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Case No. 11-3534-GA-BTX

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maximum allowable operating pressure of 190 psig. The proposed pipeline would have an outside diameter of 20 inches.

I. INTRODUCTION

The project is described in Columbia's Application, which was filed with the Board on July 29, 2011, and supplemented on August 25, 2011.

This Joint Stipulation results from discussions between the Parties, who agree that this Joint Stipulation and Recommendation is supported by the record, and is therefore entitled to careful consideration by the Board. Accordingly, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the Alternate Route, as identified in the Application (and as the Application was modified by the Supplement filed with the Board on August 25, 2011), and subject to the conditions described in this Joint Stipulation.

II. STIPULATIONS

A. Recommended Findings of Fact

The Parties agree that the record in this case, which consists of the Application and all supplements thereto, Staff Report of Investigation, and any testimony and documentary evidence submitted during the public and evidentiary hearing, contains sufficient probative evidence for the Board to find and determine, as findings of fact, that:

(1) Applicant Columbia Gas of Ohio, Inc. is a wholly owned subsidiary of NiSource Inc. Columbia owns and operates gas transmission and distribution pipelines and associated facilities within the State of Ohio.

(2) The proposed Ackerman Road Natural Gas Pipeline Project is a "major utility facility," as defined in Section 4906.01(B)(3) of the Ohio Revised Code.

(3) On June 27, 2011, a public informational meeting regarding the proposed project was held at Whetstone Branch Library, 3909 North High Street, Columbus, Ohio 43214.

(4) On July 22, 2011, the Applicant filed a motion to waive the requirements of Section 4906.06(A)(6), Ohio Revised Code, that applications for gas pipelines be filed not less than one year (nor more than five years) prior to the planned date of commencement of construction.

(5) On July 29, 2011, the Applicant filed the application for the proposed Ackerman Road Natural Gas Pipeline Project with the Board, initiating the completeness review process.

(6) On August 25, 2011, the Applicant filed a supplement to the Application.

(7) By Entry dated August 29, 2011, Applicant's request for a waiver of the filing requirement of Section 4906.06(A)(6), Ohio Revised Code, was granted.

(8) On September 19, 2011 the Board notified Applicant that its Application was complete.

(9) On October 4, 2011, Applicant filed proof of service of the Certified Application with local officials and libraries in accordance with OAC 4906-5-08.

(10) On October 26, 2011, by Entry, the Board scheduled the public hearing regarding the Certified Application for January 10, 2011 at 6:00 p.m. at the Whetstone Park of Roses Shelter House, 3901 North High Street, Columbus, Ohio 43214, and the adjudicatory hearing on January 12, 2012 at 10:00 AM at the Offices of the Public Utilities Commission, 180 East Broad Street, Columbus, Ohio 43215-3793.

(11) On November 17, 2011, Applicant filed proof of publication of the first newspaper notice required to published pursuant to OAC 4906-5-08(C)(1) and 4906-5-09(A). The required newspaper notification was published in the *Columbus Dispatch* and the *Clintonville This Week Community Newspaper*.

(12) On December 2, 2011, Ohio State University filed a motion to intervene into these proceedings, and memorandum in support thereof.

(13) On December 2, 2011, Franklin Soil and Water Conservation District filed a motion to intervene into these proceedings, and memorandum in support thereof.

(14) On December 2, 2011, American Chemical Society filed a motion to intervene into these proceedings, and memorandum in support thereof.

(15) On December 8, 2011, the Sierra Club filed a petition to intervene into these proceedings, and a memorandum in support thereof.

(16) On December 19, 2011, Intervener Ohio State University moved for an extension of the hearing dates set forth in the Administrative Law Judge's October 26, 2011 Entry.

(17) On December 21, 2011, the motions to intervene of Ohio State University, Franklin Soil and Water Conservation District and the American Chemical Society, and the petition for leave to intervene filed by the Sierra Club were granted by Entry from the Administrative Law Judge.

(18) On December 22, 2011, Ohio State's motion for an extension of the hearing dates in this proceeding was partially granted by the Administrative Law Judge. The date for the adjudicatory hearing was continued to January 18, 2012 at 10:00 AM at the offices of the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793.

