BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of the Alternative Rate Plan and Exemption Rules Contained in Chapter 4901:1-19 of the Ohio Administrative Code.	))))	Case No. 11-5590-GA-ORD

REPLY COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") submits these Reply Comments on Proposed Rules that would establish one possible way that consumers will be provided with natural gas commodity service in the future. The Proposed Rules address applications for alternative regulation, exempting commodity sales service from other rate provisions and exit-the-merchant-function cases. An exit-the-merchant function case, in particular, would result in the transfer of the obligation to supply default commodity sales service for Choice-eligible customers from a natural gas company to retail natural gas suppliers without the occurrence of a competitive retail auction.

On January 23, 2012, Initial Comments were filed by Columbia Gas of Ohio, Inc. ("Columbia"), Duke Energy Ohio, Inc. ("Duke"), Ohio Partners for Affordable Energy ("OPAE"), Ohio Gas Marketer Group ("OGMG") and Joint Comments were filed by The East Ohio Gas Company d/b/a Dominion East Ohio ("Dominion") and Vectren Energy Delivery of Ohio ("Vectren") collectively ("Companies"). OCC hereby replies to the initial comments filed by the other parties in this proceeding.

II. REPLY COMMENTS

In Initial Comments OCC recommended changes to the Proposed Rules in the following key areas. First, the applicants (if there are any) who are permitted to file a request for an exit of the merchant function should be limited to natural gas utilities.

Second, the Proposed Rules should be supplemented with additional due process protections and procedural safeguards to assure an appropriate review of an application to exit-the-merchant-function. Third, the natural gas companies' default commodity sales service should be an available service offering for Choice-eligible customers who prefer not to participate in Choice. Those customers who "opt-in" or make an affirmative decision to take service under a natural gas company's default commodity sales service option should be provided that alternative service option.

Finally, some of the Proposed Rules from the Staff of the Public Utilities Commission of Ohio ("PUCO" or "Commission") reflect the deletion of certain currently existing rules. OCC has proposed the re-insertion of certain of these deleted rules because there was insufficient explanation for the deletion, or because the deleted rules provide important due process protections. In many of those cases, OCC recommends restoring the Commission's existing rules.

These key areas figure prominently in OCC's Reply Comments as well.

4901:1-19-02 Purpose and Scope.

One of the key areas that OCC highlighted in its Initial Comments involved the need for the Proposed Rules to include sufficient due process protections and procedural

safeguards. The protections and safeguards are needed to provide for an appropriate review of an application to exit-the-merchant-function.[1]

The OGMG touched on this issue, but proposed no changes to the Proposed Rules. The OGMG's Initial Comments stated:

> **It is important that the proposed rules establish a discrete administrative process to Exit the Merchant Function** as three of the four largest gas utilities in Ohio have already outsourced commodity gas supplies for the Default Service to the competitive market via auctions, a step which appears to be the precursor to Exiting the Merchant Function.[2]

The Proposed Rules did not establish an administrative process for addressing an exit-the-merchant-function application.[3] OGMG's Initial Comments do not expand or modify the process in the Proposed Rules but recognized the importance of establishing an administrative process.

OCC's Initial Comments included specific recommendations for modifications to the Proposed Rules.[4] The Commission should adopt OCC's modifications to the Proposed Rules.

4901:1-19-03 Filing requirements for exemption applications filed pursuant to R.C. 4929.04.

In a competitive market a reasonably large number of sellers compete against each other for the available buyers, such that no single buyer or seller is able to influence the price or control any other aspect of the market. That is, none of the participants have significant market control. When a competitive market does not exist, customers are

[1] OCC Initial Comments at 3.

[2] OGMG Initial Comments at 5. (Emphasis added).

[3] Proposed Rules at 4901:1-19-05 (E).

[4] OCC Initial Comments at 21-22 (See 4901:1-19-06 Procedures for Applications to exit-the-merchant-function.)

susceptible to harm from over-paying for the product because the sellers seize upon the opportunity to overcharge customers or prey upon customer inactivity or decisions made by customers without adequate information or understanding. The Commission must analyze, for example, the status of the market to assure that market concentration does not reside in the control of only a handful of Marketers, so that customers have access to sufficient price and market-related information, that there are no barriers to market entry.

