

PUCO EXHIBIT FILING

Date of Hearing: 11/7/11Case No. 10-2395-GA-CSS

PUCO Case Caption: _____

Complaint of the Office of
Consumer's Counsel, et al.
vs. Interstate Gas Supply
d/b/a Columbia Retail Energy

List of exhibits being filed:

NOPEC Exs. 2-4-5-5A-8
(*) Ex 5A (Confidential - sealed)

NOPEC Exs. 6 and 7
Proffered

Reporter's Signature: Maria DiPaolo JonesDate Submitted: 11/14/11

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PUCO

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the :
 Complaint of The Office :
 of the Ohio Consumers' :
 Counsel, et al., :
 Complainants, :
 vs. : Case No. 10-2395-GA-CSS
 Interstate Gas Supply :
 d/b/a Columbia Retail :
 Energy, :
 Respondent. :

PROCEEDINGS

before Ms. Katie Stenman, Attorney Examiner, at the
 Public Utilities Commission of Ohio, 180 East Broad
 Street, Room 11-C, Columbus, Ohio, called at 10:00
 a.m. on Monday, November 7, 2011.

VOLUME I

ARMSTRONG & OKEY, INC.
 222 East Town Street, Second Floor
 Columbus, Ohio 43215-5201
 (614) 224-9481 - (800) 223-9481
 Fax - (614) 224-5724

FILE

NOPEC Ex. 2 3

**The Public Utilities Commission of Ohio
Ohio Competitive Retail Natural Gas Marketer Certificate
Renewal**

Issued pursuant to Case Number(s):
02-1683-GA-CRS

Is

Ohio Competitive Retail Natural Gas Marketer Certificate Number:
02-002G(5)

Granted to:
Interstate Gas Supply, Inc.

Whose office or principal place of business is located at:
6100 Emerald Parkway, Dublin, Ohio 43016-3248

And is hereby certified to provide:

Retail Natural Gas Marketer Services
within the state of Ohio, for a two-year period.

Certification Effective:
July 24, 2010 through July 24, 2012


The certification of Ohio competitive retail natural gas marketers is governed by Chapter 4901:1-27 of the Ohio Administrative Code and section 4929.20 of the Ohio Revised Code.

This Certificate is revocable if all of the conditions set forth in the aforementioned case(s) as well as those under law, are not met.

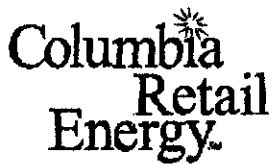
Certified entity is subject to all rules and regulations of the commission, now existing or hereafter promulgated.

Witness the seal of the Commission affixed at Columbus, Ohio
Dated: **August 10, 2010**

By Order of
The Public Utilities Commission of Ohio


Renee J. Jenkins, Secretary
Betty McCauley, Acting Secretary
Mariruth C Wright, Acting Secretary

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*Columbia Retail Energy is not an affiliate
of NISource or Columbia Gas of Ohio.*

Dear

Columbia Retail Energy is pleased to offer you the stability of a fixed-rate plan for your natural gas.

Columbia Retail Energy is currently offering a low fixed rate of 75¢ per CCF through your September 2011 billing cycle.

What are the benefits of a fixed rate?

With a Columbia Retail Energy fixed-rate plan, you get the peace of mind knowing that your rate is guaranteed and will not change through your September 2011 billing cycle. This low fixed rate will protect you if market prices increase.

Prices may be low but what happens if natural gas prices decrease even further?

Besides being protected from price increases, you may benefit from even lower prices because with Columbia Retail Energy you have the ability to switch to any of our other fixed-rate products at any time during the initial term ending September 2011. Simply contact us to enroll in another fixed-rate plan and we will waive your early termination fee.

What if you do not lock in a fixed rate?

Effective April 2010, your utility changed to a market-based monthly variable rate called the Standard Service Offer (SSO). The SSO price is based on the monthly NYMEX price of gas plus an additional 19.3¢ per CCF.

What is the difference between your utility's variable rate and this fixed rate offer?

Your utility's SSO rate is a variable rate that changes monthly and may be higher or lower than 75¢. In addition, had the SSO pricing structure been in place over the last five years, the average price would have been 88¢ which is 17% higher than this Columbia Retail Energy fixed-rate plan.

Columbia Retail Energy is based in Ohio and is certified by the Public Utilities Commission of Ohio (PUCO).¹ It's easy to enroll, and your service will not change.

This offer is available for a limited time only. Please enroll no later than Friday, October 22, 2010.

Choose one of three easy ways to enroll:



Phone: Call Columbia Retail Energy toll-free at 888-493-6790 Monday – Friday, 8am to 8pm, and Saturday 9am to 3pm (ET).



Mail: Complete the enclosed enrollment card and return it in the postage-paid envelope.



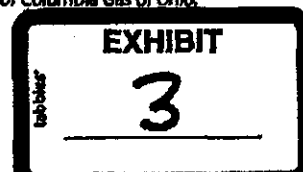
Internet: Go to ColumbiaRetailEnergy.com and enter the Promo Code below.

Due to high interest in our recent offers, we are experiencing high call volumes. For your convenience, we recommend you use our Mail and Internet enrollment options.

You will need your Columbia Gas of Ohio account number at the time you enroll. You can find your account number on your gas bill. You will also need the Columbia Retail Energy Promo Code that appears below.

