

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Motion to Modify    )  
the December 2, 2009 Opinion and Order    )    Case No. 12-2637-GA-EXM  
and the September 7, 2011 Second Opinion    )  
and Order in Case No. 08-1344-GA-EXM    )

**DIRECT TESTIMONY  
OF  
BRUCE M. HAYES**

**ON BEHALF OF  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

10 West Broad St., 18th Floor  
Columbus, Ohio 43215-3485

*November 27, 2012*

## **TABLE OF CONTENTS**

	<b><u>PAGE</u></b>
I. INTRODUCTION .....	1
II. PURPOSE OF TESTIMONY .....	5
III. SUPPORT FOR THE AMENDED STIPULATION AND RECOMMENDATIONS. ....	8
IV. CONCLUSION .....	18

### **Attachments:**

BMH Attachment 1

1    **I.       INTRODUCTION**

2

3    ***Q1.    PLEASE STATE YOUR NAME, ADDRESS AND POSITION.***

4    ***A1.***    My name is Bruce M. Hayes. My business address is 10 West Broad Street, Suite  
5           1800, Columbus, Ohio 43215-3485. I am employed by the Office of the Ohio  
6           Consumers' Counsel ("OCC" or "Consumers' Counsel") as a Principal  
7           Regulatory Analyst.

8

9    ***Q2.    WOULD YOU PLEASE BRIEFLY SUMMARIZE YOUR EDUCATIONAL***  
10   ***AND PROFESSIONAL EXPERIENCE?***

11   ***A2.***    I graduated from the University of Kentucky in 1973 with a Bachelor of Science  
12           in Mechanical Engineering. I joined Aetna Life and Casualty in 1973 and held  
13           various positions related to Loss Control and Safety Engineering. In 1979, I  
14           joined Columbia Gas of Kentucky ("CKY") as an Industrial Sales Engineer. I  
15           transferred to Columbia Gas of Ohio ("COH") in 1986 and held a variety of  
16           positions in economic development, marketing and sales. During my time at the  
17           Columbia companies, I was actively involved in the development and  
18           implementation of the industrial and commercial gas transportation programs. In  
19           the early 1980's, I was involved in expanding CKY's transportation program from  
20           a single self-help customer to over fifty industrial and large commercial  
21           customers by initially establishing special contract interstate transportation  
22           programs like the Fuel Oil Displacement and Special Marketing Programs.

23

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PUCO Case No. 12-2637-GA-EXM*

1 I was also involved in a customer issue regarding intrastate transportation and  
2 valuation of gas. We modified our methodology so that valuation of gas occurred  
3 on British Thermal units (“Btu”) value rather than volume. This led to changes in  
4 transportation policies and billing in all the states in the Columbia Gas  
5 Distribution System.

6  
7 In the 1990’s I managed the COH rate flexing or rate discounting program for  
8 industrial customers, arranged for long term capacity release to large customers  
9 and arranged discounts on Columbia Gas Transmission interstate pipelines. I had  
10 input to the transportation and gas supply departments on issues such as  
11 transportation contracts, curtailment, enhanced banking arrangements and  
12 electronic measurement for large volume customers.

13  
14 In 2002, I joined OCC as a Senior Regulatory Analyst and was promoted to  
15 Principal Regulatory Analyst in 2010. I represent OCC on the gas committee of  
16 The National Association of State Utility Consumer Advocates and have served  
17 as an Executive Committee member with the North American Energy Standards  
18 Board. I have participated in various Ohio Gas Cost Recovery (“GCR”) case  
19 work and Management/Performance (“M/P”) Audits beginning with my Senior  
20 Staff Engineer position with Columbia Gas of Ohio and as an analyst for the  
21 OCC. I have taken part in a number of rate cases and accelerated infrastructure  
22 replacement and recovery cases associated with the four largest investor owned  
23 gas companies in Ohio. I have also participated in number of external working

1 groups related to gas transportation programs and working groups related to gas  
2 distribution companies moving toward exiting the merchant function.

3

4 **Q3. WHAT ARE YOUR RESPONSIBILITIES AS A PRINCIPAL REGULATORY**  
5 **ANALYST?**

6 **A3.** My duties include research, investigation and analysis of gas filings at the state  
7 and federal levels, participation in special projects and assistance in policy  
8 development and implementation. I am also the assigned leader of the gas team  
9 since June 1, 2008, and coordinate the activities of the members of the agency's  
10 gas team.

11

12 **Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY OR TESTIFIED**  
13 **BEFORE THIS COMMISSION?**

14 **A4.** Yes. I have testified in the following cases before the Public Utilities  
15 Commission of Ohio ("PUCO" or "Commission"):

- 16 1. *Dominion East Ohio Gas Company*, Case No. 05-219-GA-GCR;
- 17 2. *Columbia Gas of Ohio, Inc.*, Case Nos. 04-221-GA-GCR and 05-221-GA-  
18 GCR;
- 19 3. *Columbia Gas of Ohio, Inc.*, Case Nos. 07-478-GA-UNC and 07-237-GA-  
20 UNC;
- 21 4. *Columbia Gas of Ohio, Inc.*, Case No. 08-1344-GA-EXM;
- 22 5. *Dominion East Ohio Gas Company*, Case No. 12-1842-GA-EXM; and

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PUCO Case No. 12-2637-GA-EXM*

1           6.       I also filed written testimony in *Duke Energy Ohio, Inc.*, Case Nos. 07-  
2                   589-GA-AIR, 07-590-GA-ALT and 07-591-GA-AAM; and

3           7.       *Dominion East Ohio Gas Company*, Case No. 11-2401-GA-ALT and 08-  
4                   169-GA-ALT, but did not testify at those two hearings.

5  
6   ***Q5.   HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE ANY***  
7           ***OTHER STATE REGULATORY COMMISSION?***

8   ***A5.***   Yes. I submitted testimony on behalf of Columbia Gas of Kentucky (“CKY”),  
9           before the Kentucky Public Service Commission in CKY’s Rate Case No. 8281.<sup>1</sup>  
10          The testimony was related to a long-term decrease in the forecasted throughput  
11          for CKY.

12  
13   ***Q6.   WHAT DOCUMENTS HAVE YOU REVIEWED IN THE PREPARATION OF***  
14           ***YOUR TESTIMONY?***

15   ***A6.***   I have reviewed the Joint Motion to Modify Orders Granting Exemption and  
16          Motion for Bifurcation of the Capacity and Balancing Issues on an Expedited  
17          Basis and the Memorandum in Support. This Joint Motion was filed on October  
18          4, 2012, by Columbia Gas of Ohio, Inc. (“Columbia” or “the Company”), the  
19          PUCO Staff (“Staff”), Ohio Gas Marketers Group (“OGMG”), Retail Energy  
20          Supply Association (“RESA”) and Dominion Retail, Inc. (collectively the “Joint  
21          Movants”). They filed to modify the December 2, 2009 Opinion and Order and  
22          the September 7, 2011 Opinion and Order both in Case No. 08-1344-GA-EXM.

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<sup>1</sup> *In the Matter of An Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Case No. 8281, Order (December 30, 1981).

1       The Joint Movants filed a Stipulation with their Joint Motion, on October 4, 2012.  
2       I also reviewed the Amended Stipulation and Recommendation (“Amended  
3       Stipulation” or “Settlement”) that the Joint Movants and the OCC signed on  
4       November 27, 2012, the testimony that Columbia, the OGMG and the Retail  
5       Energy Supplier Association filed, as well as, other documents filed in Case No.  
6       12-2637-GA-EXM. The Joint Movants filed the Amended Stipulation with their  
7       Amended Motion, on November 27, 2012. I have also reviewed related  
8       documents and Opinion and Orders from other proceedings, including the  
9       Company’s previous exemption case, Case No. 08-1344-GA-EXM.

10

11    **II.     PURPOSE OF TESTIMONY**

12

13    ***Q7.     WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***  
14       ***PROCEEDING?***

15    ***A7.***    The purpose of my testimony is to support the Amended Stipulation that  
16       Columbia, the PUCO Staff, OCC, OGMG, RESA and Dominion Retail signed.  
17       The Amended Stipulation meets the PUCO’s three-part test for adopting partial  
18       settlements.

