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FILE

September 20, 2012

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2012 SEP 20 PM 5:22
PUCOBetty McCauley
Chief of Docketing
The Public Utilities Commission of Ohio
180 E. Broad Street, 11th Floor
Columbus, Ohio 43215Re: In the Matter of the Complaint of The Office of the Ohio Consumers'
Counsel, et al., v. Interstate Gas Supply d/b/a Columbia Retail Energy
PUCO Case No. 10-2395-GA-CSS

Dear Ms. McCauley:

Pursuant to the Attorney Examiner's Entry filed September 9, 2012 in the above-referenced case, please find attached for public filing Interstate Gas Supply, Inc.'s public version of its Supplemental Motion for Protective Treatment and Interstate Gas Supply, Inc.'s revised proposed redacted versions of the Confidential Transcripts and Service Mark License Agreement.

Additionally, please find attached for confidential filing under seal, Interstate Gas Supply, Inc.'s "Attorneys' Eyes Only" version of its Supplemental Motion for Protective Treatment and Interstate Gas Supply, Inc.'s unredacted versions of the Confidential Transcripts and Service Mark License Agreement for the Commission's *in camera* review.

Thank you for your assistance. Please do not hesitate to contact me with any questions or concerns.

Very truly yours,


Zachary D. Kravitz

cc: All Parties

CHESTER WILLCOX & SAXBE

Has joined Taft Law

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of)
)
The Office of the Ohio Consumers')
Counsel, et al.,)
)
Complainants,)
)
v.)
)
Interstate Gas Supply d/b/a)
Columbia Retail Energy,)
)
Respondent.)

Case No. 10-2395-GA-CSS

PUCO

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**INTERSTATE GAS SUPPLY, INC.'S
SUPPLEMENTAL MOTION FOR PROTECTIVE TREATMENT**

I. INTRODUCTION

On October 21, 2010, Complainants in the above captioned case filed a twelve count complaint at the Public Utilities Commission of Ohio ("PUCO" or "Commission") against Interstate Gas Supply, Inc. ("IGS") alleging that, among other things, IGS engaged in unfair, misleading, deceptive, or unconscionable acts by licensing and using the trade name Columbia Retail Energy ("CRE").

A hearing was held on November 7-8, 2011.

On August 9, 2012 the Commission issued an Order (the "Order") finding that the complainants had not met their burden of proof and dismissed the entire complaint. Also in that Order, the Commission considered IGS' motion for protective treatment regarding the Service Mark License Agreement ("SMLA") between IGS and NiSource Retails Services, Inc. ("NRS") and the confidential portions of the hearing transcript. In

the Order, the Commission directed to IGS to file a new redacted SMLA and confidential transcript in the open record that conformed to the Commission's Order. (Order at 7-8). The Commission's Order directed IGS to file an amended motion for protective treatment if IGS disagreed with the Commission's discussion of protective material or was "in doubt" regarding what information to redact. (Order at 8).

On August 23, 2012, IGS filed newly redacted version of the SMLA and the confidential transcripts. IGS did not file an amended motion for protective treatment because IGS believed that its newly redacted versions of the SMLA and confidential transcript were in accordance with the Order.

On September 9, 2012, the Attorney Examiner issued an Order ("AE Order") in the above captioned case finding that IGS did not "adhere to the Commission's directive that IGS narrowly tailor its redactions." (AE Order at 2). Specifically, the Attorney Examiner found that IGS "did not release information regarding its board of directors . . ., did not redact the transcript to release the maximum amount of information regarding objections and discussion thereof; and did not redact the SMLA to allow the maximum amount of information to be made public" (AE Order at 2). The Attorney Examiner directed IGS to file a supplemental motion for protective treatment and new redacted versions of the SMLA and confidential transcript. (AE Order at 3).

II. ARGUMENT

IGS incorporates by reference its November 29, 2012 Motion for Protective Treatment. In accordance with the AE Order, IGS has unredacted the SMLA and the confidential transcript to disclose the maximum amount of information as required by law. The attorney's eyes only version of this motion underlines SMLA provisions,

portions of the transcript, and IGS' arguments that IGS submits constitute confidential trade secret information. The public version of this motion has redacted the underlined information. Section A below sets forth IGS' argument regarding the confidentiality of the SMLA, which is explained section by section. The exhibits to the SMLA can be found in the attorney's eyes only version of the SMLA that was filed under seal with this motion. Section B sets forth IGS' arguments regarding the confidentiality of Volume I of the confidential transcript. Each confidential portion of the transcript is identified by the page and line number of the confidential transcript (e.g. 59:12-18 means page 58, lines 12-18 of the confidential transcript). Section C sets forth IGS' arguments relating the confidentiality of Volume II of the confidential transcript.