Columbia Retail Energy Promo Code: NFA11B086690

¹The trademark COLUMBIA RETAIL ENERGY including the starburst design is a trademark of NISource Corporate Services Company and is used under license by Interstate Gas Supply, Inc. Interstate Gas Supply, Inc., is not an affiliate of NISource Corporate Services Company or Columbia Gas of Ohio.



NFA11

My Natural Gas Supply Contract with Columbia Retail EnergySM (Interstate Gas Supply, Inc.)

Form FCOH-CRE-75-0911LR

Keep for your records

Term: The term of this program will begin with the first billing cycle my enrollment or rate change is confirmed with Columbia Gas of Ohio ("COH") and will continue the September 2011 billing cycle ("Primary Term") and automatically continue year-to-year thereafter (October through the following September billing cycles each "Secondary Term") until canceled by notice as provided by this Agreement. Interstate Gas Supply, Inc. (doing business as "Columbia Retail EnergySM") will supply the commodity portion of my natural gas service to be my Natural Gas Distribution Company ("NGDC"). Within 3 business days of enrollment, Columbia Retail Energy will notify the NGDC to transfer gas service program. Due to the volatility of the gas market, Columbia Retail Energy reserves the right to discontinue this contract any time before enrollment. If I am currently a Columbia Retail customer, Columbia Retail Energy reserves the right to not accept or rescind this enrollment or to require me to pay the applicable cancellation fee for my existing program to be a part of this program. The trademark COLUMBIA RETAIL ENERGY including the starburst design is a trademark of NISource Corporate Services Company and is used under license by Interstate Gas Supply, Inc. Interstate Gas Supply, Inc., is not an affiliate of NISource Corporate Services Company or Columbia Gas of Ohio.

Regulatory: The residential natural gas program is subject to ongoing Public Utilities Commission of Ohio ("PUCO") and COH jurisdiction and I understand that if the residential program is materially altered, this Agreement may be terminated by Columbia Retail Energy without penalty.

Price: Starting with my first billing cycle on this contract through my September 2011 billing cycle, my price will be \$0.75 per CCF each billing cycle. Thereafter my price is detailed below. I am responsible for and my price does not include applicable taxes and/or NGDC charges, which will be billed by the NGDC.

Renewal Term and Price: For each Secondary Term this Agreement will automatically renew on a year-to-year basis, unless Columbia Retail Energy provides me with notice of a term (which could include month-to-month). Columbia Retail Energy will send me notice of my renewal at least 45 but not more than 90 days prior to the end of my Primary Term. Columbia Retail Energy reserves the right to make changes to the terms of this Agreement, including price and pricing methodology and term for any Secondary Term(s). Such notice will be at least 45 but not more than 90 days prior to the automatic renewal of this agreement. If I do not cancel the Agreement at that time, this Agreement will continue at my new notice and terms for the Secondary Term. Columbia Retail Energy reserves the right to lower my price at any time for any month or months and thereafter return my price to the last notice without providing me with notice of either.

Rescission Period: If I am a new customer to Columbia Retail Energy this Agreement may be rescinded by me with no cancellation fee by: (1) contacting the NGDC in writing or by telephone at the number provided on the confirmation notice within 7 business days from the post-mark date of the confirmation notice sent by the NGDC ("Rescission Period"). If I am an existing customer, I will not receive a confirmation notice from the NGDC but, in the event I decide to rescind enrollment in this Agreement during the Rescission Period, I will be returned to my Agreement with Columbia Retail Energy without penalty under this Agreement.

Cancellation: During the periods described in Rescission Period above, there is no cancellation fee to end this Agreement. Further, either party can cancel this Agreement at the end of the Primary or any Secondary Term, to be effective at the end of such term with no cancellation fee, by providing notice to the other not less than 30 days prior to term end, or as provided in the renewal notice. At all other times, this Agreement may be cancelled by either party by providing notice of cancellation to the other and the payment of a cancellation fee. However, notwithstanding anything to the contrary in this agreement, if I enter into a new fixed price contract (this does not include governmental agreements, variable rate contracts or short term, less than 6 months monthly fixed price contracts) with Columbia Retail Energy any time after enrollment and before September 1, 2011, Columbia Retail Energy will waive my cancellation fee. Cancellation notices provided after the NGDC deadline may result in an additional month(s) of service beyond the contract term. The new price, which I agree to pay, as the effective date of all cancellations are subject to NGDC guidelines. I understand that if I switch my service to another supplier or back to the NGDC switching fee may apply under the NGDC's tariff and the NGDC may charge a price other than the standard service offer rate. If Columbia Retail Energy raises my price for a Secondary Term and the term is 6 months or longer, the cancellation fee will be reduced to \$25.00 for that term.

Assignment: This contract is assignable by Columbia Retail Energy without my consent subject only to required regulatory approvals. Columbia Retail Energy will use its best effort to obtain the NGDC and me thirty (30) days written notice prior to any assignment.