19

20    ***Q8.     PLEASE PROVIDE AN OVERVIEW OF THE AMENDED STIPULATION.***

21    ***A8.***    The Amended Stipulation addresses a number of important issues for Ohio natural  
22       gas customers and the natural gas suppliers that provide them service. The  
23       Amended Stipulation addresses whether or not Columbia will exit the merchant

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PUCO Case No. 12-2637-GA-EXM*

1 function for non-residential customers.<sup>2</sup> The issue in an exit from the merchant  
2 function or “Exit” proceeding involves whether the PUCO will require a natural  
3 gas utility to continue to provide customers with their historic default option to  
4 purchase natural gas through the utility -- in this instance -- through the auction-  
5 based Standard Choice Offer (“SCO”). Under the Amended Stipulation, there  
6 could be a non-residential exit from the merchant function if participation levels  
7 in the Choice program reach seventy percent for three consecutive months.

8  
9 The Amended Stipulation contains additional protections for consumers as to  
10 whether or not Columbia could exit its merchant function for their natural gas  
11 service. For residential consumers, Columbia would not be permitted to file an  
12 Application to exit the merchant function before the following events occur: the  
13 residential customer Choice participation level reaches seventy percent for three  
14 consecutive months; an exit of the merchant function for non-residential  
15 customers has occurred; and at least 22 months have elapsed since the time of the  
16 non-residential exit.

17  
18 Additionally, the Amended Stipulation requires that Columbia’s program of  
19 shadow-billing will continue. Shadow-billing provides important information  
20 about whether consumers save money or lose money compared to the standard

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<sup>2</sup> The Amended Stipulation contains a process for whether or not Columbia will exit the merchant function for non-residential customers, OCC is not a Signatory Party for purposes of any provision in the Amended Stipulation regarding a non-residential exit..



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PUCO Case No. 12-2637-GA-EXM*

1 offer that is available when the utility is providing the merchant function for  
2 supplying natural gas.

3  
4 Other significant issues benefiting consumers in the Amended Stipulation include,  
5 but are not limited to: the off-system sales and capacity release revenue sharing  
6 mechanism provides additional benefits for customers which will reduce the rate  
7 customers pay; consumers are protected by avoiding the potential for Choice  
8 customers to be charged twice for the balancing service fee which could save a  
9 typical customer approximately \$27.00 per year; and the reduction in the security  
10 deposit charged to Standard Choice Customers could save a typical customer  
11 \$3.40 per year.

12  
13 ***Q9. PLEASE SUMMARIZE YOUR RECOMMENDATIONS?***

14 ***A9.*** I recommend that the PUCO adopt the Amended Stipulation. (All my testimony  
15 and recommendations are subject to the first footnote in the Amended Stipulation  
16 that explains the parts where OCC didn't join the Amended Stipulation.) The  
17 Amended Stipulation meets the standards of the PUCO's three-part test, as I will  
18 explain below.

19  
20 Also, the Amended Stipulation emphasizes the importance of making decisions  
21 based on information, when the public is affected. If there is a non-residential  
22 exit from the merchant function someday, there is a requirement in the Amended  
23 Stipulation to obtain data from the results of that experience. That data will be

considered, among other things, in the event that the preconditions are met for an Application to exit the merchant function for residential service and the utility, Columbia, decides to apply for the exit. Such information should be properly collected and analyzed.

**III. SUPPORT FOR THE AMENDED STIPULATION AND RECOMMENDATIONS.**

***Q10. WHY IS THE NOVEMBER 27TH STIPULATION CALLED AN AMENDED STIPULATION?***

***A10.*** On October 4, 2012, a Joint Stipulation and Recommendation (“October 4 Stipulation”) was filed with the PUCO. Signatory Parties to the October 4 Stipulation included Columbia, PUCO Staff, OGMG, RESA and Dominion Retail, but not OCC. The Amended Stipulation, that OCC and the Joint Movants signed, supersedes the October 4<sup>th</sup> Stipulation.

***Q11. WHY DO YOU RECOMMEND THE PUCO APPROVE THE AMENDED STIPULATION IN THIS CASE?***

***A11.*** The Commission relies upon a three-prong standard when evaluating whether to approve a Stipulation. The Amended Stipulation, unlike the October 4<sup>th</sup> Stipulation, meets this standard.

1    ***Q12.  WHAT ARE THE COMPONENTS OF THE PUCO's THREE-PRONG***  
2           ***STANDARD?***

3    ***A12.***   The components are

- 4           1.       Is the settlement a product of serious bargaining among capable,  
5                   knowledgeable parties?
- 6           2.       Does the settlement, as a package, benefit customers and the  
7                   public interest?
- 8           3.       Does the settlement package violate any important regulatory principle or  
9                   practice?

10

11   ***Q13.  IN YOUR OPINION DOES THE AMENDED STIPULATION IN THIS CASE***  
12           ***ADHERE TO THE THREE COMPONENTS THAT THE COMMISSION***  
13           ***ROUTINELY CONSIDERS WHEN DECIDING WHETHER TO ADOPT A***  
14           ***STIPULATION?***

15   ***A13.***   Yes.

16

17   ***Q14.  IN YOUR OPINION IS THE AMENDED STIPULATION A PRODUCT OF***  
18           ***SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE***  
19           ***PARTIES?***

20   ***A14.***   Yes. The Amended Stipulation is a product of serious bargaining. Attached to my  
21           testimony is a comparison document that shows how the Amended Stipulation is  
22           improved from the October 4th Stipulation. (BMH-Attachment 1.) The changes

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PUCO Case No. 12-2637-GA-EXM*

1 are numerous. And there are a number of significant changes for consumers, in  
2 addition to the changes I have described above and some I will describe later in  
3 this testimony. These changes are a result of serious bargaining. In this regard,  
4 the addition of OCC as a stipulating party provides much more diversity in the  
5 Amended Stipulation than the October 4 Stipulation. OCC adds the diversity of  
6 the state-wide advocate for Ohio residential consumers.

7

8 In this regard, OCC appreciates the PUCO Staff and other Signatory Parties for  
9 their efforts at compromise that resulted in this Amended Stipulation.

10

11 Regarding the other element of the first prong, each of the signatory parties has a  
12 history of active participation in PUCO proceedings and is knowledgeable and  
13 capable on utility issues.

14

15 ***Q15. IN YOUR OPINION, DOES THE AMENDED STIPULATION, AS A***  
16 ***PACKAGE, BENEFIT CUSTOMERS AND THE PUBLIC INTEREST?***

17 ***A15.*** Yes. As explained in my testimony the Amended Stipulation benefits customers  
18 and is in the public interest in important ways. If Columbia decides to file for a  
19 residential Exit (if the preconditions are met), the Amended Stipulation would  
20 require a full evidentiary hearing. for consideration of any potential future  
21 residential exit. The Amended Stipulation also provides OCC and others with the

1 opportunity to challenge Columbia's Application to Exit for residential customers,  
2 if Columbia were to file such an Application.<sup>3</sup>

3  
4 The Amended Stipulation also requires Columbia to provide to OCC, and others,  
5 the monthly shadow-billing information. The shadow-billing information is an  
6 important tool in the analysis of bill impacts of an exit from the merchant function  
7 on non-residential customers if an Exit for those customers were to occur.

8  
9 ***Q16. WHAT ARE SOME OF THE IMPORTANT MODIFICATIONS MADE TO***  
10 ***THE OCTOBER 4 STIPULATION THAT ARE INCLUDED IN THE***  
11 ***AMENDED STIPULATION THAT BENEFIT RESIDENTIAL CUSTOMERS***  
12 ***AND ARE IN THE PUBLIC INTEREST?***

13 ***A16.*** First, the Stipulation proposes a change to the manner that balancing services are  
14 charged to customers.<sup>4</sup> Instead of Columbia billing the Marketers for the  
15 balancing service charge, the Company will now bill the customers directly. The  
16 Amended Stipulation provides a modification intended to protect consumers from  
17 potentially being billed twice for balancing service, once from Marketers as part  
18 of an existing bi-lateral Choice contract or through a governmental aggregation  
19 contract charged by the Marketer, and then again, by Columbia under the new  
20 billing arrangement. In the event that a typical customer was in fact billed for the

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<sup>3</sup> Amended Stipulation at ¶32 (November 27, 2012).