The OGMG filed Initial Comments that included factors to create a rebuttable presumption that competition exits. OGMG opined that if these factors were proven to exist, then this would be the basis for a rebuttable presumption that a competitive market exists. The OGMG stated:

> The OGMG believes that the Staff's [Proposed Rules] though should be augmented to establish the criteria generally accepted by the public as proof that a competitive market exists. As discussed above those factors consist of:
>
> - A significant number of customers in the service area are shopping;
> - A significant number of competitors are making service offers;
> - A diversity of retail natural gas supplies, products and services exist; and
> - The existence of no major barriers for entry for new competitors.[5]

The OGMG has not provided citation support for the factors it argues to be generally accepted by the public for establishing that a competitive market exists. In addition, there is no guidance for the criteria or how the factors would be applied in the consideration of an exemption application. Finally, this issue is too important to the public interest to allow for a rebuttable presumption. The burden of proof, for establishing the market is competitive, must be retained by the applicant.

[5] OGMG Initial Comments at 7.

For example, what constitutes proof that a significant number of customers are shopping? It must be pointed out that in the current choice programs a significant number of Choice-eligible customers are not shopping in Columbia, Vectren and Dominion's service territories. As OCC noted in its Initial Comments, approximately 705,000 Choice-eligible were not shopping and instead were served under Columbia's SSO auction in September, 2011.[6]

For Vectren, approximately 212,400 Choice-eligible customers were not shopping and still take service under the SCO auction.[7] For Dominion, approximately 136,000 Choice-eligible customers were not shopping and continue to take service under the SCO auction.[8] The number of customers who are not shopping, and still taking service under the utility's SSO or SCO auction process, must be considered when evaluating the competitiveness of the market.

An additional point is what constitutes proof that a significant number of competitors are making service offers? In addition to looking at the number of competitors making service offers, the Commission should also consider market concentration. As OCC advocated in its Initial Comments, it is important to the analysis to investigate what share of the market is held by the two to four largest Marketers to determine the market concentration when analyzing the effectiveness of competition in

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[6] http://www.puco.ohio.gov/emplibrary/files/util/utilitiersdepartmentreports/sept%202011%20gas%20choice%20enrollment.pdf.

[7] *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 07-1285-GA-EXM, Staff Report (October 1, 2010) at 1. Even assuming some migration from the SCO to Choice since October 1, 2010, a significant number of Choice-eligible customers do not participate in the Choice program.

[8] *In the Matter of the Application of The East Ohio Gas Company d/b/a Dominion East Ohio for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services of Ancillary Services,* Case No. 07-1224-GA-EXM, April 2012 Through March 2013 Standard Service Offer and Standard Choice Offer Combined Auction Information Package.

the relevant market.[9] To illustrate OCC's concern, OCC has reviewed data in the current Choice Programs for Columbia, Dominion and Vectren. In that data, OCC added the market share for the largest Choice Marketers to determine the market share that they currently have. The results of OCC's analysis indicate the following:

> For Columbia -- The four largest Marketers have 83.2% of the total choice customer market share (this does not include Direct Energy's purchase of Vectren Retail).[10]
>
> For Dominion -- The four largest Marketers have 72.66% of total choice customers market share (this does not include Direct Energy's purchase of Vectren Retail)[11]
>
> For Vectren -- The two largest Marketers have 89.6% of total choice customers market share (this does not include Direct Energy's purchase of Vectren Retail).[12]

These percentages demonstrate that a small handful of Choice Suppliers control the vast majority of the Choice Market. These percentages are even more revealing to the competitiveness of the market than the number of competitors that are making service offers.

Likewise, Vectren and Dominion's Joint Comments recognized that the PUCO, in its Proposed Rules, deleted most of the specific requirements to show effective competition.[13] The Companies; however, argue that some high level criteria are necessary. The Companies recommend modifications to the Proposed Rules that include

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[9] OCC Initial Comments at 11-12.

[10] The market share calculation was derived from the latest monthly Choice Program market share data provided by the natural gas companies. OCC discussed the use of the market share information with all three natural gas companies and was advised that the information, as used, was not confidential. Because the market share held by individual Choice Suppliers is considered proprietary the detailed information from which OCC's calculation was derived is not attached hereto.

[11] Id.

[12] Id.

