, Inc., National Energy Marketer's Association and WPS Energy, Inc. filed timely objections on March 9, 2004 and within that pleading asked for leave to intervene to the extent that such had not already granted. This request included WPS-ESI, which was named as part of the Retail Suppliers Group, though no specific request for WPS-ESI alone to intervene had been previously filed.

Thus, to clarify the record that WPS-ESI seeks party status individually, as well as a part of the Retail Suppliers Group, WPS-ESI files this motion. WPS-ESI accepts the record as it stands which includes its objections to the market based standard offer filed a year ago and the objections to the RSP filed March 9, 2004. Because of its participation in this proceeding there will

be no undue prejudice by granting of this motion. Granting full intervention will not unduly delay the proceedings and WPS-ESI's participation, along with other members of the Retail Suppliers Group, will contribute to a just and expeditious resolution of the issues in this case.

WHEREFORE, WPS Energy Services, Inc. respectfully requests that its motion for intervention be granted and that it may 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 document was served this 5th day of April, 2004, by regular U.S. mail, postage prepaid, upon the persons on the attached service list.



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