Contact and Dispute Resolution: In the event of a billing dispute or issues regarding volume or metering, I should contact the NGDC at the number listed on their bill. If I have questions or concerns about pricing, I can contact the Columbia Retail Energy choice department by phone weekdays from 8:00 a.m. to 5:00 p.m. ET at 1-888-493-679x or 1-800-584-4839, in writing at P.O. Box 9060, Dublin, OH 43017, or through their web site at www.ColumbiaRetailEnergy.com. Also, I can contact Columbia Retail Energy through my account manager. If my questions or concerns or complaints are not resolved after I have called Columbia Retail Energy, or for general utility information, residential business customers may contact the Public Utilities Commission of Ohio for assistance at 1-800-686-7826 (toll free) or for TTY toll free at 1-800-686-1570 (toll free), from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puc.ohio.gov. Residential customers may also contact the Ohio Consumers' Council for assistance with complaints and utility issues at 1-877-742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays or visit www.puc.ohio.gov.

Billing: For my convenience I will receive only one bill, which will be issued by the NGDC each month and will contain Columbia Retail Energy's gas price plus applicable taxes and NGDC's transportation and other applicable charges, including any late fees assessed by the NGDC. I agree to continue to pay the NGDC for the entire gas bill under the NGDC's terms and conditions. If I pay under the budget bill payment plan, I understand that this service will remain available. Columbia Retail Energy reserves the right to issue an invoice directly, such invoice would contain Columbia Retail Energy's gas price and may also contain applicable taxes and all of the NGDC's transportation and other applicable charges. If Columbia Retail Energy invoices me directly and I fail to pay within the terms specified on the invoice(s) a late fee of 1.5% per month on all past-due amounts will apply. If Columbia Retail Energy invoices me directly for services provided, Columbia Retail Energy may terminate this Agreement with fourteen (14) days written notice should I fail to pay the bill or meet any agreed-upon payment arrangements. If I fail to pay my invoices timely which include Columbia Retail Energy charges, the NGDC may disconnect my service, according to tariff guidelines. I may request a charge, up to 24 months of my payment history for services rendered by Columbia Retail Energy. Other than for operation, maintenance, assignment and transfer of my account or Columbia Retail Energy is performing billing services, or for commercial collections, Columbia Retail Energy will not disclose my account number to any other third party without my affirmative written consent or electronic authorization or pursuant to a court or Commission order and that, other than for credit checking and credit reporting, if Columbia Retail Energy is performing billing services, Columbia Retail Energy will not disclose my social security number without my affirmative written consent or pursuant to court order. I authorize Columbia Retail Energy to obtain my billing payment and usage history from the NGDC.

Moving/Termination: I understand that this contract will automatically terminate, without penalty, if I relocate outside the NGDC service territory, or if the requested service location is not served by the NGDC. Also, I understand that I have the right to terminate this Agreement, without penalty, if I relocate inside the NGDC service territory and the NGDC does not have service at my new location. If I relocate within the NGDC service territory and do not exercise my right to cancel this Agreement, if any, at Columbia Retail Energy's option, this Agreement may continue at my new location. I agree that if I do not terminate this Agreement as provided in this paragraph, I grant the NGDC the right to provide Columbia Retail Energy with my address and meter number(s) for my new location and to transfer my contract to my new location, if requested by Columbia Retail Energy. I will also provide Columbia Retail Energy with information. If Columbia Retail Energy does not transfer this Agreement for service at my new location within 90 days of relocation, this Agreement will automatically terminate. I understand that I am not entitled to the pricing or service from Columbia Retail Energy hereunder at my new location until such time as the NGDC accepts my enrollment with Columbia Retail Energy at my new location and/or transfers my contract to my new location and that the pricing hereunder will not be extended for additional months that I was not with Columbia Retail Energy unless agreed to in writing by Columbia Retail Energy. Except as provided in this Agreement, if Columbia Retail Energy returns me to the NGDC's sales service, this Agreement will terminate without penalty to me.

Eligibility / Limitation of Liability / Jurisdiction: This Agreement is for residential and small commercial customers in the Columbia Gas of Ohio service territory. By entering into this Agreement, I represent and agree that the account(s) served by Columbia Retail Energy under this Agreement is (are) residential or small commercial account(s), in the COH service territory and I am not an existing Columbia Retail Energy customer. Columbia Retail Energy reserves the exclusive right, at any time, to not enroll or to terminate service to customer location(s) that do not meet the preceding criteria, including those that consume more than 20,000 CCF per year and return the customer to the NGDC (or previous Columbia Retail Energy service, whichever is applicable) with no penalty to Columbia Retail Energy. This limitation applies to related accounts that individually may not exceed the limit, but collectively may. Further participation in the program is subject to the rules of the NGDC and customers are sometimes terminated from the residential program either in error or for being in arrears. In such instances, I can contact the NGDC to correct the problem and be reinstated in the residential program. Regardless of the reason for termination, in no case will the original term be extended for months that I was unable to participate nor will Columbia Retail Energy have any liability for any early termination or for any months that I was unable to participate in the program. Columbia Retail Energy assumes no liability or responsibility for losses or consequential damages arising from items associated with the NGDC including, but not limited to, operation and maintenance of their system; any interruption of service; termination of service; or deterioration of service, nor does Columbia Retail Energy assume responsibility or liability for damages arising from any in-home or building damages and in addition shall not be responsible for any indirect, consequential, special or punitive damages whether arising under contract (including negligence or strict liability) or any other legal theory. The parties agree that if the customer is unable to resolve its issues through the PUCO as detailed under "Dispute Resolution" above or if suit is filed, any legal action involving this Agreement shall be brought only in a court of the State of Ohio sitting in Franklin County, Ohio or the United States District Court sitting in Franklin County, Ohio. I submit to the personal jurisdiction in such courts and irrevocably waive any objections that I have or might have in the future to such as the proper forum for any and all actions arising under this Agreement. The parties agree that this Agreement shall be interpreted under the laws of the State of Ohio, regardless of choice of law provisions.