(19) On December 22, 2011, Staff issued and filed its “Staff Report of Investigation” for the proposed Ackerman Road Natural Gas Pipeline Line Project, recommending that a Certificate of Environmental Compatibility and Public Need be issued for the Applicant’s Alternate Route, as described in the Application and Supplements thereto, and subject to all conditions enumerated within the Staff Report.

(20) On January 5, 2012, Applicant filed a motion for extension of time to submit the Parties’ list of issues until January 12, 2012; and to extend the filing of Applicant’s written direct testimony until January 13, 2012.

(21) On January 6, 2012, Applicant filed the proof of publication of the second newspaper notice, as required by OAC 4906-5-08(C)(2). The required newspaper notification was filed in the *Columbus Dispatch*.

(22) On January 6, 2012, by Entry, Applicant’s motion for extension of time to file the Parties’ list of issues and to submit Applicant’s written direct testimony was granted by the Administrative Law Judge.

(24) A public hearing was held on January 10, 2012 at the Park of Roses Shelter House, 3901 North High Street, Columbus, Ohio

(25) An adjudicatory hearing is scheduled for January 18, 2012 at 10:00 AM at the offices of the Public Utilities Commission, 180 East Broad Street, Columbus, Ohio.

(26) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and Staff to determine the basis of the need for the proposed facility, as required by Section 4906.10(A)(1) of the Ohio Revised Code.

(27) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and Staff to determine the nature of the probable environmental impact of the proposed facility, as required by Section 4906.10(A)(2) of the Ohio Revised Code.

(28) Adequate data on the proposed Ackerman Road Gas Pipeline Project has been provided to the Board and Staff to determine that the Alternate Route contained in the Application, as filed by the Applicant on July 29, 2011, and supplemented on August 25, 2011, represents the minimum adverse environmental impact, considering the available technology and nature and economics of the various alternatives, and other pertinent considerations, as required by Section 4906.10(A)(3) of the Ohio Revised Code.

(29) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and its Staff to determine that construction of the proposed pipeline along Applicant's Alternate Route, as modified, will comply with Section 4906.10(A)(4) of the Ohio Revised Code because that provision applies to electric transmission lines, and is not applicable to certification of the proposed natural gas pipeline.

(30) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and its Staff to determine that the proposed facility will comply with Chapters 3704, 3734, and 6111 of the Ohio Revised Code, Sections 1501.33, 1501.34, and 4561.32 of the Ohio Revised Code, and all regulations adopted thereunder, all as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(31) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and its Staff to determine that the proposed facility will serve the public interest, convenience and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(32) Adequate data on the proposed Ackerman Road Natural Gas Pipeline Project has been provided to the Board and its Staff to determine the proposed facility's impact on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the preferred route and alternate route of the proposed facility, as required by Section 4906.10(A)(7) of the Ohio Revised Code.

(33) Consideration of water conservation practices considering available technology and the nature and economics of the various alternatives under Section 4906.10(A)(8) of the Ohio Revised Code is not applicable to certification of the proposed Ackerman Road Natural Gas Pipeline Project.

(34) The information, data and evidence in the record of this proceeding provides substantial and adequate evidence and information to enable the Board to make an informed decision on the Application for the proposed Ackerman Road Natural Gas Pipeline Project.

B. Recommended Conclusions of Law

The Parties further agree that the record in this case contains sufficient probative evidence for the Board to find and determine, as conclusions of law, that:

(1) Applicant Columbia Gas of Ohio, Inc. is a "person" under Section 4906.01(A) of the Ohio Revised Code.

(2) The proposed Ackerman Road Natural Gas Pipeline Project is a "major utility facility" as defined by Section 4906.01(B)(3) of the Ohio Revised Code.

(3) Columbia's Application, filed on July 29, 2011 and supplemented on August 25, 2011, complies with the requirements of OAC §§4906-15-01 *et seq.*

(4) The record establishes the need for the proposed Ackerman Road Natural Gas Pipeline Project, as required by Section 4906.10(A)(1) of the Ohio Revised Code.

(5) The record establishes the nature of the probable environmental impact from construction, operation and maintenance of the proposed Ackerman Road Natural Gas Pipeline Project, as required by Section 4906.10(A)(2) of the Ohio Revised Code.

(6) The record establishes that the Alternate Route for the proposed Ackerman Road Natural Gas Pipeline Project represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations, as required by Section 4906.10(A)(3) of the Ohio Revised Code.