<sup>4</sup> Amended Stipulation at ¶10. (November 27, 2012).

balancing service twice, the duplicate charge could cost a typical customer approximately \$27.00 per year.<sup>5</sup>

Another modification provided by the Amended Stipulation is made to the provision that requires Standard Choice Offer Marketers to post an additional cash security deposit based upon the tranches won through the SCO auction.<sup>6</sup> OCC has not signed the Amended Stipulation with regard to this provision (see Amended Stipulation footnote 1), and disagrees with the rationale supporting the fee; however, OCC has agreed not to litigate the issue based upon the totality of the settlement package that includes this fee being reduced from \$0.10 to \$0.06 per Mcf.<sup>7</sup> The reduction in the deposit amount can save the average SCO customer approximately \$3.40 per year,<sup>8</sup> and could save all SCO customers \$3.2 million dollars per year in retail price adder costs.<sup>9</sup>

The Amended Stipulation also modifies the Off-System Sales and Capacity Release Revenues sharing mechanism from the October 4<sup>th</sup> Stipulation. Columbia's retained revenue is now capped annually at \$14 million with the cumulative 5-year cap being reduced from \$60 million to \$55 million, to the

---

<sup>5</sup> 85 Mcf per year x \$0.32 = \$27.20.

<sup>6</sup> Amended Stipulation at ¶9 (November 27, 2012).

<sup>7</sup> Amended Stipulation at ¶9 (November 27, 2012).

<sup>8</sup> Based on average usage of 85 Mcf per year x \$0.04 per mcf = \$3.40.

<sup>9</sup> For each \$0.01 of SCO Security Deposit charged to suppliers, it has been estimated to cost such Suppliers approximately \$800,000; therefore, the \$0.04 reduction in the SCO Security Deposit will save SCO Suppliers approximately \$3.2 million.

1 benefit of customers.<sup>10</sup> The modification also provides customers with an  
2 additional \$2.5 million in revenues over 5 years that otherwise Columbia would  
3 have retained.<sup>11</sup>  
4

5 ***Q17. DOES THE AMENDED STIPULATION ALSO IMPROVE LANGUAGE***  
6 ***PERTAINING TO EXIT THE MERCHANT FUNCTION PROVISIONS?***

7 ***A17.*** Yes. The October 4 Stipulation included a provision that stated: “[t]he Parties  
8 agree that Columbia will exit the merchant function if participation in Columbia’s  
9 Choice program meets specified thresholds.”<sup>12</sup> That sentence was removed in the  
10 Amended Stipulation. In that regard, the Amended Stipulation is more protective  
11 of customers where it specifically states (now without any agreement that there  
12 will be an Exit): “[d]uring the five-year term of this Amended Stipulation,  
13 Columbia will not exit the merchant function for Non-Residential Customers, and  
14 will not file an Application to exit the merchant function for Residential  
15 Customers, unless and until participation in Columbia’s CHOICE program meets  
16 the specified thresholds in this Amended Stipulation and other conditions in this  
17 Amended Stipulation are met.”<sup>13</sup> The Amended Stipulation also provides that  
18 “only” Columbia may file an Application for an Exit.<sup>14</sup>  
19

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<sup>10</sup> Amended Stipulation at ¶18 (November 27, 2012).

<sup>11</sup> Amended Stipulation at ¶18 (November 27, 2012). (First One Million Dollars of OSS/CR Revenue is split \$500,000 to Customers/\$500,000 to Columbia, therefore \$500,000 x 5 years = \$2.5 Million).

<sup>12</sup> October 4 Stipulation at 5.

<sup>13</sup> Amended Stipulation at ¶19 (November 27, 2012).

<sup>14</sup> Amended Stipulation at ¶31 (November 27, 2012).

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PUCO Case No. 12-2637-GA-EXM*

1 Furthermore, there must be at least two winter heating seasons of data compiled  
2 after a non-residential Exit prior to seeking a residential Exit.<sup>15</sup> Also, if all  
3 preconditions are met, and Columbia decides to propose an exit of the merchant  
4 function for residential customers, then Columbia would have to file an  
5 Application to the Commission to seek an exit from its merchant function.<sup>16</sup>  
6 There would have to be six local public hearings,<sup>17</sup> an evidentiary hearing,<sup>18</sup> and  
7 the PUCO would have to decide to approve the Application.<sup>19</sup> Finally, OCC has  
8 reserved the right for it and others to challenge any Application filed by Columbia  
9 with the Commission seeking approval for an exit from the merchant function for  
10 residential customers.<sup>20</sup>

11  
12 In addition, Columbia commits to continue providing monthly Choice program  
13 status reports, and to provide parties the opportunity to challenge the Choice  
14 participation levels reported by Columbia.

15  
16 Finally, the Stipulation requires Columbia to continue its shadow-bill program  
17 after a non-residential Exit. This is an important tool for studying the impacts of  
18 an Exit on the non-residential customers and that information might be helpful in  
19 assessing whether an Exit is positive or negative for customers in general.

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<sup>15</sup> Amended Stipulation at ¶31 (November 27, 2012).

<sup>16</sup> Amended Stipulation at ¶31 (November 27, 2012).

<sup>17</sup> Amended Stipulation at ¶32 (November 27, 2012).

<sup>18</sup> Amended Stipulation at ¶32 (November 27, 2012).

<sup>19</sup> Amended Stipulation at ¶32 (November 27, 2012).

<sup>20</sup> Amended Stipulation at ¶31 (November 27, 2012).



1    ***Q18. DOES THE AMENDED STIPULATION CLARIFY WHEN THE MONTHLY***  
2    ***VARIABLE RATE PROGRAM MAY BE IMPLEMENTED?***

3    ***A18.*** Yes, the Amended Stipulation improves the language pertaining to the MVR. The  
4    MVR program cannot begin until after an exit from the merchant function for a  
5    particular class has occurred.<sup>21</sup> This is positive for customers because under the  
6    Amended Stipulation, customers of a particular class will not be assigned to a  
7    Choice supplier through the Monthly Variable Rate until such time as there has  
8    been an Exit for that particular customer class.

9  
10   ***Q19. IN YOUR OPINION, DOES THE AMENDED STIPULATION PACKAGE***  
11   ***VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?***

12   ***A19.*** No it does not. Counsel informs me that a key provision in state policy is  
13   reasonably priced natural gas service for consumers, under Ohio Revised Code  
14   4929.02(A)(1). Having an auction-based standard choice offer can serve that  
15   regulatory principle. And the Amended Stipulation helps in that regard by  
16   establishing a very deliberate process, with safeguards for consumers, for any  
17   consideration of eliminating the standard offer (through an Exit). The standard  
18   offer has been very successful for saving money for Ohio consumers.

19  
20   In addition, Counsel advises me that another key component of state policy is the  
21   promotion of diversity of natural gas supplies and suppliers, by giving consumers  
22   effective choices over the selection of those supplies and suppliers under Ohio

---

<sup>21</sup> Amended Stipulation at ¶37 (November 27, 2012).

1 Revised Code 4929.02(A)(3). The Standard Choice Offer has provided diversity  
2 of natural gas supplies and the Amended Stipulation serves this regulatory  
3 principle by protecting this standard offer for a period of time, and establishing  
4 due process for future consideration.

5

6 ***Q20. DOES THE AMENDED STIPULATION REQUIRE THE CONTINUATION***  
7 ***OF THE PRACTICE OF COLUMBIA'S SHADOW-BILLING PROGRAM?***

8 ***A20.*** Yes. The Stipulation requires that Columbia shall continue the shadow-billing  
9 program for both Choice non-residential and residential customers. Shadow-  
10 billing is a good regulatory check that can provide information to protect  
11 consumers as explained below. I additionally note, with regard to the second  
12 prong of the settlement test, that shadow billing does benefit customers and the  
13 public interest because of the information it provides.