[13] Dominion and Vectren Joint Comments at 6.

the following criteria for establishing whether effective competition exists: (A) The degree to which customers are able to switch between sellers, (B) The degree to which customers have readily available information about the market; and (C) The degree to which customers and suppliers are able to enter or leave the market.[14] The Companies have offered these criteria without supporting citation.

Unfortunately, none of the other parties recommended reinstating the existing rules. In fact, the OGMG stated the opposite:

> There is no set litmus test for determining a competitive market for provider of last resort commodity. Further, some of the above listed tests, particularly the HHI, though once widely used in antitrust proceedings are now out of favor.[15]

However, OGMG's comments bear no citation in support of their position, and more importantly disregards recent cases wherein the HHI test was relied upon.[16]

OCC recommended that the changes to the Proposed Rules incorporate the requirements from the existing Commission rules such as relying on the HHI, Four Firm Concentration Ratio and the Lerner Index. The HHI, Four Firm Concentration Ratio and the Lerner Index are well accepted empirical data, and add necessary specificity to the Proposed Rules, or another measure the Commission finds appropriate.[17]

Whether the relevant market is competitive should be an important consideration for the Commission when it is adjudicating a natural gas company's exemption

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[14] Dominion and Vectren Joint Comments at 6-7.

[15] OGMG Initial Comments at 4.

[16] See *Duke Energy Corporation Progress Energy, Inc. Merger,* FERC Docket No. EL-11-60-001, Order Rejecting Compliance Filing (December 14, 2011). See also, *United States of America, Department of Justice, Antitrust Division, Plaintiff v. AT&T, Inc., T-Mobile USA, Inc., et al. Defendants* In the United States District Court for the District of Columbia, Case No. 1:11-cv-01560 Complaint at Appendix A (August 31, 2011).

[17] See Telecom Bill, SB 271 which currently proposes: "Every residential customer is able to receive service from at least four competitors not affiliated with the incumbent. * * * Fewer than thirty percent of the households in the exchange subscribe to the incumbent's telephone service."

application. When there are a limited number of competitors or an oligopolistic market structure, there exists the potential for the competitors to collude or act in an anti-competitive manner.[18] In those circumstances, the harm done to customers is that suppliers will overcharge, so that customers will not have available suppliers offering a competitive price. Therefore, OCC recommends that the Commission adopt OCC's modifications to the Proposed Rules by incorporating language from the Commission's existing rule, Ohio Adm. Code 4901:1-19-04(C)(2).

OPAE proposed an objective analysis for the determination of the competitiveness of the market. OPAE stated in its Comments:

> Proposed Rule 4901:1-19-03(C)(5), before the last sentence, should include the language: "In order to establish whether the commodity sales service is subject to effective competition, the applicant must file data necessary to conduct the analyses defined under Rule 4901:1-19-01(J), (K),and (L).The applicant should also provide the information necessary to establish that at least fifty percent of publicly available monthly commodity sales service offers made by retail natural gas suppliers to willing buyers were lower in price than the monthly standard service offer of the applicant "[19]

It was OPAE's position that "[i]f the market is unable to provide customers with a lower price at least half the time, it is a clear indication that the bidding of default service through a competitive auction harnesses the marketplace in a manner that provides the greatest price advantage to customers."[20] OPAE's proposal is a reasonable way to

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[18] This issue was discussed by Ken Costello in a recent whitepaper regarding Gas Choice. See National Regulatory Research Institute Working Paper "*Gas Choice" One Big Factor Not To Overlook,* Ken Costello (June 2011).

[19] OPAE Comments at 6. (See also OPAE Comments at 4 OPAE proposed the addition of the following definition for willing buyer: "A willing buyer should be defined as a customer who signs a contract with a retail natural gas supplier or receives commodity service through a governmental aggregation authorized under Revised Code Section 4929.26 or 49[2]9.27.")

[20] OPAE Comments at 6.

analyze the competitiveness of the market at the point in time that a utility files an application to exit-the-merchant-function. But the quality of this analysis is lost once the utility's exit has occurred, and market competitiveness should be an ongoing concern for the Commission. Therefore, it is important for the Commission to retain objective measures such as the HHI test to provide the Commission with the necessary tools for assessing the market competitiveness at any time subsequent to a utility's exit.