PSNRT STD
US POSTAGE PAID
Lancaster, OH
PERMIT 376

**Columbia Gas of Ohio Natural Gas Customer
Important Natural Gas Information**

*****ECRWSS**R-007
34511 ** 1332 ** 208

OR CURRENT RESIDENT

**Columbia
Retail
Energy**

Service is provided by IGS Energy under the trade name Columbia Retail Energy.

No cancellation fees.
No hassles. No worries.

www.ColumbiaRetailEnergy.com
888-493-6790

During the summer, most of us aren't thinking about natural gas prices - or how they will impact our heating costs this winter. So why send you a letter about natural gas now? Because natural gas prices are currently near an eight year low! Now is a great time to take advantage of the current low prices and lock in a fixed rate before the winter heating season arrives.

Columbia Retail Energy's fixed-rate offer of just 72.9¢ per CCF is the lowest fixed-rate offer without a cancellation fee on the PUCO Apples to Apples website!¹ Not only is our rate guaranteed through your July 2012 billing cycle - there's no cancellation fee! So if there's ever a different offer that you prefer, you're free to switch by simply calling us. Columbia Retail Energy - we guarantee your price and ensure your peace of mind.

Why choose Columbia Retail Energy? Columbia Retail Energy is a brand offered by IGS Energy through an agreement with NISource Retail Services. We are proud to be entrusted with the Columbia brand. In business for over 20 years, IGS Energy serves more than 850,000 customers in nine states.

Benefits to you:

- It's Simple: Three easy ways to enroll.
- It's Smart: Lock in a natural gas rate when prices are low.
- It's Safe: No cancellation fee.

This offer is available for a limited time only. Please enroll no later than Friday, October 7, 2011.

Choose one of three easy ways to enroll:



Phone: Call us toll-free at
888-493-6790 M - F, 8 a.m. - 8 p.m.,
and Sat 9 a.m. - 3 p.m. (ET).



Mail: Complete the attached enrollment card and return it in the postage-paid envelope.



Internet: Visit us at
ColumbiaRetailEnergy.com
and enter the Promo Code below.

You will need your Columbia Gas of Ohio natural gas account number at the time you enroll. You can find your account number on your gas bill. You will also need the Columbia Retail Energy Promo Code that appears on the enrollment card below.

¹ Shown on the Public Utilities Commission of Ohio (PUCO) Applies to Applies rate page as of 8/16/2011.

Columbia Retail Energy is not the utility and neither Columbia Retail Energy nor Interstate Gas Supply, Inc. ("IGS Energy") is an affiliate of NiSource Retail Services or the utility, Columbia Gas of Ohio. The Columbia Retail Energy name and starburst design are used by Interstate Gas Supply, Inc. under a license agreement with NiSource Retail Services.

Detach here

Enrollment Card

Please fill out, sign and return to Columbia Retail Energy in the postage-paid envelope provided.

☒ **Yes! I want to take control of my natural gas costs.**

By signing this enrollment form, I am enrolling with Columbia Retail Energy for a fixed rate of 72.9¢ per CCF through my July 2012 billing cycle.

Required for enrollment

Fill in your Columbus Gas of Ohio natural gas account number.

Email Address

Phone #

By signing this enrollment card, I am selecting Columbia Retail Energy as my agent for natural gas supply with distribution and billing and handling by Columbia Gas of Ohio under the terms and conditions aforesaid. Columbia Gas of Ohio will continue to charge me for taxes, distribution, and other applicable fees. (Columbia Retail Energy Contract Form: PGOH-CRE-729-8719NY)

Columbia Retail Energy Phone Code.

Columbia Retail Energy Promo Code.

**Columbia
Retail
Energy**

Service is provided by IGS Energy
under the trade name Columbia
Retail Energy.

☐ Check here if any of the information above is incorrect. Please make corrections on the back side of this card.

☐ Check here if you'd like Columbia Retail Energy to email you about special offers in the future.

EXHIBIT

4

PO Box 8010
Dublin, Ohio 43016

**Columbia
Retail
Energy**

Service is provided by CES Energy under
the trade name Columbia Retail Energy.

Important Natural Gas Information



[OLAC Home](#)**Agents for Interstate Gas Supply, Inc. (dba IGS Energy)**

Click on the agent's name to find all employers of that agent or [return to search form](#). If a check appears in the L(egislative) or E(xecutive) box, it indicates the individual is registered as a lobbying agent for this branch of the government. Additional information is found in the [Lobbying Handbook](#).

Only current engagements are shown. Terminated engagements are not included in the search results.