A. The Service Mark License Agreement

Section 2.2

"Auction Customers" means customers served via COH's Standard Service Offer ("SSO") or Standard Choice Offer ("SCO"). Auction Customers are also [REDACTED], but are not [REDACTED] unless and until they are converted as such.

The information in Section 2.2 has been redacted because it identifies a difference between how [REDACTED] [REDACTED]. [REDACTED]. The Order found that information regarding the structure of the license fee constitutes trade secret information. (Order at 7). This information constitutes "business information or plans" and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Accordingly, IGS requests that the redacted portion of Section 2.2 be given protective treatment.

Section 2.4

"Effective Date" shall be [REDACTED] from which the initial term shall be calculated for purposes of this Agreement. The Effective Date may be a date different than the Execution Date of this Agreement.

The Order states that "specific numbers and dates, . . . specific information regarding the duration of the agreement and any possible termination . . ." constitutes trade secrets. The date specified in Section 2.4 of the SMLA identifies the effective date of the SMLA, which is necessary to determine the duration of the SMLA. This information constitutes "business information or plans" that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, it has been redacted as a trade secret.

Section 2.5

"Governmental Aggregation Customers" means customers enrolled with IGS served through a governmental aggregation, whether it is opt-out, opt-in or endorsement. Governmental Aggregation Customers are also [REDACTED], but are not [REDACTED] unless and until they are converted as such.

The information redacted in Sections 2.5 is confidential and constitutes trade secrets because it identifies the types of customers that are potential customers of IGS d/b/a CRE. This information is highly confidential because it defines the scope of the agreement and because the [REDACTED]

[REDACTED]. This information constitutes "business information or plans" and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Additionally, competitors can use this

information to tailor their marketing to customers to which IGS markets. Accordingly, the redacted language in these sections constitutes trade secrets.

Section 2.6

“Initial Term” means, unless terminated earlier pursuant to the terms hereof, the [REDACTED] period beginning on the Effective Date and ending on the last day of the calendar month in which the [REDACTED] of the Effective Date occurs.

The Order states that “specific information regarding the duration of the agreement and any possible termination . . .” constitutes trade secrets. The information redacted in Section 2.6 of the SMLA identifies the initial duration of the SMLA. This information constitutes “business information or plans” that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, it has been redacted as a trade secret.

Section 2.7, Section 2.8

“Mass Market Choice Customers” means all [REDACTED] customers, and [REDACTED] and [REDACTED] customers enrolled with IGS in an NDC Choice program (including any successor program), and who individual consume less than [REDACTED] annually, or a group of customer accounts under common ownership who consume less than [REDACTED] annually.

“Mass Market Eligible Customers” means all [REDACTED] customers, and [REDACTED] and [REDACTED] customers who individual consume less than [REDACTED] annually, or a group of customer accounts under common ownership who consume less than [REDACTED] annually and are eligible to participate in an NDC Choice program.

The information redacted in Sections 2.7 and 2.8 is confidential and constitutes trade secrets because it identifies the types of customers that are potential customers of IGS d/b/a CRE. This information is highly confidential because it defines the scope of the agreement. Competitors can use this information to tailor their marketing to customers to which IGS markets. The information in Sections 2.7 and 2.8 is even more

sensitive because it identifies the specific value of natural gas consumption that IGS uses to demarcate customer classes. This information constitutes “business information or plans,” “technical information,” and “financial information” that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, the redacted language in these sections constitutes trade secrets.

Section 3.2

NRS’s affiliates or other authorized licensees will not be restricted in any way in the use of the Service Marks in the marketing of [REDACTED], or [REDACTED]. IN addition, the NDCs including, but not limited to, its [REDACTED] shall not be restricted in any way in the use of the Service Marks, including the use of the Service Marks with respect to any [REDACTED] or with respect to any [REDACTED] that may be required of an NDC by a governing body. Neither NRS, nor any affiliate which is not regulated as a public utility, will use the Service Marks to offer [REDACTED] in the NDC service territories.

The information in Section 3.2 has been redacted because it describes the scope of the agreement between NRS and IGS. In particular, this language describes the extent to which NRS and its affiliates may use the Service Marks under the SMLA. The Order found that “certain information regarding the scope of the agreement” constitutes trade secrets. (Order at 7). Additionally, this information constitutes “business information or plans” that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. The information could be used by competitors to target marketing to [REDACTED] and [REDACTED] to customers of NRS.