(7) The record establishes that the Alternate Route for the proposed Ackerman Road Natural Gas Pipeline Project, if conditioned in the certificate as recommended by the Parties, will comply with Chapters 3704, 3734, and 6111 of the Ohio Revised Code, and all rules and regulations adopted under those chapters, and under Sections 1501.33, 1501.34 and 4561.32 of the Revised Code, all as required by Section 4906.10(A)(5) of the Ohio Revised Code.

(8) The record establishes that the proposed Ackerman Road Natural Gas Pipeline Project will serve the public interest, convenience, and necessity, as required by Section 4906.10(A)(6) of the Ohio Revised Code.

(9) The record establishes that the impact of the proposed Ackerman Road Natural Gas Pipeline Project on the viability as agricultural land of any land in an existing agricultural district established under Chapter 929 of the Ohio Revised Code that is located within the Preferred Route and Alternate Route of the proposed project has been determined, as required by Section 4906.10(A)(7) of the Ohio Revised Code.

C. Recommended Conditions of the Certificate of Environmental Compatibility and Public Need.

The Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for the Alternate Route, as described in the Application and Supplements thereto, and subject to all of the following conditions:

- (1) That the facility shall be installed at the Applicant's Alternate Transmission Line Route as presented in the Application, and as modified and/or clarified by the Applicant's supplemental filings and by the recommendations in the *Staff Report of Investigation*.
- (2) That the Applicant shall utilize the equipment and construction practices as described in the application and as modified and/or clarified by supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (3) That the Applicant shall implement the mitigation measures as described in the application and as modified and/or clarified in supplemental filings, replies to data requests, and recommendations in the *Staff Report of Investigation*.
- (4) That prior to the commencement of construction, the Applicant shall obtain and comply with all applicable permits and authorizations as required by federal and state laws and regulations for any activities where such permit or authorization is required. Copies of the permits and authorizations, including all supporting documentation, shall be provided to OPSB Staff within seven days of issuance or receipt by the Applicant.
- (5) That the Applicant shall conduct a pre-construction conference prior to the start of any construction activities. The pre-construction conference shall be attended by OPSB Staff, the Applicant, and representatives from the prime contractor and all sub-contractors for the project. The conference shall include a presentation of the measures to be taken by the Applicant and contractors to ensure compliance with all conditions of the certificate, and discussion of the procedures for on-site investigations by OPSB Staff during construction. Prior to the conference, the Applicant shall provide a proposed conference agenda for OPSB Staff review.
- (6) That the Applicant develop a public information program that informs affected property owners of the nature of the project, specific contact information of Applicant personnel who are familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities. Notification to property owners or affected tenants, within the meaning of O.A.C. § 4906-5-08(C)(3), of upcoming construction activities, including potential for nighttime construction, shall be given at least 30 days prior to work on the affected property.

- (7) That at least 30 days prior to the pre-construction conference and subject to Staff review and approval, the Applicant shall have in place a complaint resolution procedure to address potential public grievances resulting from the pipeline construction. The Applicant shall work to mitigate or resolve any issues with those who file a complaint. All complaints submitted must be immediately forwarded to OPSB Staff.
- (8) That the Applicant shall have an OPSB Staff-approved environmental specialist on site during construction activities that may affect sensitive areas, as mutually agreed upon between the Applicant and OPSB Staff, and as shown on the Applicant's final approved construction plan. Sensitive areas include but are not limited to areas of vegetation clearing, designated wetlands and streams, and locations of threatened or endangered species or their identified habitat. The environmental specialist shall be familiar with water quality protection issues and potential threatened or endangered species of plants and animals that may be encountered during project construction.
- (9) That the Applicant shall not work in the types of streams listed below during fish spawning restricted periods (April 15 to June 30), unless a waiver is sought from and issued by ODNR and approved by OPSB Staff releasing the Applicant from a portion of, or the entire restriction period.
- (a) Class 3 Primary headwater streams (watershed < one mi²)
 - (b) Exceptional Warmwater Habitat
 - (c) Coldwater Habitat
 - (d) Warmwater Habitat
 - (e) Streams supporting threatened or endangered species
- (10) That the Applicant, in consultation with the City of Columbus Recreation and Parks Department, shall prepare a restoration plan for Clinton Como Park to be submitted for review and approval by OPSB Staff. Upon approval of the plan, Applicant shall implement the restoration plan after completion of construction.
- (11) That at least 30 days before the pre-construction conference, the Applicant shall submit to OPSB Staff, for review and acceptance, a detailed frac-out contingency plan for stream and wetland crossings that are expected to be completed via HDD. Such contingency plan may be incorporated within the required stream and/or wetland crossing plan, and shall include the following:
- (a) Site-specific construction diagrams that show the location of the bore pits, mud pits, pipe assembly areas, and all areas disturbed for the HDD;