Agent / Address	Phone	L	E	R
John W Bentine 65 East State Street Suite 1000 Columbus, OH 43215	6143346121	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

William Fitzgibbon 65 East State Street Suite 1000 Columbus, OH 43215-4213	6143347134	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Vaughn R Flasher 37 West Broad Street Suite 405 Columbus, OH 43215	6142216408	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Robert J. Kovey P.O. Box 163114 Columbus, OH 43216	6147253867	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Denise M Larr 65 East State Street Suite 1000 Columbus, OH 43215	6143346126	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Jody Licursi 37 West Broad Street Suite 405 Columbus, OH 43215	614-221-6408	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Donald Thibaut P.O. Box 163114 Columbus, OH 43216	6147253867	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
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Kasich friends in high demand

3 who have long been advisers to governor become top lobbyists

Monday May 23, 2011 6:39 AM

Comments: 0

Recommend

0

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A half-dozen blocks south of the Statehouse, Donald G. Thibaut's red clapboard house in German Village has become a center of political power in Ohio.

Gov. John Kasich's best friend has set up a lobbying shop, signing up a dozen blue-chip companies. His overnight success as a first-time lobbyist is turning heads on

Capitol Square - and testing the credibility of Kasich's oft-made promise that friends will get no special treatment.



DISPATCH FILE PHOTO

Gov. John Kasich says that when he talks informally with longtime friends who are lobbyists, he will not discuss their clients' interests.

Neither Kasich nor Thibaut see any problem, but others wonder whether the governor's close ties to Thibaut and two other lobbyists who are members of Kasich's inner circle of advisers might open the governor to charges of hypocrisy.

"The perception is that they're cashing in," said one prominent Republican who asked not to be named for fear of retribution.

Thibaut, Robert F. Klaffky and Douglas J. Preisse are Ohio's newest superlobbyists, an ever-shifting hierarchy that ascends and descends with the rise and fall of each new governor. Since Kasich's election, business has boomed for the three lobbyists, even though none has had to solicit new clients.

"Generally, the client knows or has heard to go to these folks because they know everybody on the inside of the administration," said Vincent J. Squillance, a 33-year lobbyist for the Ohio Home Builders Association. "They will get access."

For the last two years, legislators, lobbyists and others have been invited to Thibaut's house, to warm them at first to Kasich's candidacy and later to the Republican governor's policies.

Almost every Thursday during the 2010 campaign, Kasich's closest advisers, including Klaffky and Preisse, met at Thibaut's house to strategize. After Kasich's victory, candidates for his cabinet trooped to Thibaut's house to be vetted.

These days, the 67-year-old Thibaut welcomes clients into his home. At least 12 companies have hired him - probably for fees ranging from \$4,000 to \$10,000 a month, according to estimates by other independent lobbyists.

From his first days as a candidate, Kasich routinely railed against special interests, insisting that there would be no favors for his supporters, including close friends. Acknowledging that he often talks with Thibaut, Klaffky and Preisse, Kasich said last week that he will not discuss their clients' interests with them.

Kasich said he has set up a process in which all lobbying contacts go through his chief of staff, Beth Hansen, with no exceptions.

"I don't have conversations with people about clients," the governor said. "It doesn't matter who my friends work for."

Thibaut, Klaffky and Preisse said they avoid discussing client matters with the governor.

"I don't want to get yelled at," Preisse said, noting that Kasich won't tolerate such discussions.

"I value my relationship with him and would never want to put him in that position," Klaffky said.

Thibaut said he, too, has "never had a conversation with John about contracts or something like that with clients. It's simply not something he would even listen to, not from me or from anybody else."

But Kasich and Thibaut conceded that they'd had at least one conversation about a topic of interest to one of Thibaut's clients. Thibaut has asked the governor why the state needs the Office of the Ohio Consumers' Counsel, the utility watchdog, when it has the Public Utilities Commission of Ohio to represent consumers.

"Don has said to me, 'I see you guys still have that thing,'" Kasich said, referring to the office.

Thibaut does not hide his disdain for the office: "I think it is nothing but a bastion for left-wing attorneys to sit around and get paid by the taxpayers to take care of what they perceive to be serious problems," he said.

One of Thibaut's clients, IGS Energy, a Dublin-based natural-gas marketer, was not happy in October when Consumers' Counsel Janine Migden-Ostrander filed a complaint with the PUCO accusing IGS of deceptive marketing.

The two-year budget Kasich proposed in March cut funding for the consumers' counsel by 51 percent, far more than the average

5.3 percent cut for other state agencies. The GOP-controlled House added language to the budget putting an unprecedented gag on the consumers' counsel, barring her from criticizing deregulation of the natural-gas industry.

Did IGS' hiring of Thibaut influence Kasich to make it all happen?

Absolutely not, the governor and lobbyist insist. IGS did not return repeated phone calls seeking comment.

"The only thing I know about that language is what I read in the paper," Thibaut said.

"There was discussion about what we were going to do with the consumers' counsel, but that was among my budget people, not among the people who have clients," Kasich said.

Klaffky and Preisse, who are partners in a 28-year-old lobbying firm, have registered about 20 clients. Preisse, chairman of the Franklin County GOP, headed Kasich's inaugural committee. Klaffky was a top Kasich campaign policy adviser.

Some House Republicans grouched that it was inappropriate for Klaffky to appear at their private caucus in February to explain Kasich's JobsOhio plan to privatize state job-creating functions.

Klaffky agreed that "It was unusual, but it was one of those things where they (the administration) needed me and I just did it."

Thibaut, who has known Kasich since 1974 and served as his congressional chief of staff, and the Klaffky-Preisse firm share some clients, including generous GOP donor William Lager, owner of the state's largest online charter-school operation. Although the impending state budget includes many provisions to help Lager's operation, Thibaut said he had nothing to do with them.