Section 3.3

Neither IGS nor its affiliates will use the Service Marks in connection with [REDACTED] or any other good or service not specifically authorized by this Agreement. IGS will not include any materials pertaining to, nor will it offer, [REDACTED] in any marketing and advertising (including, but not limited to, direct email, bill inserts, print/electronic media, bulletin boards, internet, email, phone menus, queue messages or websites) that use or refer to the Service Marks. IGS will not market or offer [REDACTED] and service through inbound and outbound call center agents when identified in association with the Service Marks.

The information redacted in Section 3.3 is a confidential trade-secret because it describes the scope of the licensing agreement between IGS and NRS. Specifically, this section states that IGS cannot use the SMLA in connection with [REDACTED]. The Order found that "certain information regarding the scope of the agreement" constitutes trade secrets. (Order at 7). Like Section 3.2, this information must remain confidential so that competitors cannot read the SMLA in order to target marketing of similar [REDACTED], based on the knowledge that IGS will not be offering [REDACTED] in NDC services territories under the name CRE. In addition, this information constitutes "business information or plans" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Section 5

During the Initial Term of this Agreement the Licensing Fee will be based upon the [REDACTED] described in **Section 5.1**, taking into consideration [REDACTED] described in **Section 5.2**, which will be paid by IGS to NRS in exchange for the use of the Service Marks.

Section 5 of the SMLA describes the general parameters of the Licensing Fee between IGS and NRS. The framework of the licensing fee is based on [REDACTED]

[REDACTED]

[REDACTED]. This information is explained in more detail in Sections 5.1 and 5.2. The Order found that "information regarding the structure of the licensing fee" constitutes confidential trade secrets. IGS has unredacted the majority of Section 5, but the key terms that remain redacted protect from disclosure the confidential nature of the structure of the fees IGS pays NRS for use the of the Service Marks. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Sections 5.1

[REDACTED]. The [REDACTED] will be calculated based upon the [REDACTED] of the [REDACTED] and [REDACTED] calculated for each [REDACTED] by taking the sum of [REDACTED]:

Section 5.1(i). [REDACTED] on the [REDACTED] of [REDACTED] [REDACTED], paid [REDACTED] as allocated according to the attached [REDACTED] schedule (Exhibit B);

Section 5.1(ii). [REDACTED] on all [REDACTED] [REDACTED], paid [REDACTED] set forth in Section 5.1(i) above and described in the [REDACTED] schedule (Exhibit B);

Section 5.1(iii). Except for [REDACTED] which is addressed in Section 5.1(iv), the Fee is [REDACTED] on all [REDACTED] [REDACTED] served by IGS, whether it is being served under [REDACTED]. For purposes of this Section 5.1(iii) and the [REDACTED] calculation, IGS and NRS understand that [REDACTED] are competitively bid and in each instance for new or renewal periods [REDACTED]

In such instances, IGS will provide NRS with such information on a confidential basis, and IGS and NRS will determine whether the [REDACTED]

Section 5.1(iv). [REDACTED] on [REDACTED] so long as IGS services [REDACTED]

In the first paragraph of Section 5.1, the SMLA licensing fee is structured in a manner that contemplates [REDACTED] based upon the [REDACTED]

[REDACTED]. The Commission and the Ohio Supreme Court have held that, within the context of private contracts, financial considerations are trade secrets. *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009). The [REDACTED] is a trade secret because it identifies the form in which the financial consideration will be paid from IGS to NRS. The [REDACTED] [REDACTED] are used to calculate the financial consideration which creates the "structure of the licensing fee," which has been found to be a trade secret in the Order. (Order at 7). Likewise, the [REDACTED] identifies the duration and structure of the licensing fee. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

In Section 5.1(i), [REDACTED] and [REDACTED] were redacted because these terms are specific numbers that are used to determine the financial consideration paid by IGS to NRS. These terms are highly confidential because they are used as price terms in a private contract in a highly competitive industry, and also, these numbers are [REDACTED]. These terms are also confidential because they have the potential to [REDACTED] [REDACTED]. The type of customer identified is part of the protected trade secret because it describes the structure of the

licensing fee, and it signals to competitors the exact market that IGS is targeting, which marketing concepts are kept highly confidential by IGS. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

