

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of :
Suburban Natural Gas Company for :
Authority to Abandon Service Pursuant :
to Ohio Revised Code Sections 4905.20 :
and 4905.21. :

Case No. 08-947-GA-ABN

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STIPULATION AND RECOMMENDATION

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 such proceeding before the Public Utilities Commission of Ohio ("Commission"). Accordingly, Suburban Natural Gas Company ("Suburban"), KNG Energy, Inc. ("KNG"), Ohio Gas Company ("Ohio Gas"), and the Village of Deshler, Ohio ("Deshler") (also hereinafter referred to individually as a "Party" and collectively as "Parties") and the Staff of the Commission ("Staff") hereby enter into this Stipulation and Recommendation ("Stipulation") and recommend that the Commission adopt it. The purpose of this Stipulation is to set forth the understanding and agreement of the Parties and the Staff and to recommend that the Commission approve and adopt this Stipulation, which resolves all of the issues raised by the above-captioned application to abandon service to certain customers brought by Suburban pursuant to Sections 4905.20 and 4905.21, Revised Code and by the Joint Motion of KNG, Ohio Gas and Deshler filed herein on June 13, 2011 ("Joint Motion").

The Parties and the Staff understand that although this Stipulation is not binding upon the Commission, it is entitled to careful consideration by the Commission. This Stipulation and its supporting documentation represent a just and reasonable resolution of the issues addressed in the proceeding and is the product of a cooperative effort encouraged by this Commission and

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undertaken by Parties and the Staff to resolve the issues associated with this proceeding. Specifically, this Stipulation to which all of the Parties and the Staff agree is supported by information set forth in Suburban's application filed in Case No. 08-947-GA-ABN on August 1, 2008 and in the Joint Motion. Consistent with these representations, Staff warrants that, if called to testify, Staff member Steve Puican, who was actively involved in the negotiations leading to this Stipulation, would testify that the Stipulation meets each of the three prongs of the test customarily applied by the Commission in evaluating stipulations..

This Stipulation is the product of serious bargaining among capable, knowledgeable Parties with diverse interests and the Staff. The Stipulation benefits customers and the public interest by, among other things, assisting the affected villages in transferring management and control of the integrated natural gas transmission and distribution systems ("System") serving , among other customers, the Villages of Deshler, Hamler, Holgate, Hoytville and Malinta, Ohio ("Villages") to the Villages or another operator so as to avoid interruption of service or inconvenience to customers served through the System. Finally, the Parties and the Staff believe that the settlement proposal taken in its entirety does not violate any regulatory principle or practice. The Parties and the Staff request that the Commission give the Stipulation careful consideration and adopt it at the earliest practicable date.

Except for purposes of enforcing the Stipulation, this Stipulation, the information and data contained therein or attached, and the Commission's order adopting the Stipulation shall not be cited as precedent in any future proceeding for or against any Party, or the Commission itself, if the Commission approves the Stipulation. The Parties' agreement to this 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 Stipulation. More specifically, no specific element or item

contained in or supporting this Stipulation shall be construed or applied to attribute the results set forth in this Stipulation as the results that any Party might support or seek in the absence of this Stipulation in these proceedings or in any other proceeding. This Stipulation represents a comprehensive settlement and compromise of issues raised by Parties with diverse interests. It is submitted for the purposes of this case alone and should not be understood to reflect the positions that an individual Party may take as to any individual provision of the Stipulation standing alone, nor the position a Party may have taken if all of the issues in this proceeding had been litigated. Nothing in this Stipulation shall be used or construed by any Party or the Commission for any purpose to imply, suggest or otherwise indicate that the results produced through the compromise reflected herein represent fully the objectives of any Party. This Stipulation is submitted for purposes of this proceeding only, and is not deemed binding in any other proceedings, except as necessary to enforce the terms of this Stipulation. As with such stipulations reviewed by the Commission, the willingness of the Parties to sponsor this document currently is predicated on the reasonableness of the Stipulation taken as a whole.

This Stipulation is expressly conditioned upon adoption in its entirety by the Commission, without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, any Party may, within seven (7) days of the issuance of the Commission's order, file an application for rehearing or terminate and withdraw the Stipulation by filing a notice with the Commission in this proceeding, including service to all Parties. The Parties agree they will not oppose or argue against any other Party's application for rehearing that seeks to uphold the original, unmodified Stipulation. If, upon rehearing, the Commission does not adopt the Stipulation in its entirety without material modification, then any Party may terminate and withdraw from the Stipulation by filing a notice with the Commission, including service to all

Parties, in this proceeding within thirty (30) days of the Commission's Entry (or Order) on Rehearing.

Prior to any Party filing a notice seeking a withdrawal from this Stipulation pursuant to the foregoing provision, the Parties agree to convene immediately to work in good faith to try to achieve an outcome that substantially satisfies the intent of the Stipulation and, if a new agreement is reached that includes agreement with the Party wishing to terminate, then the new agreement shall be submitted to the Commission for its review and approval. Upon the filing and notice of termination and withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In this event the Parties request that the Commission acknowledge the notice within thirty (30) days of its filing, but whether or not the Commission acknowledges the notice does not alter the effectiveness of the notice of termination and withdrawal. In the event of a notice of termination and withdrawal, and if the discussions to achieve an outcome that substantially satisfies the intent of the Stipulation are unsuccessful in reaching a new agreement that includes all Parties to the present Stipulation, this proceeding shall go forward at the procedural point at which this Stipulation was filed, the Commission shall convene an evidentiary hearing and the Parties shall be afforded the full opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs as if this Stipulation had never been executed.

All Parties and the Staff fully support this Stipulation in its entirety and urge the Commission to accept and approve the terms herein because:

(i) this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

(ii) this Stipulation represents a bargained compromise of complex issues and involves substantial benefits to customers that would not otherwise have been achievable; and

(iii) the Parties believe that the agreements herein represent a fair and reasonable resolution of the issues raised in this matter;

Accordingly, the Parties stipulate, agree, and recommend that the Commission make the following findings and issue its Opinion and Order in these proceedings approving this Stipulation in accordance with the following:

1. On August 1, 2008, Suburban filed an application (“Application”) seeking authority to abandon natural gas service to customers within the Villages of Deshler, Hamler, Holgate, Hoytville, and Malinta, Ohio (collectively, the “Villages”), and to certain customers located in unincorporated areas in the general vicinity of the Villages. As described in the Application, Suburban has, for many years, provided natural gas service to the Villages and their inhabitants through a transmission and distribution system (the “System”) owned collectively by the Villages and leased to Suburban pursuant to separate fifty-year lease agreements (“Leases”) between Suburban and each of the Villages.¹
2. Under the 1959 Deed and Indenture that created the System, each Village owns and is responsible for the distribution facilities that serve its own geographic area. In addition, although each Village had certain rights with respect to the capacity of the high-pressure line that delivers gas from the Suburban/Columbia Gas Transmission (“TCO”) interconnection near North Baltimore, Ohio to customers on the System, each Village owns and is responsible for the segment of the System transmission line