- (b) A description of who would be contacted if a frac out or inadvertent release of drilling mud occurs;
 - (c) A description of the containment and clean-up procedures to be implemented should an inadvertent release of drilling mud occur on land, in a stream, or in a wetland;
 - (d) A plan to inspect and ensure the integrity of the bore hole throughout the HDD process;
 - (e) An alternate HDD plan for crossing the waterbody or wetland in the event that directional drilling is unsuccessful, and how the abandoned drill hole would be plugged.
- (12) That any stuck equipment within the HDD bore shall not be recovered by surface excavation, unless otherwise approved by OPSB Staff, in consultation with the property owner.
- (13) That the Applicant perform soil tests at various locations along the proposed pipeline right-of-way to document potential geotechnical issues prior to soil excavation.
- (14) That at least 30 days before the pre-construction conference, the Applicant shall submit to OPSB Staff, for review and acceptance, a tree clearing and restoration plan. The plan shall be developed in consultation with the City of Columbus Forester and shall describe how trees and shrubs along access routes, in gas transmission corridors, at construction staging areas, and in proximity to other project facilities will be protected from damage during construction, and where clearing cannot be avoided, how such clearing work will be done so as to minimize removal of woody vegetation. Priority should be given to protecting mature trees throughout the project area, and all woody vegetation in wetlands and riparian areas, both during construction and during subsequent operation and maintenance of all facilities. The plan shall also address impacts and mitigation to residential screening trees and vegetation. Where appropriate, the plan shall focus on the installation of new compatible vegetation.
- (15) That the Applicant shall permanently limit clearing in all riparian areas, and specifically within at least 25 feet from the top of the bank on each side of all streams. Vegetation clearing in these areas shall be selective hand clearing of taller-growing trees only, leaving all low-growing plant species, particularly woody ones (including other trees) undisturbed unless otherwise directed by OPSB Staff. All stumps shall be left in place.

- (16) That the Applicant shall adhere to seasonal cutting dates of September 30 through April 1 for removal of suitable Indiana bat habitat trees, if avoidance measures cannot be achieved. If suitable Indiana bat habitat trees must be cut during the summer season of April 2 through September 29, a mist-netting survey must be conducted in May or June prior to cutting. Net surveys shall incorporate either two net sites per square kilometer of project area, with each net site containing a minimum of two nets used for two consecutive nights or one net site per kilometer of stream within the project limits, with each net site containing a minimum of two nets used for two consecutive nights. OPSB Staff and the ODNR shall be contacted to discuss methodologies prior to commencement of any mist-netting surveys proposed by the Applicant. All mist-netting results shall be reviewed and approved by OPSB Staff and the ODNR prior to the cutting of any Indiana bat habitat trees during the summer season.
- (17) That OPSB Staff, the DOW, and the USFWS shall be contacted within 24 hours if state or federal threatened or endangered species are encountered during construction activities. Construction activities that could adversely impact the identified plants or animals shall be halted until an appropriate course of action has been agreed upon by the Applicant, OPSB Staff, and the DOW, in coordination with the USFWS. This provision shall not preclude agencies having jurisdiction over the facility with respect to threatened or endangered species from exercising their legal authority over the facility consistent with law.
- (18) That the Applicant shall contact the ODNR Crane Creek Wildlife Research Station prior to commencement of construction to confirm that there are no bald eagle nests within a half mile of the final selected route. If nests are located within a half mile, then further coordination with the ODNR-DOW shall be required.
- (19) That at least seven days before the pre-construction conference, the Applicant shall submit to OPSB Staff for review and acceptance, a copy of all NPDES permits including its approved SWPPP, approved SPCC procedures, and its erosion and sediment control plan. Any soil issues must be addressed through proper design and adherence to the Ohio EPA BMPs related to erosion and sedimentation control.
- (20) That the Applicant shall employ the following erosion and sedimentation control measures, construction methods, and BMPs when working near environmentally-sensitive areas and/or when in close proximity to any watercourse, in accordance with the Ohio NPDES permit(s) and SWPPP obtained for the project:
- (a) During construction of the facility, seed all disturbed soil, except within actively cultivated agricultural fields, within seven days of final grading with a seed mixture acceptable to the appropriate County Cooperative Extension Service. Denuded areas, including spoils piles, shall be seeded and stabilized within seven days, if they will be undisturbed for more than 21 days. Reseeding shall be done within seven days of emergence of seedlings as necessary until sufficient vegetation in all areas has been established.