In Section 5.1(ii), [REDACTED] and [REDACTED] have been redacted because these terms are specific numbers that are used to determine the financial consideration paid by IGS to NRS. These terms are highly confidential because they are used as price terms in a private contract in a highly competitive industry, and also, these numbers are [REDACTED]. These terms are also confidential because they have the potential to [REDACTED] [REDACTED] which could be used by IGS' competitors to IGS' detriment. The type of customer identified is part of the protected trade secret because it describes the structure of the licensing fee, and it signals to competitors the exact market that IGS is targeting, which marketing concepts are kept highly confidential by IGS. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

In Section 5.1(iii), [REDACTED] is redacted because it identifies a confidential number that is used to determine the financial consideration paid by IGS to NRS. These terms are highly confidential because they are used as price terms in a private contract in a highly competitive industry, and also, these numbers are [REDACTED] [REDACTED]. These terms are also confidential because they have the potential to [REDACTED]

[REDACTED]. The type of customer identified is part of the protected trade secret because it describes the structure of the licensing fee, and it signals to competitors the exact market that IGS is targeting, which marketing concepts are kept highly confidential by IGS. The phrase [REDACTED] is redacted because [REDACTED], which is confidential with respect to this specific agreement and because competitors would be able to decipher IGS' marketing strategies for different [REDACTED]. Likewise, the language [REDACTED] is redacted because it discloses information related to the scope of the agreement in connection to IGS' payment to NRS for the license [REDACTED]. The language in this section stating that "[REDACTED] through [REDACTED] [REDACTED]" is a confidential trade secret because it is a pricing option which can be exercisable by the parties. *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009). This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

In Section 5.1(iv), for the same reasons set forth in 5.1(i)-(iii), the specific numbers and customers are redacted. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Section 5.2

[REDACTED]. During the Initial Term of this Agreement IGS will ensure that the [REDACTED] identified below meets the [REDACTED] outlined in this Section 5.2(i), (ii) and (iii),

respectively. If the [REDACTED]

Section 5.2(i). For the period beginning [REDACTED] through [REDACTED]
the [REDACTED] shall be [REDACTED];

Section 5.2(ii). For the period beginning [REDACTED] though [REDACTED]
the [REDACTED] shall be [REDACTED];

Section 5.2(iii). For the period beginning [REDACTED] through [REDACTED]
the [REDACTED] shall be [REDACTED].

In the first paragraph of Section 5.2, the SMLA provides the [REDACTED]

[REDACTED]. This is information constitutes confidential trade secrets because it contains specific numbers, dates and information regarding the structure of the licensing agreement. (Order at 7). This information constitutes “business information or plans,” “method[s],” “process[es],” and “financial information” that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

In Sections 5.2(i)-(iii), the information is redacted because it designates specific dates that identify the duration of the agreement. In addition, specific price terms and financial consideration are redacted in conformity with the Order and Ohio law. Similar to the redaction in the first paragraph, [REDACTED]” is redacted because it is a confidential provision relating to the structure of the licensing fee. This information constitutes “business information or plans,” “method[s],” “process[es],” and

"financial information" that has economic value of which IGS has maintained its secrecy.

O.R.C. § 1333.61.

Section 6

Monthly Licensing Fee Calculation and Payment. The [REDACTED] [REDACTED] will be calculated in accordance with Exhibit D and paid by IGS to NRS on a [REDACTED] basis based on the [REDACTED] which are provided to IGS each [REDACTED] by the NDC. The payment will be made on the later of the 25th of the month following the billing month or within 5 business days of receipt by IGS from the NDC of the monthly billing statement that contains the [REDACTED]. In the event IGS has not paid NRS by the issuance of the next NDC billing statement for the previous month's [REDACTED], NRS shall be entitled to deduct from IGS' Accounts Receivables the amount shown on the calculation sheet provided by IGS. If IGS fails to timely provide the calculation sheet for the [REDACTED], such failure shall be deemed a breach by IGS.

Section 6 of the SMLA provides the structure of the payments that IGS will make to NRS. The payment calculations are based on trade secret information. For instance, the structure of the agreement is based on [REDACTED] [REDACTED]. All references to the periods of payments and bases of payments reflect the structure of the licensing fee, which is to maintain confidential. In conformance with the September 6, 2012 Order, IGS has not redacted the entire paragraph; instead, IGS only redacted the confidential words or phrases in this Section. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Section 6.1

Calculation. The [REDACTED] information provided by the NDCs will be the basic information used in calculating the [REDACTED]. The Parties acknowledge that the [REDACTED] provided by the NDCs includes both [REDACTED] and [REDACTED], and will include [REDACTED]

[REDACTED] and other [REDACTED]. IGS will use the NDC provided [REDACTED] of the [REDACTED] and [REDACTED] on a [REDACTED]. Adjustments may be included in the [REDACTED] information provided by the NDCs that relates to either current or previous [REDACTED], which will be considered in the then current [REDACTED] calculation. IGS will provide NRS an electronic copy of the calculation that supports the [REDACTED] paid with each payment.