14

15 ***Q21. PLEASE DESCRIBE THE COLUMBIA SHADOW-BILLING PROGRAM***  
16 ***AND THE INFORMATION THE PROGRAM PROVIDES?***

17 ***A21.*** The Company provided the following description of its Shadow Billing Program  
18 in its response to OCC Interrogatory No. 135: "Columbia's Choice Program  
19 Shadow Bill compares the Choice customer's monthly billed gas costs based on  
20 the dollar value provided by the Supplier to what the customer's billed gas costs  
21 would have been based on the applicable Columbia rate (GCR, SSO or SCO) for  
22 the applicable billing cycle, including applicable taxes and riders."<sup>22</sup> The

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<sup>22</sup> Response to OCC Interrogatory No. 135 Respondent: T.C. Heckathorn.

1 computer program is run for all Choice customers once a month. The savings or  
2 losses for customers are aggregated for that month. A cumulative total has been  
3 maintained since the beginning of the Columbia Choice program in April of 1997.

4  
5 ***Q22. DOES THE AMENDED STIPULATION REQUIRE ANY STUDIES IN***  
6 ***THE EVENT OF A NON-RESIDENTIAL EXIT?***

7 **A22.** Yes.

8  
9 ***Q23. DOES THE AMENDED STIPULATION PROVIDE GUIDANCE ON WHAT***  
10 ***SHOULD BE STUDIED?***

11 **A23.** No. The Amended Stipulation states:

12 Following the exit for Non-Residential Customers, Columbia will  
13 gather information from those customers and the SCO Suppliers  
14 regarding the impacts on customers from that exit, for use in  
15 evaluating any subsequent Application by Columbia to exit the  
16 merchant function with regard to CHOICE-Eligible Residential  
17 Customers. Columbia will then share that information with its  
18 stakeholders. The Parties recommend that the Commission instruct  
19 its Staff to meet with Columbia and its stakeholders, following  
20 Commission approval of this Amended Stipulation, to discuss and  
21 determine the parameters of this study of the Non-Residential exit  
22 from the merchant function.<sup>23</sup>

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<sup>23</sup> Amended Stipulation at ¶37 (November 27, 2012).

1           The Amended Stipulation provides for a study following a residential exit, and the  
2           parameters of the study will be considered in the Stakeholder process.

3

4   **IV.   CONCLUSION**

5

6   ***Q25.   WHAT IS YOUR RECOMMENDATION?***

7   ***A25.***   The Commission should approve the Amended Stipulation for the reasons  
8           explained in my testimony.

9

10   ***Q26.   DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?***

11   ***A26.***   Yes. However, I reserve the right to incorporate new information that may  
12           subsequently become available.

### **CERTIFICATE OF SERVICE**

I hereby certified that a true copy of the foregoing Prepared Testimony of Bruce M. Hayes, on behalf of the Office of the Ohio Consumers' Counsel, was served via electronic service to the persons listed below, on this 27th day of November, 2012.

/s/ Larry S. Sauer

Larry S. Sauer

Assistant Consumers' Counsel

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JOINT EXHIBIT NO. 24

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Joint Motion to )  
Modify the December 2, 2009 Opinion )  
and Order and the September 7, 2011 ) Case No. 12-2637-GA-EXM  
Second Opinion and Order in Case No. )  
08-1344-GA-EXM )

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**AMENDED ~~JOINT~~ STIPULATION**  
**AND RECOMMENDATION**

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**INTRODUCTION**

1. ——— Rule 4901-1-30, Ohio Administrative Code (“OAC”), provides that any two or more parties to a proceeding may enter into a written or oral stipulation concerning the issues presented in any proceeding before the Public Utilities Commission of Ohio (“Commission” or “PUCO”). ~~Commission proceeding.~~ Pursuant to Rule 4901-1-10(C), OAC, the Staff of the Commission (“Staff”) is considered a party for the purposes of entering into a stipulation under Rule 4901-1-30, OAC.

2. ——— Pursuant to Rule 4901-1-30, OAC, Columbia Gas of Ohio, Inc. (“Columbia”); Staff; the Office of the Ohio Consumers' Counsel (“OCC”)<sup>1</sup>; Ohio

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<sup>1</sup> OCC joins only those provisions of the Amended Stipulation that relate to residential customers (so, for example, OCC is not joining this Amended Stipulation regarding a non-residential exit of the merchant function). Additionally, OCC does not join the provisions of this Amended Stipulation that relate to SCO Supplier Security Requirements (e.g. the \$0.06/Mcf SCO Supplier security deposit fee). OCC disagrees with the rationale supporting the security deposit fee, but will not litigate this issue given the totality of this Amended Stipulation. OCC’s decision not to litigate this issue will not be used as precedent against OCC in other cases. In addition, the Amended Stipulation does not limit OCC’s future advocacy with regard to the Monthly Variable Rate provision and/or the Billing Enhancements provision, following the approval of this Amended Stipulation and consistent with its terms.

Gas Marketers Group<sup>2</sup>; Retail Energy Supply Association<sup>3</sup>; and Dominion Retail, Inc. (hereinafter “the Parties” or “the Signatory Parties”) enter into and request the ~~Public Utilities Commission of Ohio (“Commission”)~~ to accept the following ~~Amended Joint~~ Stipulation and Recommendation (“~~Amended~~ ~~(also referred to as “the Stipulation” or “Second Agreement”)~~”) in the above-captioned proceeding.

This Stipulation, which shall be designated as Joint Exhibit ~~21~~, is supported by adequate data and information; represents a just and reasonable resolution of certain issues in this proceeding; violates no regulatory principle or precedent; is in the public interest; and is the product of lengthy, serious bargaining among knowledgeable and capable parties. ~~While the Commission is not bound to adopt this Amended Stipulation, and parties that are representative of the many interests and stakeholders in a cooperative process undertaken by the Signatory Parties. While this Stipulation is not binding on the Commission,~~ where, as here, it is sponsored by Parties representing a significant cross section of interests, including the Commission's Staff, it is entitled to careful consideration by the Commission. Except for enforcement purposes ~~and except as otherwise specified herein,~~ neither this ~~Amended~~ Stipulation nor ~~any Commission ruling approving the Amended Stipulation, nor~~ the information and data contained herein or attached, shall be cited ~~or used~~ as precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves this ~~Amended Stipulation. The Signatory Parties’ agreement to this Amended Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Amended Stipulation. Except as otherwise specified herein, no specific element or item con-~~

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<sup>2</sup> The Ohio Gas Marketers Group for purposes of this proceeding includes: Constellation NewEnergy, Inc., Direct Energy Services, LLC, Direct Energy Business, LLC, Interstate Gas Supply, Inc., Integrys Energy, Inc., Just Energy Group, Inc. and SouthStar Energy LLC.

<sup>3</sup> RESA’s members include: Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; ~~Hess Corporation~~; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.



tained in or supporting this Amended Stipulation shall be construed or applied to attribute the results set forth in this Amended Stipulation as the results that any Signatory Party might support or seek, but for this Amended Stipulation, in these proceedings or in any other proceeding.~~Stipulation.~~

3. \_\_\_\_\_

4. \_\_\_\_\_ The Signatory Parties stipulate and recommend that the Commission issue such order as is necessary to modify the December 2, 2009 Opinion and Order and the September 7, 2011 Second Opinion and Order in Case No. 08-1344-GA-EXM (the "Exemption Orders") in the manner described hereinafter, including the described modifications from the October 7, 2009 Stipulation and Recommendation ("2009 Stipulation") and Program Outline in that same docket. The Signatory Parties agree that no additional modification from the Exemption Orders or Program Outline is intended by this Amended Stipulation, except as expressly stated herein and/or reflected in the revised Program Outline.