- (b) Inspect and repair all erosion control measures after each rainfall event of one-half of an inch or greater over a 24-hour period, and maintain controls until permanent vegetative cover has been established on disturbed areas.
 - (c) Delineate all watercourses, including wetlands, by fencing, flagging, or other prominent means.
 - (d) Avoid entry of construction equipment into watercourses, including wetlands, except at specific locations where construction has been approved.
 - (e) Prohibit storage, stockpiling, and/or disposal of equipment and materials in these sensitive areas.
 - (f) Locate structures outside of identified watercourses, including wetlands, except at specific locations where construction has been approved.
 - (g) Divert all storm water runoff away from fill slopes and other exposed surfaces to the greatest extent possible, and direct instead to appropriate catchment structures, sediment ponds, etc., using diversion berms, temporary ditches, check dams, or similar measures.
- (21) That the Applicant shall provide a copy of any floodplain permit required for construction of this project, or a copy of correspondence with the floodplain administrator showing that no permit is required, to OPSB Staff within seven days of issuance or receipt by the Applicant.
- (22) That the Applicant shall comply with any drinking water source protection plan for any part of the facility that is located within drinking water source protection areas of the local villages and cities.
- (23) That the Applicant shall remove all temporary gravel and other construction staging area and access road materials after completion of construction activities, as weather permits, unless otherwise directed by the landowner. Impacted areas shall be restored to pre-construction conditions in compliance with the NPDES permit(s) obtained for the project and the approved SWPPP created for this project.
- (24) That the Applicant shall comply with fugitive dust rules by the use of water spray or other appropriate dust suppressant measures whenever necessary.
- (25) That the Applicant shall restrict public access to the site with appropriately placed warning signs or other necessary measures.

- (26) That prior to commencement of construction, the Applicant shall obtain all required transportation permits. The Applicant shall coordinate with the appropriate authority regarding any temporary or permanent road closures, lane closures, or road and parking access restrictions necessary for construction and operation of the proposed facility. Coordination shall include, but not be limited to, the State of Ohio, the City of Columbus, the County Engineer, ODOT, local law enforcement, and health and safety officials. This coordination shall be detailed as part of a final traffic plan submitted to OPSB Staff prior to the pre-construction conference for review and acceptance.
- (27) That general construction activities shall be limited to the hours of 7:00 a.m. to 7:00 p.m., or until dusk when sunset occurs after 7:00 p.m., Monday through Saturday. Impact pile driving, helicopter use, rock drilling, and blasting operations, if required, shall be limited to the hours between 10:00 a.m. and 5:00 p.m., Monday through Friday. Construction activities that do not involve noise increases above ambient levels at sensitive receptors are permitted outside of daylight hours when necessary.
- (28) That at least 30 days before the pre-construction conference, the Applicant shall submit to OPSB Staff for review and acceptance one set of detailed engineering drawings of the final project design, including the gas transmission line, temporary and permanent access roads, construction staging areas, and any other associated facilities and access points, so that OPSB Staff can determine that the final project design is in compliance with the terms of the certificate. The final project layout shall be provided in hard copy and as geographically-referenced electronic data. The final engineering drawings shall include all conditions of the Certificate and references at the locations where the Applicant and/or its contractors must adhere to specific conditions in order to comply with the Certificate.
- (29) That if any changes are made to the project layout after the submission of final engineering drawings, all changes shall be provided to OPSB Staff in hard copy and as geographically-referenced electronic data. All changes outside the environmental survey areas and any changes within environmentally-sensitive areas will be subject to OPSB Staff review and approval prior to construction in those areas.
- (30) That within 60 days after the commencement of commercial operation, the Applicant shall submit to OPSB Staff a copy of the as-built specifications for the entire facility. If the Applicant demonstrates that good cause prevents it from submitting a copy of the as-built specifications for the entire facility within 60 days after commencement of commercial operation, it may request an extension of time for the filing of such as-built specifications. The Applicant shall use reasonable efforts to provide as-built drawings in both hard copy and as geographically referenced electronic data.
- (31) That the certificate shall become invalid if the Applicant has not commenced a continuous course of construction of the proposed facility within five years of the date of journalization of the certificate.