¹ Application, 1.

between that Village and the next Village, back to Deshler, which owns and is responsible for the segment between Deshler and the Suburban/TCO interconnection.² With the exception of the Malinta lease, which expires in 2012, the Leases expired by their terms in October of 2009.³

3. Despite its good-faith efforts, Suburban was unable to negotiate a renewal of its lease agreements with the two largest Villages, Deshler and Holgate, which account for more than two-thirds of the customers on the System.⁴ Because of the integrated nature of the System, which is fed from the east through the single interstate pipeline interconnection at North Baltimore, it is not practical or cost effective for Suburban to operate the System without having lease agreements in place with all of the Villages.⁵ Thus, the Application sought authority for Suburban to abandon service to the Villages upon expiration of the existing leases, or at such other time as the Commission may deem appropriate.⁶ Of course, all the Leases, except for the Malinta lease, have now expired.
4. In the Application, Suburban represented that, if its Application is approved, Suburban will assist the Villages in transferring management and control of the System to the Villages or another operator so as to avoid interruption of service or inconvenience to customers served through the System.⁷ Suburban specifically identified KNG Energy, Inc. ("KNG") as a potential operator of the System, and stated elsewhere in the application that, upon information and belief, Deshler and Holgate had contracted with, or intended to contract with, KNG to manage the portions of the System they own.⁸

² Application, 1-2.

³ Application, 1-2; *see also* Application Appendices A, B, C, D, and E.

⁴ Application, 2.

⁵ *Id.*

⁶ Application, 3.

⁷ *Id.*

⁸ Application, 2.

5. On August 21, 2008, KNG filed a motion to intervene. In the supporting memorandum accompanying its motion ("KNG Memorandum"), KNG explained that, in 2007, it had constructed an eight inch (8"), twelve (12) mile pipeline from an interconnection to the Crossroads interstate pipeline north of the Village of Deshler south to the Village of Leipsic, Ohio (the "KNG Pipeline") in order to provide transportation service to a new ethanol plant in Leipsic.⁹ The route of the new KNG Pipeline brought it in close proximity to the System distribution facilities serving Deshler, and crossed the segment of System transmission line running from Deshler to the Villages to the west, namely Hamler, Holgate, and Malinta.¹⁰ A map showing the layout of the System and the location of the KNG Pipeline is attached hereto as Exhibit A. In its memorandum, KNG appraised the Commission of discussions initiated by Deshler and Holgate regarding the possibility of KNG providing natural gas supply to those Villages via the KNG Pipeline.¹¹
6. As noted above, Suburban's existing leases with Deshler, Hamler, Holgate, and Hoytville were set to expire in October 2009. None of the Villages had any alternative arrangements for natural gas service in place as the October 2009 lease expiration date approached. To provide the Villages with sufficient time to complete new arrangements, Suburban tendered proposed ordinances to Deshler, Hamler, Holgate, and Hoytville, which, if adopted, would provide for an interim arrangement whereby, upon the expiration of the leases, Suburban would temporarily continue to provide natural gas service to the respective Villages under the terms of its filed tariff subject to orders of the

⁹ See Case Nos. 07-13-GA-AIS and 07-424-GA-AEC.

¹⁰ KNG Memorandum, 3.

¹¹ KNG Memorandum, 3-4.

Commission in this case.¹² Deshler, Hamler, Holgate, and Hoytville enacted the proposed ordinances in late 2009, and Suburban filed the copies of the ordinances in this docket on January 25, 2010. Suburban has continued to serve customers affected by the application pursuant to these ordinances since their enactment.

7. Subsequent to enacting the aforesaid ordinances, the Villages continued to explore possible arrangements for natural gas service. Deshler elected to establish a municipal gas utility, and has entered into a service agreement with KNG whereby KNG will operate and maintain the Deshler municipal system upon resolution of this proceeding. Hamler, Holgate, and Malinta entered into discussions with Ohio Gas Company ("Ohio Gas"), which have led to agreements whereby Ohio Gas will purchase their respective distribution and transmission assets, including their respective segments of the System transmission line from Deshler to its western terminus (hereinafter referred to as the "Ohio Gas Pipeline"), upon resolution of this proceeding. These transactions are scheduled to close July 1, 2011 subject to the Commission's approval of Suburban's application in this case. The agreements contemplate that Ohio Gas will serve these Villages through a combination of its Commission-approved tariff and individual municipal rate ordinances, and will serve unincorporated area customers pursuant to contracts that will mirror the provisions of the rate ordinances.
8. KNG and Ohio Gas entered into discussions regarding an arrangement that would permit Ohio Gas to transport gas from the Crossroads interstate transmission line over the KNG Pipeline to serve Hamler, Holgate, and Malinta. These discussions resulted in an interconnection agreement ("Interconnection Agreement") that was submitted to the

¹² Suburban advised the Commission of its proposals to Deshler, Hamler, Holgate, and Hoytville by a letter filed in this docket on October 9, 2009. Because the Malinta lease does not expire until 2012, it was not necessary for Suburban to propose an interim measure for Malinta at that time (Suburban Letter, n. 1).

Commission for approval on March 2, 2011 by the joint application of KNG and Ohio Gas in Case No. 11-1115-GA-ATR. The Interconnection Agreement provides, inter alia, that as consideration for KNG constructing the interconnection between the KNG Pipeline and the Ohio Gas Pipeline and installing the related necessary facilities, Ohio Gas will convey to KNG the segment of the newly-acquired Ohio Gas Pipeline from a point at or near the new interconnection eastward to Deshler (the "KNG Segment"). Acquisition of this segment of the Ohio Gas Pipeline will permit KNG to provide transportation service to Deshler from the north rather than constructing a direct connection from the KNG Pipeline to the Deshler distribution facilities, thereby permitting KNG to feed both the Deshler high pressure and low pressure systems. KNG will serve customers located on the KNG Segment under the same terms and conditions it serves its other unincorporated area customers.¹³ The Commission approved the Interconnection Agreement by its April 5, 2011 Finding and Order in Case No. 11-1115-GA-ATR, finding that the agreement was "reasonable and in the public interest" and that the agreement and would "enable the Applicants to provide adequate service at reasonable rates to their current and prospective customers."¹⁴

9. Although the foregoing arrangements assure that natural gas service will be maintained to Deshler, Hamler, Holgate, and Malinta and to unincorporated area customers west of Deshler, these arrangements do not address service to the remaining Suburban customers east of Deshler currently served via the segment of the System transmission line between Deshler and the TCO interconnection near North Baltimore (the "Deshler Pipeline"). In

¹³ Although KNG has a Commission-approved tariff (KNG P.U.C.O. No. 1) which contains the rules and regulations governing service to its unincorporated area customers, the rates applicable to this service are governed by individual customer contracts that mirror the rates established by ordinance by the village of Kalida, Ohio (see Case No. 92-378-GA-AEC).