#### CHANGES FROM THE 2009 STIPULATION

##### *Term*

5. \_\_\_\_\_ The Parties agree that the Amended Stipulation~~Second Agreement~~ shall commence on April 1, 2013, and shall have a term extending until March 31, 2018. After the expiration of the term, the provisions of this Amended Stipulation~~Second Agreement~~ including the then-approved method of supplying commodity for standard service offer and Standard CHOICE Offer ("SCO") service shall continue until modified by the Commission unless otherwise stated herein. All Parties reserve the right to propose changes to the Agreement to become effective after the end of the term. However, the Parties shall not seek modifications to this Amended Stipulation that would become effective during the term of this Amended Stipulation.

##### *Off-System Sales and Capacity Release ("OSS/CR") Sharing Mechanism*

6. \_\_\_\_\_ The OSS/CR Program's prior revenue sharing mechanism (page 14 of the 08-1344-GA-EXM Stipulation and Recommendation dated October 7, 2009) will continue for a five-year term (April 1, 2013 through March 31, 2018), except as modified and described herein.

## CHANGES TO THE PROGRAM OUTLINE

7. ——— The Parties will submit to the Commission for its approval an amended Program Outline. The significant modifications to the Program Outline are described below.

### *SCO Auction Goals, Objectives, Timing, and Calendar*

8. ——— This section will be revised to reflect that the SCO has been approved and continues unless discontinued by Commission action on (by a Commission decision to authorize)~~or by~~ Columbia's exit from the merchant function.

### *SCO Supplier Security Requirements*

9. ——— In addition to the Letter of Credit, SCO Suppliers will be required to provide Columbia with a cash deposit in the amount of ~~sixteen~~ cents per Mcf multiplied by the initial estimated annual delivery requirements for the SCO Program Year of the tranches won by that SCO Supplier.<sup>4</sup> This security will provide a liquid account to meet supply default expenses incurred by Columbia other than compensation to the non-defaulting SCO Suppliers. These deposits and interest earned during the program year will be accounted for through establishment of a regulatory liability in Account 254, Other Regulatory Liabilities. Interest will be computed monthly based on average account balance for each month and the applicable NiSource Inc. and Subsidiaries Money Pool Rate. Any funds remaining at the end of each Program Year will be transferred to customers through the Choice/SSO/SCO Reconciliation Rider ("CSRR") commencing June 2014, for the 2013 Program Year.<sup>5</sup>

### *SCO Supplier Payments*

10. ——— The Balancing Fee will be reduced from \$.32/Mcf to \$.27/Mcf. The Balancing Fee will also be charged directly to customers instead of being

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<sup>4</sup> Footnote 1 contains OCC's position on this section.

<sup>5</sup> The 2013 Program Year means April 1, 2013 through March 31, 2014. There are five such Program Years comprising the 5-Year term of the Amended Stipulation – April 1, 2013 through March 31, 2018.

charged to Suppliers. After April 1, 2013, no CHOICE Supplier<sup>6</sup> may charge retail CHOICE customers a rate that is designed or intended to provide compensation for the Balancing Fee that Columbia charged any suppliers prior to April 1, 2013, so as to avoid charging any customers twice for the same service.

### *Columbia Capacity Contracts*

11. ——— Columbia's firm city gate interstate and intrastate pipeline transportation and storage capacity will be adjusted to 1,963,178 Dth/day on April 1, 2013, and 1,940,214 Dth/day on November 1, 2013.

### *Capacity Allocation Process*

12. Columbia will continue the use of its existing annual design peak day calculation process for Core Market demand, which is premised on a 1-in-10 probability of occurrence. Such process includes all standby service quantities elected by Transportation Service customers on a year-to-year basis. Columbia shall retain storage and related transportation service capacity equal to the elected standby service volumes. Customer standby service demand and related retained capacity shall be removed from the capacity allocation calculations.
13. ——— Columbia will assign Suppliers capacity, including the Columbia provided peaking service, equal to up to 100% of the design peak day requirements of their customers.
14. ——— Columbia shall determine its design peak day demand annually, as noted above, for the term of the Agreement. Columbia will retain its existing peak day capacity portfolio through March 31, 2018 with the following modifications to Columbia's capacity contracts: (1) the Sempra peaking contract for 31,200 Dth/day shall be permitted to terminate effective March 31, 2013; (2) 22,964 Dth/day of North Coast Gas Transmission transportation capacity along with 23,255 Dth/day of Crossroads transportation ca-

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<sup>6</sup> CHOICE Supplier refers to Competitive Retail Natural Gas Suppliers providing service to individual Choice customers through bilateral contracts, as well as Choice Suppliers serving Governmental Aggregation Programs.

capacity will be terminated when the respective contracts expire October 31, 2013; and, (3) Columbia shall renew 100% of its existing Columbia Gulf FTS-1 capacity through March 31, 2016. Thereafter, Columbia will renew its Columbia Gulf FTS-1 contracts to cover 75% of the volume under contract prior to March 31, 2016, and such renewal shall be for the two-year period April 1, 2016 through March 31, 2018.

15. ——— As a result of the Commission's directions to Columbia, North Coast and Staff in Case No. 08-1344-GA-EXM, effective April 1, 2013, Columbia will retain the remaining North Coast capacity and treat such as operationally required. This capacity will be utilized as part of the Columbia-provided peaking service.

16. There will be no contract capacity review via the Amended Stipulation-Second Agreement during the term of the Amended StipulationSecond Agreement.

#### *Daily Nominations – Demand and/or Supply Curves*

17. ——— New paragraphs will be added to the Program Outline to reflect Columbia's agreement to update the morning weather forecast in the afternoon for the current day and provide that information on a timely basis to Suppliers.

#### *Off-System Sales and Capacity Release*

18. The annual cap on Columbia's retained Off-System Sales/Capacity Release revenues will be \$14 million during each of the five program years. The cumulative cap on Columbia's retained Off-System Sales/Capacity Release revenues will be reduced to a total of \$55 million over the five-year term of the Amended Stipulation. Off-system sales revenues above the \$14 million annual cap or above the \$55 million cumulative cap will be provided 100% for customers through the CSRR. Additionally, the formula for determining Columbia's share of off-system sales will be modified. For the first \$1 million of off-system sales, Columbia shall retain 50% of the revenue, and the remainder of this revenue shall be included in the CSRR mechanism for customers. For off-system sales from \$1 million to \$2 million, Columbia shall retain 100% of the revenue. For off-system sales from \$2 million to \$27 million, Columbia shall retain 50% of the revenue, and the remainder of the revenue shall be included in the CSRR mechanism for custom-

ers. Columbia shall provide a quarterly accounting of the Off-System Sales and Capacity Release Revenue activity to the Stakeholder Group through Columbia's quarterly CSRR report.

~~\_\_\_\_\_ The cumulative cap on Columbia's retained Off System Sales/Capacity Release revenues will be revised to a total of \$60,000,000 over the five year term of the Second Agreement.~~

## OTHER CHANGES

### *Possible Exit From the Merchant Function*

19. ~~During the five-year term of this Amended Stipulation, \_\_\_\_\_ The Parties agree that~~ Columbia will not exit the merchant function for Non-Residential Customers, and will not file an application to exit the merchant function for Residential Customers, unless and until participation in Columbia's CHOICE program meets the specified thresholds in this Amended Stipulation and other conditions in this Amended Stipulation are met. The term "exit the merchant function" shall mean that all of Columbia's CHOICE-Eligible Residential~~residential~~ and/or Non-Residential~~non-residential~~ customers are provided commodity service by a Competitive Retail Natural Gas Supplier ("Supplier") through Columbia's CHOICE Program or Columbia's "~~The pricing for the competitive portions of the default service would be based on the closing New York Mercantile Exchange ("NYMEX") price plus basis (the monthly variable rate or "MVR Program."~~ price).

