

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO**

IN THE MATTER OF THE COMMISSION CONSIDERATION
OF PUBLIC SERVICE COMPANY OF COLORADO
PLAN IN COMPLIANCE WITH HOUSE BILL 10-1365, DOCKET NO. 10M-245E
“CLEAN AIR—CLEAN JOBS ACT.”

**MOTION TO PARTICIPATE AS *AMICAS CURIAE* OF
INDUSTRIAL ENERGY CONSUMERS OF AMERICA**

The Industrial Energy Consumers of America (IECA) respectfully moves to participate in this proceeding as *amicus curiae* under the terms of Decision No. C10-0452 (“Procedural Order”) of the Colorado Public Utilities Commission (Commission) and Rule 1200(c), 4 CCR 723-1 of the Commission’s Rules of Practice and Procedure. In accordance with the Procedural Order (at P 22), IECA intends to submit statements of position for Commission consideration in this proceeding. In support of this motion, IECA states as follows:

1. On April 19, 2010, the Colorado Clean Air - Clean Jobs Act (“the Act”) was signed into law, requiring, among other things, that Public Service Company of Colorado (“Public Service”) develop an Emissions Reduction Plan to meet the current and “reasonably foreseeable” requirements of the federal Clean Air Act and state law, including a 70-80 percent reduction in 2008 nitrogen oxide levels. Public Service has stated that its Valmont, Cherokee, and Pawnee stations are “targeted” for repowering or replacement with natural gas in an effort to comply the Act, and its Cameo and Arapahoe stations would be retired. Governor Ritter stated that this legislation “is a national model for retiring coal-fired power plants,” potentially giving

this Act far-reaching implications for U.S. manufacturing companies that rely on coal-fired generation to meet their power needs.¹

2. IECA is a nonpartisan association of leading manufacturing companies with \$900 billion in annual sales and with more than 850,000 employees nationwide. It is an organization created to promote the interests of manufacturing companies through research, advocacy, and collaboration for which the availability, use and cost of energy, power or feedstock play a significant role in their ability to compete in domestic and world markets. IECA membership represents a diverse set of industries including: plastics, cement, paper, food processing, brick, chemicals, fertilizer, insulation, steel, glass, industrial gases, pharmaceutical, aluminum and brewing.

Despite the fact that IECA member companies are some of the most energy efficient in the world, several use substantial sums of natural gas and electricity. Most often, the relative price of energy determines their competitiveness and ability to retain or add jobs. Unfortunately, Colorado has lost nearly 65,000 manufacturing jobs since 2000 or 34 percent. IECA companies participate in competitive domestic markets thus the price of natural gas or electricity in Colorado can impact a company's ability to compete with non-Colorado competitors. Likewise, most compete against competitors in foreign markets where the cost of energy is often less. Thus the relative cost of natural gas and electricity can render them non-competitive.

IECA is concerned that this proceeding will result in higher natural gas and electricity costs to the extent that it will impact competitiveness and jobs. The history of natural gas prices is one of significant volatility versus that of coal. And, the history of domestic natural gas supply has

¹ Gov. Ritter Signs Historic Clean Air-Clean Jobs Act, Apr. 19, 2010, <http://www.colorado.gov/cs/Satellite/GovRitter/GOVR/117702489024> (follow "Press Releases" hyperlink; then follow link below April 19, 2010).

been lackluster. The promise of additional shale formation natural gas supply is enticing but yet to be proved out. Coal has had a proven track record of consistent supply. Diversification of electricity supply is essential and contributes to reliability and this proceeding drives a “natural gas only” strategy. Lastly, it appears that alternative supply of electricity such as industrial combined heat and power and recycled energy is not being considered on equal footing as an alternative.

3. Rule 1200(c) provides that “[a] non-party who desires to assist the Commission in arriving at a just and reasonable determination of a proceeding may move to participate as an amicus curiae.” An amicus curiae is not a party, and may present legal argument only, as permitted by the Commission. In the Procedural Order, the Commission stated that it “encourages persons who might typically seek permissive intervention to consider whether participation as amicus curiae will serve their interests in this case.” Procedural Order at P 22.

4. IECA believes that participating as amicus curiae will serve the interests of its members in this proceeding and respectfully requests the Commission grant this motion to participate as amicus curiae.

WHEREFORE, IECA respectfully requests that the Commission grant this motion to participate as amicus curiae and give IECA the opportunity to be served with all motions and orders in the case.

Dated this 21st day of May, 2010

Respectfully Submitted,


By: 

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CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of May, 2010, the foregoing document was served via electronic filing with the Commission and served on those parties shown on the Commission's Certificate of Service accompanying such filing:



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