¹⁴ Case No. 11-1115-GA-ATR (Finding and Order dated April 5, 2011, at 2).

addition to some forty unincorporated area customers served directly from the Deshler Pipeline, these remaining customers include customers in and around the Village of Hoytville, which is located just south of the Deshler Pipeline, as well unincorporated area customers along a pipeline extending south from Hoytville to the Village of McComb (the "McComb-Hoytville Pipeline") owned by McComb.¹⁵

10. In December 2010, Deshler issued a request for proposals for the purchase of the Deshler Pipeline. Although KNG was reluctant to purchase the Deshler Pipeline for a variety of reasons, KNG was mindful of Suburban's position that a global resolution that would relieve Suburban of all obligations to serve all customers on the System simultaneously was required. Thus, KNG responded to Deshler's request for proposals to purchase the Deshler Pipeline, with the thought that, if it could work out arrangements with Hoytville and McComb, the Suburban abandonment application could be laid to rest in its entirety.
11. KNG was the successful bidder for the Deshler Pipeline and is in the process of completing the purchase, which is scheduled to close no later than July 1, 2011, subject to the Commission's approval of Suburban's application in this case. Thus, KNG will be ready to commence service to the unincorporated area customers located on the Deshler Pipeline when the KNG-Ohio Gas interconnection is placed in service.
12. However, Hoytville has elected to lease its distribution system to Ohio Interstate Energy, LLC ("OIE"), and McComb has elected to sell its portion of the McComb-Hoytville Pipeline to OIE. It is unknown at this time if and when OIE will be prepared to commence service to customers in and around Hoytville and the unincorporated area

¹⁵ McComb also owns its own distribution system, which, like the McComb-Hoytville Pipeline, was originally installed as a part of the System. Although McComb once had a long-term lease agreement with Suburban similar to those of the Villages, that agreement has since been terminated. McComb's distribution system is now supplied through a separate pipeline that is not part of the System.

customers on the McComb-Hoytville Pipeline, but, upon information and belief, OIE will not be in a position to commence service as of the projected July 1, 2011 in-service date of KNG-Ohio Gas interconnection.¹⁶

13. As discussed in more detail *infra*, KNG is willing to serve the customers identified in paragraph 11 above on a temporary basis until such time as OIE is prepared to commence service so as to accommodate Suburban's desire for a global resolution of its application, and to permit KNG, Ohio Gas, and the Deshler municipal gas utility ("DMGU") to move forward promptly with respect to the various steps that must be completed before they can commence service to their respective new customers.
14. Suburban, KNG, and Ohio Gas are public utilities and natural gas companies within the definitions of Sections 4905.02 and 4905.03(A)(6), Revised Code, and, as such, are subject to the jurisdiction of this Commission pursuant to Sections 4905.04, 4905.05, and 4905.06, Revised Code. The Commission has subject matter jurisdiction over abandonment applications pursuant to Sections 4905.20 and 4905.21, Revised Code, commonly referred to as the Miller Act.
15. Often, abandonment applications are filed when a railroad or publicly utility determines that it is no longer economically feasible to operate a particular facility or facilities (e.g., a track, depot, gas pipeline, electric line, generating plant, etc.) or provide the service rendered thereby.¹⁷ Here, Suburban's Application did not seek authority to abandon

¹⁶ Although OIE has an application before the Commission for approval of a tariff to serve unincorporated area customers on the McComb-Hoytville Pipeline (*see* Case No. 11-3171-GA-ATA), OIE currently does not have authority from the Commission to operate as a natural gas company, and is not a party to this proceeding. Although OIE filed a tariff to provide service as Commission-regulated intrastate pipeline company in 2005 (*see* Case No. 05-468-PL-ATA), a review of its subsequent annual reports to the Commission indicates that it has never actually conducted operations as a pipeline company.

¹⁷ Indeed, Section 4905.20, Revised Code, states that a public utility must obtain PUCO approval to abandon facilities, and does not speak in terms of abandoning service. Section 4905.21, Revised Code, which lays out the procedures and standards for abandonment applications, also focuses on the abandonment of facilities, although it

facilities it owns. Rather, Suburban's application sought, in essence, that it be relieved of its public utility obligation to serve the System and the customers served thereby because, without renewed leases, Suburban would no longer have the right nor the physical capability to serve the customers in question.

16. Pursuant to the various arrangements described above, Deshler, Hamler, Holgate, Malinta, Ohio Gas and KNG have provided assurance that all customers from Deshler west and those served directly from the Deshler Pipeline will continue to receive natural gas service through the facilities formerly leased by Suburban. None of the actions taken by these Villages – i.e., Deshler's creation of a municipal natural gas utility and sale of the Deshler Pipeline to KNG, the sale by Hamler, Holgate, and Malinta of their respective distribution assets and interests in the transmission System to Ohio Gas, and the enactment of municipal rate ordinances by Hamler, Holgate, and Malinta -- are subject to Commission approval authority. Further, as noted above, the Commission has already approved the KNG-Ohio Gas Interconnection Agreement (including the transfer of the KNG Segment from Ohio Gas to KNG) and the Ohio Gas application for approval of special contracts with unincorporated area customers,¹⁸ and now has before it the application of KNG and for approval of a transportation agreement governing the delivery of gas from Crossroads over the KNG Pipeline to the delivery point at the new interconnection.¹⁹ In addition, although KNG will file its contracts with its new unincorporated customers with the Commission, under the process approved in Case No.

does mention, parenthetically, "or the service rendered thereby" (i.e., the service rendered by the facilities sought to be abandoned).

¹⁸ See *In the Matter of the Application of Ohio Gas Company for Approval of a Special Arrangement for Provision of Natural Gas Service*, Case No. 11-2828-GA-AEC (Finding and Order dated May, 19, 2011).

¹⁹ See *In the Matter of the Application of KNG Energy, Inc. for Approval of a Transportation Service Agreement with Ohio Gas Energy Services*, Case No. 11-3152-GA-AEC (Application filed May 23, 2011).

92-378-GA-AEC, those contracts are preapproved. Thus, Ohio Gas, KNG, and DMGU stand ready to provide service upon completion of the KNG-Ohio Gas interconnection, subject to Suburban being relieved from any further public utility obligations to the System, the Villages and to provide service to the affected customers.