20. ~~If Columbia exits~~ Upon exit from the merchant function for any customer class, Columbia will provide no default commodity service for CHOICE-Eligible customers in that customer class upon exit. CHOICE-Eligible Customers in the customer class may enroll with a Supplier. Those CHOICE-Eligible Customers in the customer class that do not enroll with a Supplier will be assigned to a Supplier, and the pricing for such customers will be based on the closing New York Mercantile Exchange ("NYMEX") price plus basis (the monthly variable rate or "MVR" price).~~pursuant to Columbia's MVR Program.~~

21. ~~\_\_\_\_\_~~ CHOICE-Eligible Customers are those customers who:

- Use less than 6,000 Mcf per year, or are a Human Needs Customer regardless of annual consumption; and,

- Are not enrolled in the Percentage of Income Payment Plan; and,
- Are not a Transportation Service customer; and,
- Are not more than 60 days in arrears in payment of their Columbia bills, or not more 30 days in arrears in payment of their Columbia bills if enrolled in a payment plan.

CHOICE-Eligible Non-Residential Customers are a sub-class of CHOICE-Eligible Customers and consist of those CHOICE-Eligible Customers who are Commercial or Industrial Customers.

22. If Columbia exits~~Upon exit~~ from the merchant function for any customer class, Columbia will continue as the supplier of last resort for that customer class. Columbia will also retain responsibility for all system balancing obligations, and will maintain operational control of the interstate pipeline capacity necessary to satisfy that obligation.

23. Beginning the first month following the signing of the Stipulation, Columbia will report on the levels of~~evaluate~~ customer participation<sup>7</sup> in its CHOICE program. Beginning April 1, 2013, Columbia will send monthly updates on the percentage of participation in the CHOICE program to Staff and other interested members of the stakeholder group. Columbia commits to continue distributing its SCO/CHOICE Program Reports to stakeholders on a monthly basis during the term of this Agreement. OCC reserves the right to challenge the CHOICE participation levels reported in the monthly SCO/CHOICE Program Reports.

24. Following Commission approval of the Amended Stipulation~~Joint Motion~~ filed in this proceeding, Columbia, in consultation with its stakeholder group, will develop and conduct a customer survey to determine Non-Residential Customers' educational needs and general knowledge of Columbia's CHOICE program. Columbia and the stakeholder group will use the results of the Non-~~Residential~~residential customer survey to design an education program for all CHOICE-Eligible Non-Residential Customers regarding:

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<sup>7</sup>-Customer participation in the CHOICE program is measured according to the percentage of CHOICE-Eligible accounts that are not served under the SCO because they have selected a CRNGS supplier or are participating in a governmental aggregation.

- Columbia's CHOICE program and available supply options as Columbia exits the merchant function (Phase 1), and
- Columbia's exit of the merchant function as it affects remaining SCO customers who have not selected a supplier by the end of the SCO program period (Phase 2).

25. Phase 1 of the education program will be implemented by the first day of October after the Non-Residential Customer participation level in the CHOICE program meets or exceeds 70% of the CHOICE-Eligible Non-Residential Customers for three consecutive months, as described below. Phase 1 of the education plan will target all CHOICE-Eligible Non-Residential Customers about changes in the CHOICE program, specifically that Columbia will no longer provide SCO service to CHOICE-Eligible Non-Residential customers after the actual exit of the merchant function occurs. Education materials will be tailored to address educational needs identified through the surveys and information about the Commission's Apples to Apples chart.<sup>8</sup>

26. Phase 2 of the education program will be implemented by the first day of January prior to Columbia's exit from the merchant function for Non-residential customers. Phase 2 will be targeted specifically at the remaining CHOICE-Eligible SCO Non-residential customers. Education materials will emphasize explaining the MVR process and include, among other things, an informational letter at the initial transfer to an MVR Supplier and periodic bill inserts thereafter showing the participating MVR Suppliers' monthly rates as posted on the Apples to Apples chart. The Phase 2 educational process shall continue for one year after the transfer of Non-Residential customers to MVR Suppliers.

27. ——— Following Commission approval of the Amended Stipulation~~Joint Motion~~ filed in this proceeding, Columbia, in consultation with its stakeholder group, will develop an educational program for Non-Residential~~all~~ CHOICE-Eligible Customers.

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<sup>8</sup> Parties agree that when developing education programs for residential customers, the materials will also be tailored to include references to OCC's *Comparing Your Natural Gas Choices* at OCC's website.



28. Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Amended Stipulation~~Second Agreement~~ until Columbia exits the merchant function with regard to Non-Residential Customers, Columbia will evaluate Non-Residential Customer participation in Columbia's CHOICE program for the preceding twelve months ("the evaluation period"). On August~~June~~ 1 each year, Columbia will calculatedetermine whether, during the evaluation period preceding the August~~June~~ 1 review, the Non-Residential Customer participation level in the CHOICE program met or exceeded 70% of the CHOICE-Eligible Non-Residential Customers for three consecutive months. If the consecutive three month 70% customer participation threshold has been met, then Columbia will exit the merchant function with regard to Non-Residential Customers effective the first April 1 that follows.
29. Following the exit for Non-Residential Customers, Columbia will gather information from those customers and the SCO Suppliers regarding the impacts on customers from that exit, for use in evaluating any subsequent application by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers. Columbia will then share that information with its stakeholders. The gathering and use of this information does not limit any stakeholder or party to a case from providing, obtaining and using any other information. The Parties recommend that the Commission instruct its Staff to meet with Columbia and its stakeholders, following Commission approval of this Amended Stipulation, to discuss and determine the parameters of this study of the Non-Residential exit from the merchant function.
30. If the consecutive three-month 70% customer participation threshold for CHOICE-Eligible Non-Residential Customers has not been met by August~~June~~ 1 of any year during the term of this Amended Stipulation~~Second Agreement~~, then Columbia will continue its SCO auction for gas to be supplied to Non-Residential Customers during the subsequent program year (the following April 1 through March 31). Each August~~June~~ 1 during the term of this Amended Stipulation~~Second Agreement~~, Columbia shall calculatedetermine whether the threshold has been met for Non-Residential customer participation until such level is met.
31. Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Amended Stipulation unless



~~and Second Agreement~~ until Columbia ~~files~~~~has filed~~ an application to exit the merchant function with regard to Residential Customers, Columbia also will evaluate Residential Customer participation in Columbia's CHOICE program for the preceding three months. ~~For~~~~If during~~ the term of the Amended Stipulation, the Parties agree that only Columbia may make a filing at the Commission to seek an exit from the merchant function for Columbia's CHOICE-Eligible Residential Customers. Columbia will not file an application with the Commission to exit the merchant function for all CHOICE-Eligible Residential customers unless and until~~evaluation period~~ the customer participation level in the CHOICE program has met or exceeded 70% of the CHOICE-Eligible Residential Customers for three consecutive months. ~~Additionally, then~~ Columbia ~~will not~~~~shall~~ file an application with the Commission to exit the merchant function for all CHOICE-Eligible Residential Customers ~~until on the first April that is:~~ (1) at least one month after the third consecutive month of at least 70% customer participation by CHOICE-Eligible Residential Customers~~that evaluation period~~, and (2) at least ~~twenty-two~~~~twelve~~ months after Columbia exits the merchant function with regard to Non-Residential Customers (where data are available for analysis from at least two full winter heating seasons of a non-residential exit during the time of case preparation leading up to a Commission hearing on an application for a residential exit).

32. ~~If Columbia files such an application, the~~ ~~The~~ Commission will hold a hearing and Columbia will bear the burden of proof to show the Commission, in the exercise of its discretion, that it should approve Columbia's application. Testimony by Columbia and the Ohio Gas Marketers Group ~~shall prepare testimony~~ supporting that ~~final~~ exit-the-merchant-function application shall be filed following the filing of the application and before the filing of intervenor testimony. In the event Columbia files an application to exit the merchant function for Residential Customers, the Commission will hold at least six local public hearings throughout Columbia's service territory to provide customers the opportunity to testify on the proposed exit before the Commission makes a decision on the application. OCC reserves the right to oppose any application to exit the merchant function for Columbia's CHOICE-Eligible Residential Customers. Furthermore, OCC's signature on this Amended Stipulation cannot be used to make an argument that OCC supports a residential exit, or that OCC is precluded from challenging an application filed by Columbia seeking a residential exit. The parties recognize the Commission may evaluate and consider, among other things, the effects of Columbia's exiting the mer-

chant function on Non-Residential Customers as part of the Commission's evaluation and consideration of Columbia's application to exit the merchant function for Residential Customers. If the Commission approves the application, Columbia will exit the merchant function with regard to Residential Customers effective the first April 1 that is at least five months after the issuance of the ~~opinion and~~ order approving the application.