(32) That the Applicant shall provide to OPSB Staff the following information as it becomes known:

- (a) The date on which construction will begin;
- (b) The date on which construction was completed;
- (c) The date on which the facility began commercial operation.

III. Exhibits

The Parties stipulate that the following Exhibits were among those exhibits in the docket which have been marked and admitted into the record of this proceeding, and that cross-examination is waived thereon:

Applicant Exhibit No. 1: The Application filed on July 29, 2011 and certified as complete by the Board on September 19, 2011.

Applicant Exhibit No. 2: Supplements to The Application For A Certificate of Environmental Compatibility and Public Need filed August 25, 2011.

Applicant Exhibit No. 3: Certificates of Publication of the first and second notice required by OAC § 4906-5-08 in local newspapers.

Staff Exhibit No. 1: Staff Report of Investigation, issued and filed on December 22, 2011.

Joint Exhibit No. 1: This Joint Stipulation and Recommendation, signed by counsel for each of the Parties.

In deliberating the merits of the Application and reasonableness of this Joint Stipulation, the Parties encourage the Board to review and consider all evidence and exhibits submitted and admitted in this case.

IV. Other Stipulations.

(1) This Stipulation is a compromise involving a balance of competing positions, and it does not necessarily reflect the position that one or more of the Parties would have taken if these issues had been fully litigated. The Parties believe that this Stipulation represents a reasonable compromise of varying interests. This Stipulation is expressly conditioned upon adoption in its entirety by the Board without material modification by the Board. Should the Board reject or materially modify all or any part of this Stipulation, the Parties shall have the right, within thirty (30) days of the issuance of the Board's Order, to file an application for rehearing. Upon the Board's issuance of an entry on rehearing that does not adopt the Stipulation in its entirety without material modification, any Party may terminate or withdraw from the Stipulation by filing a second application for rehearing with the Board within thirty (30) days of the Board's entry on rehearing. The second application shall be limited in scope to a party giving notice of exercising its right to terminate and withdraw from the Stipulation to the Board, and requesting an evidentiary hearing with all appertaining rights of process, as if the Stipulation had never been executed. Prior to any Party seeking rehearing or terminating and withdrawing from this Stipulation pursuant to this provision, the Parties agree to convene immediately to work in good faith to achieve an outcome that substantially satisfies the intent of the Board or proposes a reasonable equivalent thereto to be submitted to the Board for its consideration. Upon a second application for rehearing being filed giving notice of termination or withdrawal by any Party, pursuant to the above provisions, the Stipulation shall immediately become null and void.

(2) The Parties agree and recognize that this Stipulation has been entered into only for the purpose of this proceeding. Each party agrees not to assert against another party in any

proceeding before the Board or any court, other than in a proceeding to enforce the terms of this Stipulation, that party's participation in this Stipulation as support for any particular position on any issue. Each party further agrees that it will not use this Stipulation as factual or legal precedent on any issue, except as may be necessary to support enforcement of this Stipulation. The Parties request that the Board recognize that its use of this Stipulation in any proceeding other than this proceeding is contrary to the intentions of the Parties in entering into this Stipulation.

WHEREFORE, based upon the record, and the information and data contained therein, the Parties recommend that the Board issue a Certificate of Environmental Compatibility and Public Need for construction, operation, and maintenance of the proposed Ackerman Road Natural Gas Pipeline Project, on the Alternate Route, as described in the Applications, and as modified by the Supplement to the Applications filed with the Board on August 25, 2011, and as conditioned herein.

The undersigned stipulate and represent that they are authorized to enter into this Joint Stipulation and Recommendation on the 18th day of January, 2012.