Klaffky, a longtime friend of House Speaker William G. Batchelder, R-Medina, took credit in the House for restoring a moratorium on competition for Lager's schools that the administration had removed.

"There are a number of things that just appeared (in the budget bill) that caused some of us to scratch our heads," said a GOP member of the House Finance Committee.

While all are good friends, Thibaut also is in competition with Klaffky and Preisse. With the budget calling for six state prisons to be privatized, Thibaut has been retained by one of the nation's two largest private-prison operators, and Klaffky and Preisse represent the other.

Likewise, with the possible privatization of the Ohio Lottery, Thibaut represents one of the world's largest lottery-machine suppliers, and the Klaffky-Preisse team has been hired by the other big player in the business.

Thibaut also has been retained by American Electric Power Co. and Scotts Miracle-Gro Co., companies whose respective leaders, Michael Morris and Jim Hagedorn, expressed at least tacit support for Kasich's opponent, Democrat Ted Strickland, in last year's campaign.

Squillance, the longtime lobbyist, said the two corporate heads might have been told by someone "you've got to get right with (Kasich)," and hiring Thibaut would help. Thibaut said the companies sought him out and "They've never given me any indication that 'we're hiring you because we know you're good friends with the governor.'"

Melissa McHenry, spokeswoman for AEP, said the company long has employed outside lobbyists, and they "tend to change when the political landscape changes." She said Thibaut was hired because he is "knowledgeable about what is happening in Ohio politics."

jhallett@dispatch.com

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SUPPLIERS OF ENERGY AND
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TECHNOLOGIES**



NATIONAL ENERGY MARKETERS ASSOCIATION

3220 N Street, NW, Suite 338

Washington, DC 20007

Tel: (202) 333-3288 Fax: (202) 333-3266

www.energymarketers.com

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I

Introduction

The National Energy Marketers Association (NEMA) is a national, non-profit trade association representing a regionally diverse cross-section of both wholesale and retail marketers of natural gas and electricity. NEMA also represents producers, generators, transporters, and marketers of energy-related information, services and technology throughout the United States.

NEMA is committed to working with representatives of state and federal governments, large and small consumer groups and utilities to devise fair and effective ways to implement restructuring of natural gas and electricity markets. NEMA and its members appear before state Public Utility Commissions, the Federal Energy Regulatory Commission and legislative bodies throughout the nation. NEMA members urge lawmakers and regulators to implement:

- Laws and regulations that open markets for natural gas and electricity;
- Rates, tariffs and operating procedures that lower the cost of energy;
- Standards of conduct that protect consumers;
- Rules to permit competition on the basis of price and quality of service; and
- Policies that encourage new technologies, including the integration of energy, telecommunications and Internet services.

II

Background

Decades-old regulations governing the supply, generation, transmission, storage, distribution, marketing, and delivery of energy are being rethought and rewritten, nation-wide. After years of experience in numerous industries, lawmakers, policymakers, and regulators throughout the country are increasingly coming to recognize that true price competition and meaningful customer choice provide greater public benefits than traditional utility-style regulation.

This document sets forth NEMA's recommendations for a set of principles to ensure competitive neutrality between utilities, affiliates and non-affiliated energy providers. These guidelines include recommendations for a Uniform Code of Conduct that should govern commercial transactions between regulated and unregulated energy service providers as well as recommendations for specific functions, products and services that should be competitively priced by unregulated companies. Recommendations for national

guidelines for unbundling the natural gas and electric transmission and distribution functions will be set forth in separate documents.

All Classes of Customers Should Have Meaningful Choices Among Competitive Suppliers at the Earliest Possible Date

The right to switch suppliers is the ultimate consumer protection. Choice must exist in order to serve the public interest and it should not be complicated or expensive. A true measure of a competitive market is the number of customers that have choice. A true measure of the quality of choice is the number of customers that, in fact, exercise choice. NEMA urges that all customers be given meaningful choice at the earliest possible date.

Competitively Priced Energy Products and Services Should be Offered Separately from Regulated Utility Services

Competitively priced energy and related services can serve the public interest, save consumers, governments and taxpayers billion of dollars and can continue significant efficiency, innovation and productivity gains, nationwide. However, to bring the benefits of competition to the American public, historically regulated utility services should be offered separately ("unbundled") from products and services that may be offered by competitive suppliers and subjected to the rigors of the marketplace.

It is generally acknowledged that utilities should continue to provide certain services and perform certain functions that are truly "natural monopoly" functions. For now, "natural monopoly" functions and services include long-distance transmission and local distribution of natural gas and electricity. Specifically, regulations should continue to ensure the maintenance, scheduling and reliable operation of the pipes and wires needed to deliver natural gas and electricity through interstate commerce into a local franchise territory to end users. However, there are numerous, services and functions which can be offered separately from regulated utility services and priced competitively by non-regulated energy suppliers.

It is imperative to establish rules that fairly allocate, value and competitively price utility services that are needed to support robust, competitive markets in energy and related services. Additionally, a competitively neutral code of conduct to govern commerce between the regulated and unregulated providers of energy services is crucial. Competitive advantages must be a matter for the marketplace to determine.