33. If the consecutive three-month 70% customer participation threshold for CHOICE-Eligible Residential Customers has not been met, or the Commission has not issued an ~~opinion and~~ order approving an application by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers, by November 1 of any year during the term of this ~~Amended Stipulation~~Second Agreement, then Columbia will continue its SCO auction for gas to be supplied to Residential Customers during the subsequent program year (the following April 1 through March 31).

~~Upon the achievement of the consecutive three month 70% customer participation threshold for CHOICE-Eligible Non-Residential Customers, Columbia will begin development of any new programs and/or revisions to current programs necessary for an exit from the merchant function for CHOICE-Eligible Non-Residential Customers to enable the CHOICE-Eligible Non-Residential Customer merchant function exit the next April 1. After Columbia files an application to exit the merchant function with regard to CHOICE-Eligible Residential Customers, Columbia will begin development of any new programs and/or revisions to current programs necessary for an exit from the merchant function for CHOICE-Eligible Residential Customers.~~

34. If any consecutive three month 70% participation threshold has not been met as of June 1, 2016, Columbia will invite~~and~~ its stakeholders ~~agree~~ to meet to discuss prospective gas supply options for CHOICE-Eligible customers to be effective April 1, 2018.

35. The parties ~~also~~ agree that if Columbia exits the merchant function, those customers assigned to Suppliers shall not be subject to any termination fees from MVR Suppliers should such customers decide to affirmatively enroll as a CHOICE customer. The parties further agree that the Customers who are not CHOICE-Eligible and are not being served under Transportation Service will continue under the Default Sales Service and be allocated to the SCO until Columbia fully exits the merchant function, at which time Customers who are not CHOICE-Eligible and are not being

served under Transportation Service will be aggregated and the supply for such customers will be bid out to Suppliers through a Request for Proposal process.

36. Columbia shall continue its full residential and non-residential CHOICE Program Shadow Bill during the term of this Amended Stipulation and shall make such shadow-billing information available to OCC upon request. If Columbia exits the merchant function with regard to Non-Residential Customers, Columbia's CHOICE Program Shadow Bill for Non-Residential Customers after that exit shall compare the Non-Residential CHOICE customers' monthly billed gas costs to the residential monthly SCO auction price. Columbia will not be obligated to continue its CHOICE Program Shadow Bill for any customer class, including the residential class, if and when Columbia exits the merchant function for the residential class. This Amended Stipulation does not require Columbia to discontinue its CHOICE Program Shadow Bill after the term of this Amended Stipulation. OCC and others have the right to seek an order from the Commission requiring Columbia to continue its CHOICE Program Shadow Bill after the term of this Amended Stipulation or after Columbia exits the merchant function for Residential Customers, if such an exit occurs during the term of this Agreement. Any Party may object to such a request by the OCC.

***Monthly Variable Rate (MVR) Program***

37. If Columbia exits the merchant function, CHOICE-Eligible customers who have not selected a CHOICE Supplier and are not served through a Government Aggregation Program shall receive commodity service through Columbia's Monthly Variable Rate ("MVR") program. Such customers shall remain on Columbia's Customer List. The parties agree that the MVR program will apply to Non-Residential CHOICE-Eligible customers upon exit. The parties further agree that an MVR program will not be implemented for any customer class unless and until Columbia exits the merchant function for that class.
38. Suppliers that are active in Columbia's CHOICE program ("CHOICE Suppliers") may elect each February 1 to be MVR Suppliers for the upcoming program year (April through the following March). MVR Suppliers may elect each February to end their participation or continue in the MVR program for the following program year.

39. Non-residential customers establishing service with Columbia for the first time (including both the initial installation of a new meter at a premise as well as an account transfer or switch from one customer to another) and customers relocating within Columbia's service territory will be served under the Default Sales Service ("DSS") for two billing cycles. Subsequently, CHOICE-Eligible Non-Residential Customers who have not selected a CHOICE supplier and are not served through a Governmental Aggregation Program will be assigned to an MVR Supplier. Prior to Columbia's exit of the merchant function, a method for assigning supply default Choice-Eligible Customers should be determined. The Parties acknowledge and agree that such method should be part of this proceeding and include both the initial allocation upon Columbia's exits as well as an allocation methodology for future supply default CHOICE-Eligible Customers. The Parties agree that the allocation methodology ~~can~~shall be addressed by the undersigned in the testimony phase of this proceeding; however, this provision does not preclude any of the Parties from making proposals in the future with regards to the allocation methodology for Residential Customers. -
40. MVR Suppliers shall provide their MVR prices to Columbia each month for the applicable billing month. The MVR price provided to Columbia shall be no greater than the Supplier's MVR price posted on the Commission's Apples to Apples chart for the same billing period. MVR Suppliers agree to have their MVR prices posted on the Commission's Apples to Apples chart each month. MVR suppliers will provide OCC with a copy of the MVR prices that are provided to the Commission.
41. Non-residential customers may migrate from the MVR program by enrolling with a CHOICE Supplier or participating in a Government Aggregation program in accordance with the enrollment submission process, without incurring a cancellation fee.
42. An MVR Supplier that exits Columbia's CHOICE program must also exit the MVR program. If Columbia terminates the MVR Supplier from participation in Columbia's CHOICE program, Columbia will also terminate the supplier from participation in the MVR program. Columbia also may terminate MVR Suppliers that are in default of their obligations under the MVR Program from participation in the MVR program. If Columbia ter-

minates an MVR Supplier from participation in the MVR Program, Columbia may also terminate the Supplier from participation in Columbia's CHOICE Program. If Columbia terminates an MVR Supplier from participation in the MVR program, that Supplier's customers will be reassigned to the remaining MVR Suppliers on a random, rotating basis.

*Enhancements to Billing for Competitive Retail Natural Gas Suppliers*

43. Columbia will implement changes to its current billing system for the benefit of Suppliers. Columbia will use its best effort to implement the following changes by April 1, 2013:

- Permit Suppliers the option to bill a fixed bill for the Suppliers' charges. Suppliers may submit a rate ready<sup>9</sup> code to Columbia so that Columbia may bill a flat fee to their CHOICE customers covering the Suppliers' gas costs for the month;
- Increase rate ready billing codes to 100 per Supplier;
- Permit Suppliers to bill a rate based upon monthly NYMEX prices, plus or minus a value;
- Offer Suppliers larger logo size and placement on bill. For those Suppliers that elect this service, Columbia will enlarge and reposition the Supplier's logo to the top margin of the front page of the bill when Columbia is providing a consolidated bill to CHOICE customers. Columbia shall charge a competitively neutral fee to Suppliers that use this service. The net revenues for this service shall be credited to the CSRR;
- Permit rolling rate change submission. Suppliers shall be able to submit a rate change transaction for an existing CHOICE Customer each processing day; an accepted rate change will be effective with the CHOICE customer's next billing cycle; and,
- Permit contract portability. For those Suppliers who elect this service, Columbia will offer their CHOICE customers who transfer natural gas service within Columbia's service territory the ability to transfer their existing CHOICE contract to their new service ad-

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<sup>9</sup> Rate ready refers to the billing method under which the Supplier provides rates to Columbia. Columbia then calculates charges for the Supplier and creates a consolidated billing statement sent to customers.

dress. This service will not be available to Government Aggregation customers.