17. This Commission has consistently held that where, as here, there will be no interruption of service to customers, an application by a public utility to terminate operations is not subject to the requirements of the Sections 4905.20 and 4905.21, Revised Code.²⁰ Rather, in such instances, the Commission has treated the application for authority to terminate operations as an application for a substitution of service, and has exercised its general jurisdiction and supervisory authority under Sections 4905.05 and 4905.06, Revised Code, to insure an orderly transition and to assure that the affected customers will receive adequate and uninterrupted service.
18. Thus, notwithstanding that Suburban initiated this proceeding by filing an application for an abandonment of service, the Commission should find that, as a result of the arrangements described above, there will be no abandonment with respect to the affected customers. Accordingly, the Commission should treat the application as an application for approval of a substitution of service, and relieve Suburban from any further obligations regarding the System or to serve those customers subject to the terms of the

²⁰ See, e.g., *In the Matter of the Application of Water and Sewer LLC for an Order Approving a Substitution of Water Service*, Case No. 09-1842-WS-UNC (Finding and Order dated December 9, 2009); *In the Matter of the Application to Cancel the Certificate of Public Convenience and Necessity of Copley Square Water Company and Substitute Service*, Case No. 09-644-WW-UNC, and *In the Matter of the Application to Cancel the Certificate of Public Convenience and Necessity of Copley Square Water Company and to Substitute Service*, Case No. 09-645-ST-UNC (Finding and Order dated August 12, 2009); *In the Matter of the Application of Aqua Ohio, Inc. for Approval of the Sale of Certain Water Supply Facilities and Associated Operations to the City of Geneva Ohio, Modification of its Tariff and Certificate of Public Convenience and Necessity and other Appropriate Relief and Approvals*, Case No. 04-1685-WW-UNC (Finding and Order dated December 8, 2004); and *In the Matter of the Joint Application of Public Utility Service Corporation and the Board of Commissioners of Fairfield County to Remove Public Service Corporation from the Roll of Public Utilities Regulated by this Commission*, Case No. 87-1320-ST-UNC (Finding and Order dated September 9, 1987).

transition plan discussed below. Indeed, the 2009 ordinances under which Suburban now provides service to Deshler, Hamler, Holgate, and Hoytville contemplate just such a result.

19. The ordinances enacted by Deshler, Hamler, Holgate, and Hoytville in late 2009 were designated as temporary measures designed to preserve service subsequent to the expiration of the leases to afford these Villages sufficient time to make other arrangements for natural gas service.²¹ Section 2 of each ordinance specifically provides that the service provided by Suburban subsequent to the expiration of the leases will “be governed by Suburban's PUCO tariff and Orders of the Public Utilities Commission of Ohio in Case No. 08-947-GA-ABN.” As described above, Deshler, Hamler, and Holgate have now made the necessary arrangements, as has Malinta, notwithstanding that the Malinta lease does not expire until 2012. Accordingly, upon the issuance of an order by the Commission approving the substitution of service as proposed herein, Suburban's public utility obligations to the System, the Villages and the customers on the System would terminate.
20. An order approving the substitution of service described above would not relieve Suburban of its obligation to serve its remaining customers in and around Hoytville and those located on the McComb-Hoytville Pipeline. However, as indicated above, KNG is willing to provide service to these remaining customers on a temporary basis until OIE is ready to commence operations, which would assure uninterrupted service to these customers and, thus, constitute the substitution of service necessary for the Commission to relieve Suburban from its obligation to serve these customers as well as a part of its order in this case.

²¹ As previously noted, Suburban filed copies of these ordinances in this docket on January 25, 2010.

21. As previously explained, Suburban's obligation to serve Deshler, Hamler, Holgate, and Hoytville now derives solely from the 2009 ordinances enacted by those Villages, which, by their express terms, were temporary measures and are subject to "Orders" of the Commission in this case. Thus, with respect to Hoytville and those customers on the McComb-Hoytville Pipeline which are served through Hoytville's and McComb's facilities, the Commission should find that KNG should be substituted for Suburban as the service provider until such time as OIE is ready to commence service.²²
22. As the substitute service provider, KNG would assume Suburban's responsibility for routine maintenance and repairs of the Hoytville and McComb facilities used to serve these customers,²³ and would charge these customers the same rates charged to KNG's other unincorporated area customers. Although KNG has a bundled rate, whereas Suburban has a base distribution rate, a gas cost recovery rate, and various riders, KNG's total charges are currently less than Suburban's total charges for the same usage. Thus, if KNG is substituted as the service provider, the affected customers would not only receive uninterrupted service, but would pay less for the service than if Suburban continued as the service provider. Accordingly, to permit KNG, Ohio Gas, and DMGU to move forward with the steps necessary to commence service to their respective new customers, and to relieve Suburban of all obligations to serve all customers affected by its application simultaneously, the Commission should order KNG to provide service to customers in and around Hoytville and on the McComb-Hoytville Pipeline until OIE is

²² KNG's total charges are also currently less than OIE's total charges for the same usage as proposed in its application in Case No. 11-3171-GA-ATA, which mirror the rates in the Hoytville ordinance under which OIE would provide service to customers in the village.

²³ As is now the case with Suburban, because KNG would have no ownership or leasehold interest in Hoytville or McComb facilities, any major repairs or improvements would continue to be the responsibility of the owners of these lines.

ready to commence operations or until such other time as the Commission may determine.²⁴

23. As noted above, the Commission has determined that, where a substitution of service is proposed, it has the authority to assure an orderly transition so that service to affected customers will not be interrupted. Pursuant to this authority, the Commission has ordered the utility ceasing operations to undertake specific measures to effectuate this result.²⁵ The Parties request that the substitution of service proposed herein be approved effective at 10:00 a.m. EST on July 1, 2011²⁶ (the “Transfer Date”) and that the following Transition Plan be approved.

- a. Construction of Interconnection and Temporary By-Pass: KNG will commence construction of the interconnection and the installation of related necessary facilities as provided in the Commission-approved Interconnection Agreement as soon as practicable, and will place the interconnection in service on the Transfer Date by opening the valves from the KNG Pipeline at or immediately before 10:00 a.m. on that date. In coordination with KNG, Suburban shall close the valves to the Deshler Pipeline and install flange blind plates on such valves at the North Baltimore interconnection on the Transfer Date immediately after KNG has verified that an adequate level of pressure has been established through the KNG interconnection. To provide for uninterrupted service during construction of the interconnection, Ohio Gas

²⁴ At that point, KNG would transfer the affected customers to OIE subject to terms similar to those set out in the Transition Plan proposed herein for the transfer of customers from Suburban to KNG.

²⁵ See, e.g., *In the Matter of the Application of Akron Thermal, Limited Partnership for an Emergency Increase in Rates for Steam and Hot Water Service*, Case No. 09-453-ST-AEM, et al. (Entry dated September 23, 2009, and Entry Nunc Pro Tunc dated October 7, 2009).