The significance of market concentration and the competitiveness of the Choice market cannot be over-emphasized for effectively serving Ohio customers. This consideration holds true for both exemption applications and exit the merchant function applications. However, OGMG and the Companies suggest modifications with regard to establishing the competitiveness of the market only to the Proposed Rules for exemption applications -- Proposed Rule 4901:1-19-03; but no comparable recommendations were made for the Proposed Rules governing exit-the-merchant-function applications -- Proposed Rule 4901:1-19-05. Because there has not yet been a utility exit from the merchant function in Ohio it is probably even more important for the Commission to be cognizant of the status of the market if the Commission should ever be in a position to consider an exit-the-merchant- function application. Therefore, the Commission should adopt OCC's recommendations for evaluating whether an effective market exists for both exemption applications and exit-the-merchant-function applications.

Finally, Dominion and Vectren recommend a change to Proposed Rule 4901:1-19-03(C)(10). The change involves the deletion of the phrase "pursuant to section 4905.31 of the Revised Code."[21] It is not clear if special arrangements under R.C.

[21] Dominion and Vectren Joint Comments at 7-8.

4905.31 impact only distribution service. To the extent it is possible for a special arrangement under R.C. 4905.31 to impact natural gas commodity service in the future the Commission should not adopt the Companies' recommendation. Instead, the Commission should provide for the possibility that a special arrangement under R.C. 4905.31 could impact natural gas commodity service, and modify the proposed rule to read as follows with OCC's suggested modifications to the Proposed Rules which appear in capital letters:

> (10) The applicant shall provide a description of all dockets in which there are special arrangements with customers THAT IMPACTS NATURAL GAS COMMODITY SERVICE pursuant to section 4905.31 of the Revised Code, OR OTHERWISE, which customers may be affected by the application.

4901:1-19-05 Filing requirements and procedures for applications to exit-the-merchant-function.

Another one of the key areas that OCC highlighted in its Comments involved the requirement that the filing of an application to exit-the-merchant-function should only be filed by a natural gas company. That OCC Comment was also put forth in the initial Columbia Comments[22] and in the Duke Initial Comments.[23] It is conceivable that another entity, such as a competitive retail natural gas supplier, could, under the Proposed Rules, claim it can file an application to require a natural gas company to exit-the-merchant-function. Thus, the Proposed Rules should be modified to clarify that an application to

[22] Columbia Initial Comment at 4-5. ((G) Nothing in this rule shall be construed to place any obligation or requirement upon a natural gas company to exit the merchant function or to authorize the commission or any other company or entity to seek to compel or require the natural gas company to apply to exit the merchant function or actually exit the merchant function.

[23] Duke Initial Comments at 2.

exit the merchant function can only be filed by a natural gas company in accordance with the changes suggested by OCC[24] and Columbia.[25]

Dominion and Vectren include Joint Comments on 4901:1-19-05(C)(2) of the Proposed Rules. In the Joint Comments they state: "When a natural gas company exits the merchant function, it will exit the merchant function for its retail commodity sales service for Choice-eligible customers and will continue to provide default commodity sales service for its remaining customers."[26]

However, the transition from default commodity sales service to a Choice supplier, under an exit-the-merchant-function plan, is not as cut and dried as the Dominion and Vectren Joint Comment suggests. In fact earlier in Dominion and Vectren Joint Comments, this point is explained as follows:

> For example, under DEO's tariff, new choice-eligible customers are provided default commodity sales service under its Standard Service Offer rate schedule for two months before they are transitioned to the Standard Choice Offer rate schedule. These choice-eligible customers initially receive default commodity sales service because they have not yet had the opportunity to choose a supplier.[27]

In addition, Dominion and Vectren propose an additional exhibit be included in an application to exit-the-merchant-function. The Companies comment states:

> (6) The applicant shall provide details of a proposed plan to meet its continuing obligation to provide default commodity sales service.[28]

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[24] OCC Initial Comments at 2-3.

[25] Columbia Initial Comments at 4.

[26] Dominion and Vectren Joint Comments at 9.

[27] Dominion and Vectren Joint Comments at 2.

[28] Dominion and Vectren Joint Comments at 10-11.