44. ——— Columbia will use its best effort to implement the following changes by April 1, 2017:

- Offer rate ready billing and/or bill ready<sup>10</sup> billing by individual customer. Suppliers will have the option to bill commodity-related charges to CHOICE customers via rate ready, bill ready, or a combination of the two under Columbia's consolidated billing option;
- Permit Suppliers to offer customers the opportunity to prepay the commodity portion of the bill. A credit amount will be provided by the Supplier and applied to the customer's bill; the credit will be used to offset Supplier charges. The pre-paid amount will be reported monthly to the Supplier and offset with Supplier payments. The actual account balance and supplier monthly charges shall appear on the bill;
- Allow a new customer to start CHOICE immediately. Suppliers may elect annually to participate in this service. This optional service will allow customers to enroll in the CHOICE Program at the time they request service with Columbia. Such customers must inform Columbia when they want to establish service with their desired CHOICE Supplier. The initial rate for CHOICE customers under this service will be the same as the monthly SCO rate. If the SCO no longer exists because Columbia has exited the merchant function, the introductory rates will be established by each participating Supplier; and,
- Rolling Enrollment. Columbia will process CHOICE enrollment and drop transactions each processing day. As of the fifteenth day of each month, or the prior business day if the fifteenth falls on a non-business day, Columbia will take a snap-shot of CHOICE enrollment to develop the Demand and Supply Curves and the Capacity Allocation.

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<sup>10</sup> Bill ready refers to the billing method under which the Supplier provides charges to Columbia that are ready to be placed on the bill. Columbia then creates a consolidated billing statement sent to customers.

45. A tentative timeline and an estimate of the costs for these billing enhancements is attached as Amended Stipulation Attachment 1.
46. To the extent that any of the billing enhancements listed above conflict with the requirements of Columbia's tariff or Commission regulations, Columbia will file an application with the Commission requesting a waiver of those conflicting requirements. OCC reserves all its rights to advocate positions regarding the content and timing of communications with customers.
47. The Parties agree that Columbia may continue to collect from customers through~~include within~~ the CHOICE/SCO Reconciliation Rider ("CSRR") the costs of implementing the CHOICE education program, the pre-exit-the-merchant-function education programs, and the billing system changes described above. The above program costs shall be subject to review during the Commission's annual audit of the CSRR, to determine whether or not such costs are appropriate for collection from customers, and this Amended Stipulation does not limit OCC's rights to participate in cases involving such reviews. Also, OCC reserves its rights in CSRR proceedings to challenge the reasonableness and prudence of Columbia's costs for the billing system enhancements outlined above. If the audit is conducted by an independent auditor, the costs of such audit shall be collected from customers through the CSRR.
48. Except as specified below, if Columbia exits the merchant function with regard to any class of customers, the Parties agree that Columbia may collect from customers through~~include within~~ the CSRR the Incremental Program Costs relating to that exit. "Incremental Program Costs" means any ~~prudent and necessary~~ expense that is incurred by Columbia resulting from the implementation of the exits from the merchant function and that is found by the Commission to be prudent, reasonable and necessary. These include, but are not limited to, the post-exit-the-merchant-function educational programs; and, information technology expenses incurred in development of revisions to current programs and development of new programs necessary for an exit from the merchant function for CHOICE-Eligible Residential Customers.
49. However, if the Commission denies an application filed by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers, any information technology expenses previously incurred in



preparation for that exit shall instead be directly billed to all CHOICE and MVR Suppliers, and allocated based on throughput. Columbia will bill all information technology costs referenced in this paragraph directly to CHOICE and MVR Suppliers on a quarterly basis.

#### NON-SEVERABILITY OF STIPULATION PROVISIONS

50. The settlement agreement embodied in this ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ was reached only after extensive negotiations between and among the Parties ~~in the context of a collaborative stakeholder process~~, and reflects a bargained compromise involving a balancing of competing interests. Although the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ does not necessarily reflect the position any of the Parties would have taken if all of the issues addressed herein had been fully litigated, the Parties believe that, as a package, the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ strikes a reasonable balance among the various interests represented by the Parties, does not violate any important regulatory principle, and is in the public interest. This ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ shall not be relied upon or used as precedent for or against any Party or the Commission itself in any subsequent proceeding, except as may be necessary to enforce the terms of the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~.

51. Because the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ is an integrated settlement, it is expressly conditioned upon the Commission adopting same in its entirety without material modification. Rejection of all or any part of the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ by the Commission shall be deemed to be a material modification for purposes of this provision. If the Commission materially modifies all or any part of this ~~AmendedJoint~~ Stipulation ~~and Recommendation~~, and such modifications are not acceptable to all the Parties, the Parties agree to convene immediately to work in good faith to attempt to formulate an alternative proposal that satisfies the intent of the ~~AmendedJoint~~ Stipulation ~~and Recommendation~~, or represents a reasonable equivalent thereto, to be submitted to the Commission for its consideration through a joint application for rehearing filed by all the Parties.<sup>11</sup> If the Parties do not reach unan-

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<sup>11</sup> The Commission Staff is not considered a signatory Party for the purposes of requirements regarding rehearing applications.



imous agreement with respect to such an alternative proposal, no alternative proposal shall be submitted. In that circumstance (the lack of unanimous agreement on an alternative proposal), ~~and~~ any Party may, within thirty (30) days of the Commission's order, file an application for rehearing supporting the adoption of the Amended Stipulation as filed or may, within thirty (30) days of the Commission's Order, file a notice with the Commission terminating the Amended ~~Joint~~ Stipulation and withdrawing from it with service to all Parties. ~~Recommendation as filed.~~ No Party shall oppose an application for rehearing or termination notice filed by any other Party pursuant to this provision. Upon the Commission's issuance of an entry on rehearing or any other ruling that does not adopt this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ in its entirety without material modification, or the alternative proposal, if one is submitted, a Party may terminate ~~and withdraw from the~~ Amended ~~Joint~~ Stipulation and withdraw from it ~~Recommendation~~ by filing a notice with the Commission within thirty (30) days of ~~such~~ the Commission's entry on rehearing or other ruling. No Party shall oppose the termination of the Amended ~~Joint~~ Stipulation ~~and Recommendation~~ by any other party.

52. Upon notice of termination and withdrawal by any Party in accordance with the above procedure, this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ shall immediately and automatically become null and void.

53. The Parties have agreed to the above-described process to be followed in the event the Commission materially modifies the terms of this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ in recognition of the unique circumstances involved. A Party's agreement to this process for purposes of this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ shall not be interpreted as binding such Party to support a similar process in any future proceeding, and the Commission's approval of this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ shall not be interpreted or otherwise relied upon as authority for utilizing this process as a template for stipulations in future proceedings.

#### RECOMMENDATION

54. The Parties agree that the foregoing Amended ~~Joint~~ Stipulation and Recommendation is in the best interests of all parties, and urge the Commission to adopt the Stipulation.

AGREED THIS ~~TH4TH~~ DAY OF ~~NOVEMBER~~OCTOBER, 2012.

/s/ Stephen B. Seiple  
Stephen B. Seiple  
On behalf of Columbia Gas of Ohio,  
Inc.

/s/ Stephen Reilly  
(per telephone authorization  
11/ ~~10/4/12~~)  
Stephen Reilly  
Assistant Attorney General,  
Public Utilities Section  
On behalf of the Staff of the Public Util-  
ities Commission of Ohio

/s/ M. Howard Petricoff  
(per email authorization 11/ ~~9/28/12~~)  
M. Howard Petricoff  
On behalf of the Ohio Gas Marketers  
Group

/s/ M. Howard Petricoff  
(per email authorization 11/ ~~9/28/12~~)  
M. Howard Petricoff  
On behalf of the Retail Energy Supply  
Association

/s/ Barth E. Royer  
(per email authorization 11/ ~~9/28/12~~)  
Barth E. Royer  
On behalf of Dominion Retail, Inc.

/s/ Larry S. Sauer  
(per email authorization 11/ ~~9/28/12~~)  
Larry S. Sauer  
On behalf of the Office of the Ohio  
Consumers' Counsel

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 12-2637-GA-EXM**

Summary: Testimony Direct Testimony of Bruce M. Hayes on Behalf of the Office of the Ohio Consumers' Counsel electronically filed by Patti Mallarnee on behalf of Sauer, Larry S.