²⁶ 10:00 a.m. is the beginning of the “gas day.”

will construct and install, or cause to be constructed and installed, a by-pass on the Ohio Gas Pipeline around the interconnection (inclusive of the delivery points from the KNG Pipeline to the Ohio Gas Pipeline and the KNG Segment) to permit Suburban to fulfill its obligation under the 2009 Hamler and Holgate ordinances and the Malinta lease to deliver gas to customers west of the interconnection until this obligation terminates on the Transfer Date. KNG and Ohio Gas will coordinate their respective construction activities. KNG and Ohio Gas will provide notice to Suburban not less than three business days prior to commencing their respective construction activities, and will indemnify and hold Suburban harmless from any damage claims relating to these construction activities, including, in the case of Ohio Gas, any claims by customers resulting from an interruption of service due to a failure of the by-pass.

- b. Customer Information: Exhibit B attached hereto sets out the customer information Suburban agrees to provide to Ohio Gas, KNG, and DMGU to effectuate the transfer of customers and specifies the format in which such information is to be provided. Suburban shall provide such information to Ohio Gas, KNG, DMGU or make arrangements for representatives of Ohio Gas, KNG, and DMGU to obtain such information within five (5) business days of the date of the Commission order approving the substitution of service. If Suburban is unable to provide the information in the format requested then it will provide the entire customer record in the form in which it is maintained by Suburban. This information shall be deemed to be

provided pursuant to the order of the Commission approving the substitution of service and, thus, the provision of this information by Suburban to Ohio Gas and KNG will not constitute a violation of the Rule 4901:1-13-12(D)(1), Ohio Administrative Code, prohibition against the disclosure of customer account numbers. Upon mutual agreement, Suburban, Ohio Gas, KNG, and DGMU may develop the process for transferring the customer information at any time after this Stipulation is executed.

- c. Customer Notification: Within seven (7) business days of the receipt of the customer information from Suburban, Ohio Gas and KNG shall notify affected customers by special mailing that Ohio Gas or KNG will become their provider of natural gas service effective on the Transfer Date and that Suburban will no longer provide such service. Such notice shall include the rates that will be charged for such service and the telephone number the customer may call for additional information regarding the substitution of service. For those unincorporated area customers that will be served by KNG pursuant to contract, the mailing will include the contract the customers are to sign and return, and the notice will explain that the failure to sign and return the contract may result in the interruption of their natural gas service. Ohio Gas will meet with each unincorporated customer personally to provide the information prescribed by this paragraph and to deliver and explain the required service contract.

- d. Property, Maintenance, and Customer Records: Exhibit C attached hereto sets out the property, maintenance, and customer records Suburban agrees to

provide to Ohio Gas, KNG, and DMGU in order to assume responsibility for the System providing service to the affected customers. Suburban shall make arrangements for representatives of these Parties to obtain copies, or at Suburban's option, originals of such records, within fifteen (15) days of the date of the Commission order approving the substitution of service. Ohio Gas and KNG (i) may have access to the originals for the purposes of copying the same and shall have reasonable access to the same to examine the originals for a period of not less than one (1) year after the Transfer Date; and (ii) will pay Suburban's costs of copying said records if Suburban copies the same for Ohio Gas and KNG.

- e. Final Meter Reads: Suburban will conduct final meter readings of the affected customers' meters on the day before the Transfer Date (the "Meter Read Date"), and shall provide the meter registrations to Ohio Gas, KNG, and DMGU, as applicable, no later than seven (7) days after the Meter Read Date.

- f. Final Bills – Purchase of Accounts Receivable:

- (i) Ohio Gas. Suburban will provide to Ohio Gas the meter registrations from the Meter Read Date meter reads, past due balances (excluding approximately \$12,000 in Malinta PIPP arrearages which have not been including in Suburban's PIPP Rider), any remaining security deposit amount (including accumulated interest), and any budget billing true-up amount for each customer to be served by Ohio Gas no later than fourteen (14) days after the Meter Read Date. Ohio Gas shall pay any costs of providing said data if other than Suburban's native form. Ohio Gas will

bill each customer at the applicable Suburban rates for the prior service month and, except for PIPP customers, for any past due balance, subject to any applicable adjustments for an unapplied security deposit and budget-billing true-up, which shall be applied to the account and netted against the balance due. Suburban shall sell to Ohio Gas the accounts receivable of said customers net of the adjustments for budget billing true-ups and subject to a discount for undercollection based on Suburban's collection experience for the most recent twelve-month period for which information is available. At the same time, Suburban will transfer its total unapplied security deposit balance, including accumulated interest, if any, to Ohio Gas to be credited to the respective customers' accounts. Ohio Gas will provide payment to Suburban in the amount of the net of the accounts receivable balance (including the budget billing true-up) and the security deposit balance (including accumulated interest) no later than forty-five (45) days after the Transfer Date. Suburban shall recover the approximate \$12,000 Malianta PIPP arrearage in its PIPP Rider and recover the difference between the gross amount of accounts receivable and the amount received from Ohio Gas in its Uncollectible Expense Rider.

- (ii) KNG and DMGU. Because KNG and DMGU do not have the ability to bill Suburban's rates, Suburban will bill customers for the final service month and, except for PIPP customers, any past due balance no later than seven (7) days after the Meter Read Date, subject to the adjustments for any remaining unapplied security deposits and budget-billing true-ups,

which shall be applied to the account and netted against the balance due. If the application of the security deposit or budget-billing true up results in a surplus on the account, Suburban will refund the amount the amount of the surplus to customer no later than thirty (30) days after the Transfer Date. Suburban will provide accounts receivable reports to KNG and DMGU showing the final bill amount for each account within two (2) business days of the date the final bills are issued. KNG and DMGU will purchase from Suburban the accounts receivable of the customers they will serve, and Suburban's billings for the final service month will include a prominent instruction to customers that the amounts are to be paid to their new provider. KNG and DMGU will make payment for the purchase of the accounts receivable sixty (60) days after the date Suburban issues the final bills in an amount they have actually collected for the final Suburban bills. Suburban shall refund any unapplied security deposit to the customer within thirty (30) days of receipt of full payment of the final bill. All remaining PIPP arrearages shall be included in Suburban's PIPP rider and Suburban shall recover the difference between the gross amount of accounts receivable and the amounts received from KNG and DMGU in its Uncollectible Expense Rider.

- g. Commencement of Service: To assure that the substitution of service will be as seamless as possible from the standpoint of the affected customers, Ohio Gas and KNG will not require applications for service as a condition of commencing service to the transferred customers; provided, however, that, to

the extent the customer information provided by Suburban is incomplete or additional information is necessary, the new provider may require the transferred customer to provide, within a reasonable period of time, such information as the new provider deems necessary. After service has commenced, Ohio Gas and KNG and DMGU may require the customers to complete an application for service; provided, however, that, so long as the customer maintains a satisfactory payment record, neither Ohio Gas or KNG will require a security deposit from the customer as a condition of providing service.