However, the Companies do not elaborate on the extent of that obligation to provide default commodity sales service, and to which customers (Choice-eligible and/or Choice-Ineligible) that obligation is owed.

The above issue encompasses another key area that OCC highlighted in its Initial Comments.[29] That being OCC's advocacy for the natural gas companies to maintain default commodity sales service for Choice-eligible customers who prefer not to participate in Choice and make an affirmative decision to maintain service under a natural gas company's default commodity sales service option (i.e. opt-in to the default The natural gas companies' default commodity sales service). Inasmuch as Dominion and Vectren acknowledge that default commodity sales service will be provided to customers for two months, OCC's position should be considered for those customers who make the affirmative decision to retain default commodity sales service for a more extended period of time.

OCC's recommendation is consistent with the policy of the state of Ohio as it pertains to natural gas competition by requiring that transactions involve willing buyers and willing sellers,[30] and is consistent with Ohio law.[31] A default commodity sales service offer provides customers with a natural gas company alternative to Choice that is

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[29] OCC Initial Comments at 3-4, 5-6, 15-16, 29-30.

[30] R.C. 4929.02(A) It is the policy of this state to, throughout this state: * * * (7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code.

[31] R.C. 4905.72 (B) (1) states: No public utility shall request or submit, or cause to be requested or submitted, a change in the provider of natural gas service or public telecommunications service to a consumer in this state, without first obtaining, or causing to be obtained, the verified consent of the consumer in accordance with rules adopted by the public utilities commission pursuant to division (D) of this section.

consistent with the policy of the state,[32] and serves to keep the Choice offers as competitive as possible. By allowing a Choice-eligible customer the opportunity to affirmatively choose or opt-in to the default commodity sales service, there will be compliance with the requirements of R.C. 4905.72(B)(1), and state policy. OCC's recommended changes to the Proposed Rules in this regard should be adopted.

The Proposed Rules in 4901:12-19-05(C)(3) brought comments from both OGMG and jointly from Dominion and Vectren. The Proposed Rule stated: "The applicant shall provide an accounting of costs to implement the exit-the-merchant-function plan." Dominion and Vectren's Initial Comments had to do with a timing issue in that at the time of the application the actual cost of the exit would not be known, and the application should allow for the filing of an estimate of the costs.[33]

OGMG stated in Initial Comments that: "The applicant may request recovery from Choice-eligible Default Customers of its reasonable costs of exiting the merchant function.[34] These comments actually support one of the themes included in OCC's Initial Comments, that there is a need in the Proposed Rules to include due process protections. What costs can be recovered and from which customers the utility can collect such costs, should not be predetermined in the rules, but rather through an established administrative process that provides for notice, ample discovery rights and an evidentiary hearing. However, those protections were absent from the Proposed Rules.

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[32] R.C. 4929.02 (A) * * *(2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options **they elect** to meet their respective needs;(3) **Promote diversity of natural gas supplies and suppliers**, by giving consumers effective choices over the selection of those supplies and suppliers; (Emphasis added).

[33] Dominion and Vectren Joint Comments at 9-10.

[34] OGMG Initial Comments at 8.

This point is further amplified by another Dominion and Vectren comment pertaining to 4901:1-19-05(F). The Companies stated:

> Staff includes a paragraph to detail the specific procedures exclusive to exit-the-merchant-function applications. This paragraph is unnecessary. The burden of proof for any exemption application is set forth in R.C. 4929.04 and again in Rule 4901:1-19-05(C)(5) as proposed by Staff. Paragraph (F)(2) generally allows opposing parties to present evidence that application does not satisfy R.C. 4929.04 or is not just or reasonable. The ability for opposing parties to present evidence and comments would likely be set forth in a procedural entry, pursuant to proposed 4901:1-19-05(E). Therefore, the Commission should strike paragraph (F) from the proposed rules.[35]

The ability to file objections to an exit-the-merchant-function application should be part of an established process included in the Proposed Rules, and not left to be determined on a case by case basis. The Proposed Rules were virtually void of any established process, and where the Proposed Rules included some process, Dominion and Vectren want to delete it from the proposed Rules.

Therefore, Dominion and Vectren's recommended changes to the Proposed Rules in 4901:1-19-05 should not be adopted. Instead, the Commission should adopt OCC's recommended changes to the Proposed Rules that were designed to establish sufficient due process protections for consumers.