To the extent that the following functions, products and services are currently offered by utilities, the National Energy Marketers Association urges legislators and regulators to pass and implement rules to require that they be separately priced and offered on a non-discriminatory basis. Unregulated energy service providers should be authorized to offer these same services on a competitive basis. At a minimum, these functions, products and services are:

Natural Gas Services That Can be Opened to Competition

- Supplying natural gas,
- Providing customer billing and metering,
- Providing upstream natural gas transportation capacity consistent with existing law,
- Providing natural gas storage services,
- Providing natural gas balancing services, and
- Providing natural gas peaking services.

Electric Services That Can be Opened to Competition

- Supplying electric generation,
- Providing customer billing and metering,
- Energy imbalance services,
- Demand side management and efficiency services, and
- Providing ancillary services such as operating reserve: spinning reserve service, operating reserve: supplemental reserve service, reactive supply and voltage control from generating sources, regulation and frequency response services, load following, backup supply services, real power loss services, restoration services, and system black start capability.

III

Principles That Should Govern Transactions Between Regulated and Unregulated Energy Service Providers

A. Codes of conduct should incorporate state privacy and consumer protection laws.

In the marketplace, there are numerous laws and regulations that are designed to protect consumers from invasion of privacy, fraud and all manner of improper commercial practices. These laws provide reasonable protection. Wherever and whenever applicable, these laws should act as valuable complements to NEMA's recommended standards for industry

conduct and its recommended guidelines for commerce between regulated and unregulated energy providers.

Reference to the Uniform Commercial Code (UCC), state privacy laws and local laws against unfair trade practices imbues the marketplace with meaningful and enforceable guidelines to implement the final unbundling of the natural gas industry and the regulatory and corporate restructuring of the electricity industry. Incorporating these laws and years of court cases interpreting these laws protects all purchasers of energy without imposing new and costly regulations, licensing requirements, paperwork and administrative burdens. In addition, the National Energy Marketers Association strongly endorses standards of conduct and self-policing rules to protect our customers against unwanted sales tactics.

B. As regulated utilities fully unbundle functions, products and services, they should be relieved of the associated "obligation to serve."

Historically, regulated utilities have offered a "bundle" of energy related services. However, after years of experience, it has become clear that alternative suppliers can offer many of the services traditionally offered by regulated utilities on a competitive basis. This includes the responsibility to be the energy supplier of last resort. When regulated utilities fully unbundle energy supply and service functions, the provider-of-last-resort functions can be provided by qualified suppliers and the obligation to serve can be modified into an obligation to deliver.

C. Choice must exist in order to serve the public interest and it should not be complicated or expensive.

All consumers should have a right to choose, and regulators should encourage choice. Excessive, non-cost based fees, filing requirements, complicated forms, processes, formal contracts with signatures and multiple monthly bills, effectively inhibit competition and the ability of customers to choose alternative energy suppliers. The National Energy Marketers Association urges establishment of alternative methods of protecting customers from slamming and other improper business practices. NEMA supports rules, rates, tariffs and operating procedures that provide the maximum ease, flexibility and a minimum of paperwork, licensing and administrative burdens in permitting customers to switch energy suppliers. Indeed, the ability for a customer to quickly and painlessly choose an alternate supplier is the ultimate consumer protection and the maximum assurance of quality control.

D. No functions, products or services shall be subsidized by regulated rates. All regulated utility services must be offered on a non-discriminatory and comparable basis.

It is vital to protect a competitive market from the leverage of a utility's control over regulated transmission and distribution facilities.

Historically, regulated utilities have been given few if any incentives to provide truly competitive energy services. Regulations based on performance may sufficiently ameliorate this problem. The nature of cost-of-service ratemaking generally and after-the fact commodity-cost adjustments, in particular, are not suited to markets that can otherwise be competitive. Competitors take market and price risks that may not be compensated by the marketplace. Historically, regulators mitigate or eliminate risks for regulated utilities by guaranteeing returns on all "prudently incurred" costs and investments. In competitive markets, there are no such guarantees.

Given the many decades during which regulated utilities have been the only provider of energy services, it is important that consumers understand both the existence and implications of the new choices available to them. For these reasons, many states are formulating affiliate guidelines and codes of conduct to govern the relationship between regulated and unregulated energy providers. Set forth below are principles that are incorporated into NEMA's recommended Uniform Code of Conduct to govern commerce between utilities and affiliated and non affiliated energy providers.