- h. PIPP Customers: Customers transferred to Ohio Gas that are currently enrolled in the gas PIPP program shall continue as PIPP customers of Ohio Gas so long as they comply with the PIPP eligibility recertification requirements and make the required PIPP installment payments. Although KNG and DMGU do not offer PIPP, the fact that all PIPP customers transferred will begin with a zero arrearage balance is a significant benefit to these customers. Suburban is compensated for PIPP customer arrearages through its PIPP rider, and shall not include the arrearages of PIPP customers over and above the amount of their current PIPP installment payment amount in their final bills.
- i. Special Contract Customer: Suburban currently serves one customer located on the Deshler Pipeline pursuant to a Commission-approved competitive response contract. Suburban will assign this contract to KNG, and KNG will accept such assignment and fulfill Suburban's obligations under that contract,

effective on the Transfer Date. Suburban shall issue a final bill for the final service month and any past due balance as provided in Paragraph 22.f.(ii) above, including the instruction that the customer is to remit payment to KNG. KNG shall purchase the account receivable as provided in Paragraph 22.f.(ii) above.

- j. Line-Pack Gas: KNG and Ohio Gas agree to pay Suburban \$7.88 for “line-pack gas” as of the Transfer Date. Attached as Exhibit D is the estimated amount of the line-pack gas in the portion of the System that will be acquired by Ohio Gas (i.e., the Hamler, Holgate, and Malinta distribution systems and the Ohio Gas Pipeline from the proposed interconnection with the KNG Pipeline west), and the estimated value of the line-pack gas in the remaining portion of the System. Ohio Gas and KNG shall pay Suburban for this line-pack gas no later than fifteen (15) days after the Transfer Date. Suburban shall credit all payments received pursuant to this paragraph to its GCR.
- k. Line Markers: As soon as practical, but no later than ten (10) business days after the Transfer Date, KNG or Ohio Gas, shall install their respective System line markers over Suburban’s as well as, with Suburban’s cooperation, change out all locks on regulator stations and meters;
- l. OUPS: As soon as practical in cooperation with Suburban, Ohio Gas and KNG shall update their OUPS grid to reflect their responsibility for the System; and
- m. Field Contact: Each of the Parties shall designate a field contact for cooperation during the transfer.

24. Other than compliance with the terms of the Transition Plan as set forth above, the Commission's Order approving this Stipulation would also find that as of the Transfer Date, Suburban shall no longer have any obligations;

- (i) under the Leases,
- (ii) under the October 2009 ordinances, to the customers affected by this proceeding, or to Ohio Gas, KNG, or DMGU;
- (iii) to KNG, Ohio Gas, and DMGU, which have accepted their respective portions of the System as is, where is, and without warranty, for any damages; provided, however, that nothing herein shall be construed to mean that KNG, Ohio Gas, and DMGU are in any manner liable for any violation of the Commission's Pipeline Safety rules prior to their assumption of responsibility for their respective portions of the System; and
- (iv) Regarding the System, facilities, customers and Villages that were the subject of this proceeding.

The undersigned hereby stipulate and agree and each represents that he or she is authorized to enter into this Stipulation and Recommendation, this 17th day of June, 2011.

Respectfully submitted,

KNG Energy, Inc.

By: Barth E. Royer by J. Bentine via
Barth E. Royer
Bell & Royer Co., LPA
33 South Grant Avenue
Columbus, Ohio 43215-3927
(614) 228-0704 – Phone
(614) 228-0201 – Fax
electronic approval 7/16/11
BarthRoyer@aol.com – Email

Attorney for KNG Energy, Inc.

Ohio Gas Company

By: Gretchen J. Hummel by J. Bentine
Gretchen J. Hummel
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 4325-4228
(614) 469-8000 – Phone
(614) 469-4653 – Fax
via electronic approval 7/16/11
ghummel@mwncmh.com – Email

Attorney for Ohio Gas Company

The Village of Deshler, Ohio

By: _____
David Busick
Legal Advisor
Village of Deshler
5671 Road 9
Liberty Center, OH 43532
Email: dmb@henry-net.com

Suburban Natural Gas Company

By: [Signature]
John W. Bentine (0016388)
Email: jbentine@cwslaw.com
Direct: (614) 334-6121
Mark S. Yurick (0039176)
Email: myurick@cwslaw.com
Direct: (614) 334-7197
CHESTER WILLCOX & SAXBE LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
Telephone: (614) 221-4000
Facsimile: (614) 221-4012

William J. Michael (0070921)
Email: bmichael@sngco.com
Phone: (740) 548-2450
SUBURBAN NATURAL GAS COMPANY
General Counsel
2626 Lewis Center Road
Lewis Center, Ohio 43035-9206

Attorneys for Suburban Natural Gas

Staff of the Public Utilities Commission of Ohio

By: Werner Margard III by J. Bentine
Werner Margard, III,
Assistant Attorney General
Public Utilities Section
180 E. Broad Street
Columbus, Ohio 43215
via electronic approval 7/16/11

Attorney for Staff

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Stipulation and Recommendation* was served upon the following persons listed below by electronic mail and/or regular U.S. Mail, postage prepaid, this 17th day of June, 2011.

Barth Royer
Bell & Royer Co., LPA
33 South Grant Ave.
Columbus, OH 43215
Email: barthroyer@aol.com

Village Clerk
Village of Hamler
240 Church St.
Hamler, OH 43524

Village Clerk
Village of Holgate
P.O. Box 323
416 Smith St.
Holgate, OH 43527

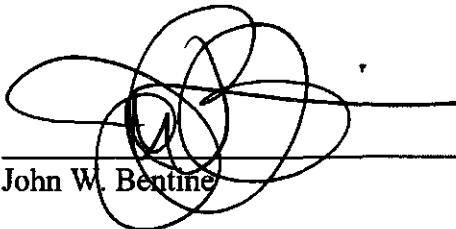
Village Clerk
Village of Hoytville
P.O. Box 135
Hoytville, OH 43529

Steve Callejas
441 Frazee Ave., Suite B
Bowling Green, OH 43402
Solicitor for Village of Hoytville

Village Clerk
Village of Malinta
P.O. Box 69
Malinta, OH 43535

Village Administrator
Village of McComb
P.O. Box 340
McComb, Ohio 45858

Andrew J. Sonderman
Margeaux Kimbrough
Kegler Brown Hill & Ritter LPA
Capitol Square, Suite 1800
65 East State St.
Columbus, OH 43215
Email: asonderman@keglerbrown.com
Email: mkimbrough@keglerbrown.com