4901:1-19-08 Notice of intent to implement the exemption, exit-the-merchant-function plan or alternative rate plan or withdraw the application.

The OGMG in their Initial Comments wants to control the natural gas company's decision to withdraw its application. The OGMG states:

> Subsection (A)(2) allows a natural gas company to withdraw its Exit the Merchant Function or Alternate Rate plan if the

[35] Dominion and Vectren Joint Comments at 11.

> Commission rejects or modifies the Application. The OGMG does not object with granting the utility such an option if the Commission has changed the plan as requested in a meaningful way. Withdrawals though should not be done on a whim or a mere change of heart. Intervenors and the Staff will devote time and effort when an application is filed, and in recognition of that a withdrawal should only be exercised if the plan has been rejected or the Commission has made a "significant" modification. In particular, if a natural gas company applies for an exemption or plan which is more or less approved, but in the interim another utility files a plan which the applicant likes better, that should not be sufficient reason to grant a withdrawal.[36].

The OGMG also proposed shortening the period of time allowed for a natural gas company to withdraw an application from a month to one week.[37] It is not a productive exercise to try and determine what is -- or what is not -- a significant modification to the natural gas company's exit-the-merchant-function plan. As noted in Columbia's Initial Comments, Columbia argued that a natural gas company's decision to exit the merchant function should be completely voluntary.[38] OGMG's Comments to modify Proposed Rule 4901:1-19-08 -- and its attempts to rush a natural gas company's decision to withdraw from an exit-the-merchant function plan after a Commission order modifies the plan -- should not be adopted.

4901:1-19-09 Implementation of an exit-the-merchant-function plan.

The Proposed Rules addressing an exit-the-merchant-function must clarify what traditional gas supply functions should be retained by the natural gas company and which functions should be transitioned to a supplier. The functions being analyzed are the balancing function and the provider of last resort ("POLR") function. Balancing is the

[36] OGMG Initial Comments at 8.

[37] OGMG Initial Comments at 9.

[38] Columbia Initial Comments at 4.

natural gas company's process for maintaining system equilibrium between the total scheduled natural gas deliveries (supply) and the total natural gas consumption (demand). POLR is the provider of natural gas service that is required to serve any customer requesting service in accordance with the Commission's consumer protection rules and statutes. The POLR provides service to customers that do not choose a competitive retail natural gas supplier and customers to whom a competitive retail natural gas supplier will not or cannot provide service. These issues do not garner consensus among the natural gas companies who have filed comments.

The Proposed Rules require natural gas companies to retain the balancing function,[39] yet according to Dominion's and Vectren's Joint Comment, Vectren has already surrendered the balancing function to suppliers.[40] Duke argues that it contracts for off-system balancing operations.[41] However, Columbia supports the Proposed Rule as drafted -- that the balancing function should be retained by the natural gas company.[42]

In regards to the POLR function, the Proposed Rules imply that the suppliers will assume responsibility for the POLR function.[43] Dominion and Vectren are concerned that the natural gas company should use best efforts to provide the POLR function.[44] Columbia does not offer any recommended changes to this rule.[45]

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[39] Proposed Rules at 4901:1-19-08 (B).

[40] Dominion and Vectren Joint Comments at 18-19.

[41] Duke Initial Comments at 4.

[42] Columbia Initial Comments at 8.

[43] Proposed Rules at 4901:1-19-09 (B).

[44] Dominion and Vectren Joint Comments at 18-19.

[45] Columbia Initial Comments at 8.

As OCC recommended in Initial Comments, the responsibility for balancing should not be segregated from the POLR obligation in the Proposed Rules.[46] The natural gas company should solely be responsible for both of these important functions. To separate these functions could be more expensive because the natural gas company may be in a position to efficiently overlap the use of capacity for accomplishing the balancing and POLR functions. To separate these functions would require each entity to hold the necessary capacity to accomplish each of these functions independently thus potentially duplicating the resources and the costs to consumers.

III. CONCLUSION

For the reasons in this Reply and in OCC's Initial Comments, the PUCO should protect Ohioans and adopt OCC's recommendations in the public interest.

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[46] OCC Initial Comments at 28.

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Reply Comments have been served on the persons stated below via electronic service this 23rd day of February, 2012.

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