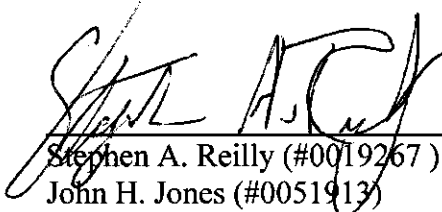
Respectfully submitted on behalf of:

**STAFF OF THE OHIO POWER
SITING BOARD**

By: MICHAEL DEWINE
ATTORNEY GENERAL OF OHIO

William A. Wright
Section Chief

By:


Stephen A. Reilly (#0019267)

John H. Jones (#0051913)

Assistant Attorneys General

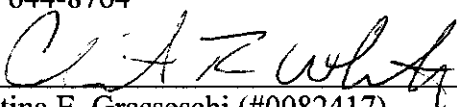
Public Utilities Section

180 East Broad Street, 9th Floor

Columbus, Ohio 43215-3793

(614) 644-8764

By:


Christina E. Grasseschi (#0082417)

Clint R. White (#0086393)

Assistant Attorneys General

Environmental Enforcement Section

30 East Broad Street, 25th Floor

Columbus, Ohio 43215-3400

Telephone: (614) 644-2766

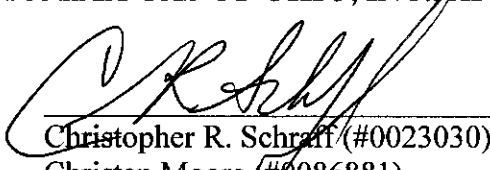
Facsimile: (614) 644-1926

email: christina.grasseschi@ohioattorneygeneral.gov

clint.white@ohioattorneygeneral.gov

COLUMBIA GAS OF OHIO, INC.. APPLICANT

By:


Christopher R. Schraff (#0023030)

Christen Moore (#0086881)

PORTER, WRIGHT, MORRIS & ARTHUR

41 South High Street

Columbus, Ohio 43215

Telephone: (614) 227-2097

Facsimile: (614) 227-2100

Email: cschraff@porterwright.com

cmoore@porterwright.com

Brooke L. Leslie (#0081179)

Attorney

NiSource Corporate Services Company

200 Civic Center Drive


Columbus, Ohio 43215

Telephone: (614) 460-4645


Facsimile: (614) 460-6986

Email: bleslie@nisource.com

OHIO STATE UNIVERSITY, INTERVENOR

By 
M. Howard Petricoff (#0008287)
Special Assistant Attorney General
Vorys, Sater, Seymour & Pease LLP
52 East Gay Street
P.O. Box 1008
Columbus, Ohio 43216-1008
Telephone: (614) 464-5414
Facsimile: (614) 719-4904
email: mhpetricoff@vorys.com

AMERICAN CHEMICAL SOCIETY, INTERVENOR

By: 
Stephen J. Smith (#0001344)
Direct Dial (614) 462-2249
email: Steven.Smith@icemiller.com
Christopher L. Miller (#0063259)
Direct Dial: (614) 462-5033
email: Christopher.Miller@icemiller.com
Chris W. Michael (#0086879)
Direct Dial (614) 462-1148
email: Chris.Michael@icemiller.com
Ice Miller LLP
250 West Street
Columbus, Ohio 43215
Telephone: (614) 462-2700
Facsimile: (614) 222-4707

FRANKLIN SOIL AND WATER CONSERVATION DISTRICT, INTERVENOR

By: Harold J. Anderson
Ron O'Brien *per email/telephone*
Franklin County Prosecuting Attorney *auth by CR Schopf*
Harold J. Anderson III (#0059777)
Assistant Prosecuting Attorney
Franklin County Prosecutor's Office
373 S. High Street, 13th Flr.
Columbus, Ohio 43215
Telephone: (614) 525-7589
Facsimile: (614) 525-6012
email: hjanders@franklincountyohio.gov

THE SIERRA CLUB, INTERVENOR

By: Richard C. Sahli
Richard C. Sahli (#0007360) *(per email authorization by Christine M. Nure)*
981 Pinewood Lane
Columbus, Ohio 43230-3662
Telephone: (614) 428-6068
Facsimile: (614) 428-6068
email: rsahliattorney@columbus.rr.com