Section 6.1 details the calculation procedure to determine the licensing fee. Contained in this information, similar to Section 6, is confidential information relating to the underlying structure of the licensing fee. Specifically, information relating to the [REDACTED]

[REDACTED] determine the calculations to be made for IGS' payments to NRS. This information relates to the structure of the licensing fee and has been unredacted to the extent possible without revealing confidential information in conformance with the September 6, 2012 Order. Additionally, this information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Section 8.1

The term of this Agreement will begin on the Effective Date set forth above and shall continue in effect for [REDACTED] (the "Term"). Upon the expiration of the initial Term, the Agreement shall [REDACTED]

Section 8.1 defines the term of the SMLA. IGS has redacted the duration of the initial term of the SMLA in accordance with the Order. Information concerning [REDACTED]

[REDACTED] is also contained in Section 8.1, which includes [REDACTED]
[REDACTED]

[REDACTED]. These provisions, which contemplate duration and termination of the SMLA, are protected trade secrets as found in the Order. (Order at 7); *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009).

Section 8.2

Licensor shall have the right to terminate this Agreement as follows: (i)

[REDACTED] ; (ii)
[REDACTED] ; or (iii)
[REDACTED]
[REDACTED]. In addition, this Agreement shall
terminate if [REDACTED]
[REDACTED].

Section 8.2 describes the termination provisions in the SMLA. The Order found that “specific information regarding . . . any possible termination” of the SMLA constitutes trade secrets. These provisions, which contemplate duration and termination of the SMLA, are protected trade secrets as found in the Order. (Order at 7); *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009). Accordingly, each termination provision was redacted.

Section 8.6

In the event that IGS decides to [REDACTED]
[REDACTED]
[REDACTED].

Section 8.6 confidential provision that relates to the termination of the SMLA and the scope of the NRS' rights under the SMLA. [REDACTED]

[REDACTED] that has significant value to the parties. Terms under which any options may be exercisable constitute trade secret information. *In the Matter of the Application of the Cincinnati Gas & Electric Co.*, Case No. 03-93-EL-ATA, Order on Remand (Oct. 24, 2007).

The financial consideration of the SMLA as a whole cannot be determined without this provision. Potential buyers could use this information to IGS' detriment in the event IGS is soliciting the sale of its customers. [REDACTED]

[REDACTED]. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, this provision has been redacted as a confidential trade secret.

Section 14

Disposition of Customers. During the Term of this Agreement and for [REDACTED] following any expiration of termination of the Agreement, IGS shall not [REDACTED] without NRS' consent, which shall not be unreasonably withheld.

IGS has significantly unredacted Section 14 in accordance with the Order. However, the provision stating that IGS [REDACTED] without NRS' consent is confidential. The treatment of customers must remain confidential because public knowledge of this

provision would potentially [REDACTED]
[REDACTED]. If this information is disclosed, it could also likely discourage competition in the market. This information constitutes "business information or plans," that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, it should remain redacted.

Section 16.2

If IGS violates any material federal, state or local law, rule or regulation, in the marketing of products using the Service Marks, then after being provided an opportunity to cure and so failing, NRS [REDACTED]
[REDACTED].

In accordance with the Order, IGS redacted the [REDACTED] in Section 16.2. This provision, which contemplate duration and termination of the SMLA, are protected trade secrets as found in the Order. (Order at 7); *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009).

Section 17

Commodity Supply. IGS will [REDACTED]
[REDACTED] and all [REDACTED]
[REDACTED].

In Section 17, the SMLA provides confidential information related to the [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]
[REDACTED]. This information constitutes "business information

or plans" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Accordingly, portions of Section 17 have been redacted.

Section 20.1

IGS will not enter into any contracts with Customers using a Service Mark service for a term longer than [REDACTED] unless agreed to in writing by the Parties. In the event notice of termination of the Agreement is provided, IGS will not offer products that extend more than [REDACTED] past the effective termination date.

In Section 20.1, "[REDACTED]

[REDACTED]" has been redacted because it informs competitors of customer termination dates, which is a trade secret as found in the Order. (Order at 7).