1. **Subsidies of non-regulated activities by regulated entities should be prohibited.** No costs or overhead related to competitive, non-regulated activities should be included in the rates of regulated utility services.
2. **Regulated utility services must not preferentially be tied to products or services provided by non-regulated market participants (affiliated or nonaffiliated).** A regulated utility should not represent to any customer that it might receive preferential treatment concerning regulated services if it deals with a specific unregulated market participant (affiliated or non-affiliated).
3. **All tariff provisions must be applied in an equal, non-discriminatory manner to all market participants (affiliated and non-affiliated).** Tariff and rate designs should ensure that every term and condition of service offered by a regulated utility is offered at comparable prices and on comparable terms and conditions to all competing companies. Offers of rebates, discounts, waivers of contracts, fees or tariff provisions by regulated utilities must be applied in an equal, non discriminatory manner to all market participants. Where application of a tariff is discretionary, any exercise of such discretion must be documented.
4. **Information that is available should be available and disseminated on a non-discriminatory, competitively neutral basis.** NEMA urges all jurisdictions to require that customer energy usage and billing data be provided at a reasonable fee, in a timely manner, without preference to all competitors. Specific customer information requested by one non-regulated party must be confidential to all other parties unless similarly requested by such parties. Utilities should keep written records of such information requests and stand ready to demonstrate that information requested by one competitor has not been shared improperly with other competing suppliers.
5. **Communications within an exclusive franchise territory by a regulated utility should be competitively neutral.** A regulated utility should not speak or appear to speak on behalf of any non-regulated entity (affiliated or non-affiliated). A regulated utility should not supply leads or assign customers to non-regulated market participants unless it is in a competitively neutral fashion.
 - **Regulated utilities should not provide advice on picking alternate suppliers, or provide qualitative information on suppliers.** The state public service commission should maintain a list of qualified providers. Customers should be advised of the availability of such lists from their utility or Public Service Commission.
 - **Marketing activities of non-regulated entities must not be subsidized by regulated rates.**
6. **If regulators permit regulated utilities to engage in unregulated activities (either through affiliated or non-affiliated entities) a number of safeguards must be implemented to protect against disclosure of proprietary or competitive information.** Firewalls and separation of functions, information, operations and personnel must be effective and enforceable. Enforceable standards of conduct must ensure that proprietary and confidential competitor information is scrupulously safeguarded. Ironclad operational firewalls must be erected, and a complete separation of functions and operations must occur. Under no circumstances may the supplies of natural gas or electricity of an unregulated entity be subsidized by regulated rates.
7. **Under no circumstances may a regulated entity sell, release or otherwise transfer assets, services or commodities that have been included in regulated rates at less than market value.**
8. **Under no circumstances, may a regulated company directly or indirectly subsidize the costs associated with employees, officers or in-house services, or expenses associated with these employees that are shared with affiliated, non-regulated entities.**

Uniform Code of Conduct for Regulated and Unregulated Suppliers of Energy and Related Services and Technologies

1. Cross subsidies between a utility and its marketing affiliates are prohibited. A utility's operating employees and those of its unregulated affiliates shall function independently of each other.
2. Under no circumstances may a regulated entity sell, release or otherwise transfer assets, services or commodities, that have been included in regulated rates, at less than market value.
3. A utility shall not preferentially disclose, condition, withhold or tie any agreement for the release, use or transfer of interstate pipeline or electric transmission capacity or related assets or services to, or on behalf of, any non-regulated market participants (affiliated or nonaffiliated).
4. Under no circumstances may the supplies of natural gas or electricity of an unregulated entity be subsidized by regulated rates.
5. Offers of rebates, discounts, waivers of contracts or fees in connection with tariff provisions of regulated utilities should be made by utilities in an equal, non-discriminatory manner to all market participants (affiliated and non-affiliated). Any discount, rebate or fee waiver of utility service offered by a utility directly or indirectly to its unregulated affiliate or to a customer of its unregulated affiliate, including but not limited to transportation, transmission, generation, dispatch, redispatch, wheeling, balancing, meters, meter installation, storage, or standby or interruptible services or any other tariffed service offered to shippers, shall be simultaneously offered on a non-discriminatory basis to all non-affiliated marketers, suppliers and customers. All such offerings should be made available upon request.¹
6. In the event, market information acquired through the provision of tariffed service related to on-system retail markets is made available by a utility to on system suppliers, it will at the same time be made available to all competing suppliers, under the same terms and conditions. Such information should be available on-line.
7. A utility shall not speak on behalf of its unregulated affiliate or give the appearance that it is speaking on behalf of its unregulated affiliate.
8. A utility and its unregulated affiliate shall not trade upon, promote, or suggest to any customer, supplier or third-party that they may receive preferential treatment as a result of the affiliation. Utilities may not provide negative information about affiliated or non-affiliated competitors.
9. Marketing activities of non-regulated entities must not be subsidized by regulated rates.
10. Books and records of the utility shall be available, for good cause shown that these Guidelines have been violated, for review and audit by a Commission on a confidential basis.
11. Each utility will establish enforceable complaint procedures to detect alleged abuse of the relationship with its unregulated affiliates and made available to all that allege violations of these Guidelines. Resort to these procedures should be voluntary on the part of complainants and shall not preclude the filing of complaints directly with the jurisdictional regulatory commission.
12. A utility may contract with its unregulated affiliates only if the services to be provided under the terms of that contract are consistent with the public interest.²
13. Procedures for implementing compliance with these rules must be neutral and swift, and the penalties for non compliance should adequately discourage repeated violations.
14. Nothing in these Guidelines shall be construed to modify, impair, or supersede federal, state or local laws, rules or regulations.

¹ Personnel of a utility's unregulated affiliate shall not be involved in the utility's regulated management decisions concerning the day-to-day operation of its transmission, generation and/or distribution systems (including but not limited to, decisions relating to available capacity, nomination, dispatch, redispatch, curtailment and declaration of system emergencies or critical periods).

² A utility must apply all rates and tariff provisions on a nondiscriminatory basis to all marketers, shippers, and customers including all customers served under the same or comparable tariff services or non-tariff offerings. Further, a utility may not, through a tariff provision or otherwise, give its unregulated affiliate or customers of such affiliate preferences (or "last-looks" and rights-to-match) over non-affiliated suppliers or customers with respect to transmission or distribution services, including but not limited to service priorities, scheduling, capacity reservations, processing of requests for service, balancing, metering, storage, standby service or curtailment policies.

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