John W. Bentine

EXHIBIT A

EXHIBIT A

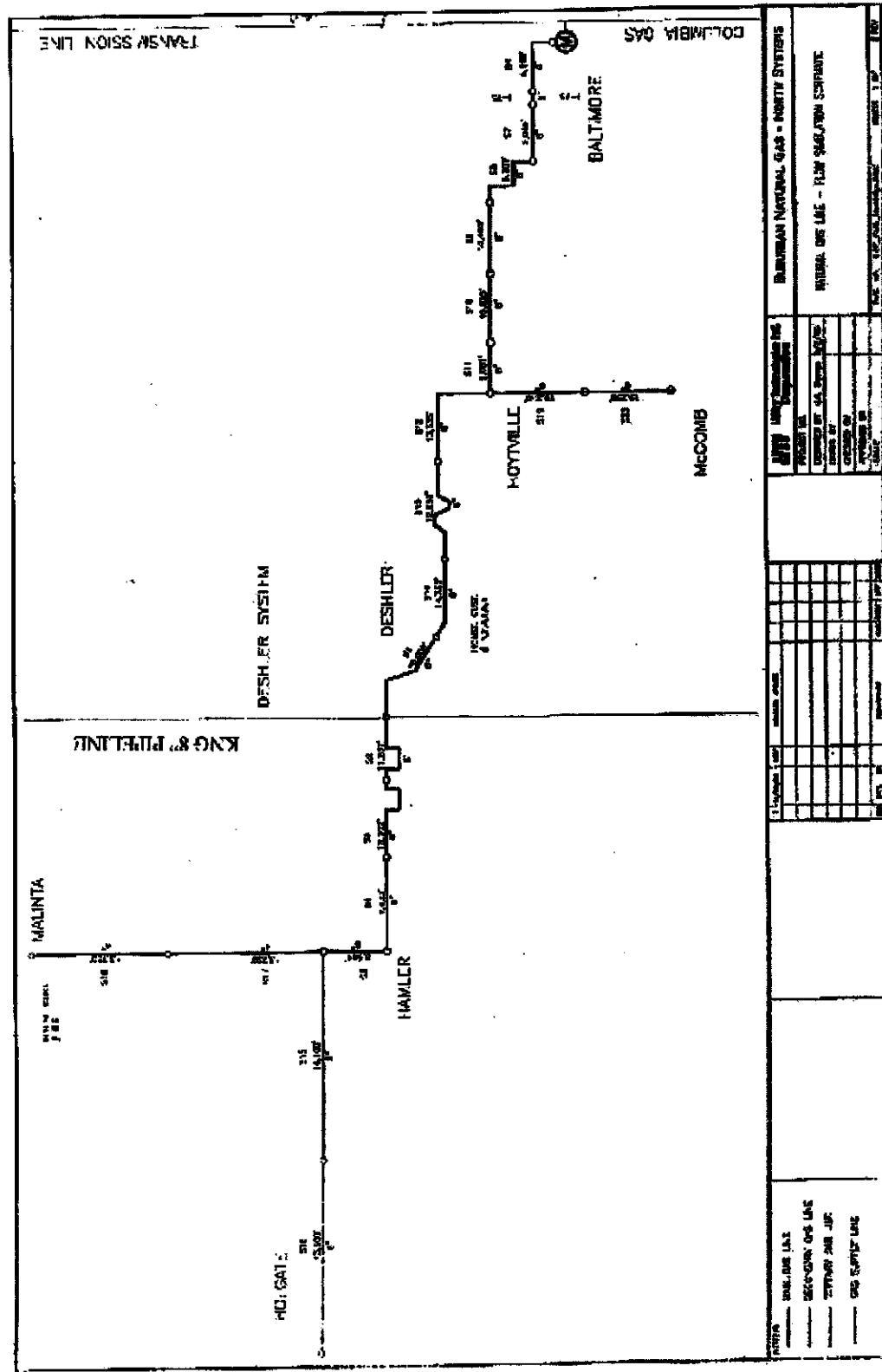


EXHIBIT B**CUSTOMER ACCOUNT INFORMATION**

Export File Type: Microsoft Excel or if a database based on SQL, Access, Fox Pro or Firebird is provided we should be able to extract needed information.

Requirements, Export Field Order, Definitions and Formatting

(Bare minimum amount and type of information needed. Append any additional information to the end of the export file or place in additional books within the export file.)

| Field Name | Description | Width | Valid Values | Requirements | Notes |
|--------------------|--------------------------------------|--------------|---------------------|---------------------------------------|---------------------------------|
| Name 1 | Primary Customer Name | 30 | Characters | First Name, Middle Initial, Last Name | All capital letters if possible |
| Name 2 | Secondary Customer Name | 30 | Characters | First Name, Middle Initial, Last Name | All capital letters if possible |
| Address 1 | Billing Address | 30 | Characters | | All capital letters if possible |
| City / State | Billing City & State | 30 | Characters | City, State | All capital letters if possible |
| Zip | Billing Zip Code | 9 | Characters | | |
| Sort Name 1 | Primary Customer Sort Name | 20 | Characters | Last Name, First | All capital letters if possible |
| Sort Name 2 | Secondary Customer Sort Name | 20 | Characters | Last Name, First | All capital letters if possible |
| Phone 1 | Primary Phone # | 10 | Numeric | | |
| Phone 2 | Secondary Phone # | 10 | Numeric | | |
| Social Security 1 | Primary Customer Social Security # | 9 | Numeric | | |
| Social Security 2 | Secondary Customer Social Security # | 9 | Numeric | | |
| Service Address 1 | Service Location # | 5 | Characters | | |
| Service Address 2 | Service Location Direction | 2 | Characters | | |
| Service Address 3 | Service Location Street Name | 21 | Characters | | |
| Meter# | Meter Number | 8 | Characters | | |
| Meter Dials | # of Meter Dials | 2 | Numeric | | |
| Meter Install Date | Installation Date of Meter | 8 | Date | | |

| Field Name | Description | Width | Valid Values | Requirements | Notes |
|-------------------|---------------------------------------|--------------|---------------------|---------------------|--|
| Meter Serial | Meter Serial # or ID | 12 | Characters | | |
| Meter Pressure | Pressure Setting of Meter | 3.5 | Numeric | | Example: 001.00000 |
| Meter Type | Name Code of Meter | 7 | Characters | | Manufacture & Model |
| Meter Constant | Meter Multiplier Factor | 3,5 | Numeric | | Example: 001.00000 |
| Meter Location | Description of where Meter is Located | 30 | Characters | | |
| Current Read | Current Meter Read Value | 8 | Numeric | | Will need to be updated again at time of possession |
| Read Date | Current Meter Read Date | 8 | Date | | Will need to be updated again at time of possession |
| Bill History | Meter Usage in CCF | 8 | Numeric | 24 Months | Usage in CCF by accounting period and Revenue Class-- At least 12 months |
| Connection Date | Date Service Connected | 8 | Date | | |
| Disconnect Date | Date Service Disconnected | 8 | Date | | |
| Account Status | Current status of Account | 1 | Characters | A or I | A = Active I = Inactive |
| Revenue Class | Classification of Customer | 1 | Characters | R or C | R = Residential I-Industrial C = Commercial T-Transportation |
| Account Type | Type of Account | 1 | Characters | B or P | B = Budget P = PIPP Leave Blank if neither |
| PIPP Start Date | Start Date customer went on PIPP | 8 | Date | | |
| PIPP Amount | Current Customer PIPP Amount | 4.2 | Numeric | | Example: 0128.00 |
| PIPP Re-Cert Date | Customers PIPP Revivification Date | 8 | Date | | |
| ACH Status | Is the Customer on ACH | 1 | Characters | Y or N | Yes or No |
| ACH Name | Bank Name | 23 | Characters | | |

| Field Name | Description | Width | Valid Values | Requirements | Notes |
|--------------------|------------------------------------|--------------|---------------------|---------------------|---------------------------------|
| ACH Account | Customer Account # | 17 | Characters | | |
| ACH Type | Customers Account Type | 1 | Characters | C or S | C = Checking S = Savings |
| ACH Bank # | Bank DFI ID# | 9 | Numeric | | |
| Own / Rent | Does Customer Own or Rent Property | 1 | Characters | R or O | R = Rent O = Own |
| Landlord Name | Name of Landlord | 30 | Characters | | All capital letters if possible |
| Landlord Address 1 | Street Address | 30 | Characters | | All capital letters if possible |
| Landlord Address 2 | City, State, Zip | 30 | Characters | | All capital letters if possible |
| Landlord Phone | Landlord Phone # | 10 | Numeric | | All capital letters if possible |
| Landlord Notes 1 | Any Landlord Notes | 30 | Characters | | All capital letters if possible |
| Landlord Notes 2 | Any Landlord Notes | 30 | Characters | | All capital letters if possible |
| Landlord Notes 3 | Any Landlord Notes | 30 | Characters | | All capital letters if possible |

EXHIBIT C

RECORDS AND OTHER INFORMATION

Pursuant to Paragraph 22.d of the foregoing Stipulation, Suburban shall make available for copying the following records and other specified information to Ohio Gas, KNG, and DMGU, as applicable, within fifteen (15) days of the date of the Commission order approving the substitution of service. Where such records or other specified information are maintained in electronic format, Suburban shall provide electronic copies thereof.

Property, Maintenance, and Inspection Records:

1. Leak Records (All original records of outstanding and repaired leaks on the System pipelines)
2. Leak Survey Records (All records created and maintained of past leak surveys conducted on the System, including, but not limited to, business district, service lines, and catch basin/manhole surveys, and any special leak surveys performed)
3. Patrolling Records (All patrolling records created and maintained, including any additional information regarding actions taken as a result of patrolling reports)
4. Annual P/S Test Point (TP) Readings (All test station records created and maintained, including, but not limited to, readings and detailed physical location information, and any additional information regarding actions taken as a result of such TP readings)
5. Rectifiers and Bonds Records (All rectifier and bond records created and maintained, including, but not limited to, detailed physical locations and readings, plus any additional information regarding actions taken as a result of such readings)

6. Inspection of Excavated/Exposed Pipelines (All records created and maintained regarding visual inspections of excavated and exposed pipelines)
7. Atmospheric Corrosion Inspections (All records created and maintained of atmospheric corrosion inspections, including regulator stations, meter sets and above-ground mains)
8. Service Line Corrosion Surveys (All records created and maintained regarding service line corrosion surveys).
9. Critical Valves (All records created and maintained regarding critical valves, including annual inspections, detailed location information, detail of the curb keys needed for each valve, the ownership of which shall be transferred by Suburban to the new provider on the Transfer Date)
10. Regulator Station Inspections (All records created and maintained regarding annual regulator station inspections, including design records, location information, plus any additional information that may be available regarding regulator stations, including, but not limited to, overpressure protection verification and relief valve capacity data and most recent calculations)
11. Records used to Determine MAOP (All records created and maintained used in the establishment of the MAOP on each line segment of the System pipelines, and all records affecting the MAOP of the line segments together with any additional related information that may be available)
12. Service Card Records (All service card records created and maintained, including the location of service curb valves and an indication if the service has a curb valve and/or an excess flow valve (EFV)).
13. Riser Inventory (All records created and maintained containing the complete riser inventory as required by the Commission, including the location and manufacturer of

each riser, together with a copy of Suburban's riser replacement program, including a list of all prone-to-fail risers and steel risers in the System and their locations)

14. Location of all EFVs (All records created and maintained listing the number and location of all EFVs in the System and any additional information that may be available to meet current Federal DOT reporting requirements)
15. Repair Records (All records created and maintained of repairs made over the life of the System pipelines)
16. Incident Reports (All incident reports relating to System facilities).
17. Meter Inspections and Maintenance Records (All records created and maintained regarding large meter inspections and maintenance)
18. Odorization Records (All odorization records created and maintained)
19. Office of Pipeline Safety Correspondence (All correspondence from the Commission's Office of Pipeline Safety regarding the System pipelines, including any non-compliance letters, and the disposition of the issues raised by such letters).
20. Construction Reports (All records or documentation relating to additions or improvements to the System pipelines.
21. Pressure Test Reports (All pressure test reports on the System pipelines).
22. IMP and DIMP Program Records (All records maintained as a result of the IMP and DIMP programs)

23. Annual DOT Reports (All annual DOT reports and the detailed system breakdown used to produce the annual DOT report by village-owned segment, and any additional records use to produce the annual DOT report)
24. Pending Public Improvement Projects (A list of project(s) by ODOT, county, township, or municipality, whether active, in planning, or proposed for possible future consideration, along with the most recent three years of records concerning such projects, and any additional related records)
25. O&M Records (All records pertaining to the System pipelines, excluding a copy of Suburban's O&M procedures manual)
26. Village and System Maps (All maps showing the location, size, and materials of distribution facilities and indicating approximate locations in reference to the centerline of the road right-of-way for the System pipelines)
27. Real Property Records (All original easements, right-of-way agreements, or other real property interests related to the System pipelines)

Customer Information:

1. List of customers on life support.
2. List of customers with medical certification and copies of certification documents.
3. PIPP customer verification and re-verification records (Ohio Gas customers only).
4. Copies of customer files including applications and any correspondence.
5. Copies of any current contracts or special agreements.

Miscellaneous:

The Parties shall also cooperate regarding the following information and actions.

1. All mailing lists for the distribution of materials pursuant to the Office of Pipeline Safety' Public Awareness requirements.
2. Copies of most recent electric bills and documentation showing electric service locations.
3. Any permits or licenses regarding the System or invoices regarding the same, including the CSX crossing permit invoice due August 27, 2011.

EXHIBIT D**LINE PACK COMPENSATION****VOLUME SUMMARY**

| Town | Volume, MCF |
|---|--------------------|
| Deshler West | 3 |
| Deshler East | 23 |
| Hamler | 66 |
| Holgate | 49 |
| Malinta | 18 |
| Hoytville, McComb, N, Baltimore to Henry County | 226 |
| Services | 1 |
| Total | 385 |

Suburban shall be compensated for the above volumes by KNG, Ohio Gas and DMGU at Suburban's weighted average cost of gas, including transportation and demand costs of \$7.88.