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. This information constitutes "business information or plans," "method[s]," and "process[es]" that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. As such, this information constitutes trade secrets.

Exhibit B

The information in Exhibit is redacted in accordance with the Order, which states that "specific numbers," "information regarding the structure of the licensing fee," and "technical information contained in the exhibits" constitutes trade secret information. This information details the [REDACTED]

Furthermore, [REDACTED] are typically considered trade secret in energy related

contracts. [REDACTED]

[REDACTED]. In addition, this information constitutes "technical information" that is part of "formula" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

Exhibit C

Exhibit C has been redacted because it is a confidential customer list that contains highly guarded [REDACTED]. O.R.C. § 1333.61; *see also In the Matter of the Application of the Cincinnati Gas & Electric Co.*, Case No. 03-93-EL-ATA, Order on Remand (Oct. 24, 2007).

Exhibit D

Exhibit D, entitled "Payment Calculation," describes a summary of the license fee, the scope of the license fee, and how to calculate the license fee. Exhibit D contains the all of the internal processes and mechanisms that allow IGS and NRS to compute the license fees. The Order found that technical information found in the exhibits constituted trade secret information. This information constitutes "business information or plans," "method[s]," "process[es]," and "technical information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. IGS has redacted all of the technical information, but has left the headings on the exhibit pursuant to the Order. (Order 7-8).

B. Confidential Transcript Volume I.

Testimony of Scott White, President of IGS

56:5; 56:11; 58:5

In this section, the amount of IGS' customers in the Columbia Gas of Ohio service territory in the years 2010 and 2011 is disclosed. This information constitutes confidential "business information." O.R.C. § 1333.61. The Attorney Examiner has previously acknowledged the confidential nature of this information at 57:20-23.

58:6-25

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] . [REDACTED]

[REDACTED] . [REDACTED]

[REDACTED]

[REDACTED] . This provides an unfair competitive advantage to IGS' competitors if the information is released. Accordingly, this information constitutes "business information or plans" and "financial information" that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

59:8-11

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Accordingly, this information constitutes "business information or plans" and "financial information" that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

62:14-25; 63:25-64:1

[REDACTED]
[REDACTED]. [REDACTED]
[REDACTED]

[REDACTED]. Accordingly, this information constitutes "business information or plans" and "financial information" that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

64:24; 65:2

These phrases identify the effective date of the SMLA, which can be used to identify the term and duration of the agreement. This information constitutes trade secret information pursuant to O.R.C. § 1333.61 as described in the Order and in IGS' argument in reference to Section 2.4 of the SMLA above.

67:23-25; 68:1-4

[REDACTED]
[REDACTED]. The SMLA was a result of highly confidential business negotiations. [REDACTED]

information related to the scope of the agreement, which the Order found was trade secret information. (Order at 7). The information also sends proprietary market signals to competitors of IGS and NRS from two of the most well respected businesses in the gas industry in Ohio and around the country. Accordingly, this information constitutes

“business information or plans” that have economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

70:18-71:3

The information in this portion of the transcript refers to Section 3.3 of the SMLA, which IGS has requested portions of to be redacted. Accordingly, for the reasons set forth above in reference to Section 3.3, IGS requests that the redacted information at 70:18-71:3 be treated as confidential trade secret information pursuant to O.R.C. § 1333.61

71:10-17

The information in this portion of the transcript refers to Section 5 of the SMLA, which IGS has requested portions of to be redacted. For the reasons set forth above in reference to Section 5 of the SMLA, IGS requests that the redacted information at 71:10-17 be treated as confidential trade secret information pursuant to O.R.C. § 1333.61.

73:14-74:1

[REDACTED]

[REDACTED] would disclose information regarding the financial structure of the agreement. The Order found that information regarding the structure and scope of the licensing fee constitutes trade secrets. Likewise, [REDACTED]

[REDACTED]. [REDACTED]

[REDACTED]

[REDACTED] and is a trade secret pursuant to O.R.C. § 1333.61.

74:7-75:1

The testimony contained in this portion of the transcript identifies the specific structure of the license fee as detailed in Section 5 and 5.1 of the SMLA. The information includes [REDACTED], [REDACTED], [REDACTED]

[REDACTED]. For the reasons set forth above in reference to Sections 5 and 5.1, IGS requests that the redacted information at 74:7-75:1 be treated as confidential trade secret information pursuant to O.R.C. § 1333.61.

75:6-75:14

This testimony refers to Section 5.1(iii) and (iv) of the SMLA, which IGS has requested be redacted as confidential. For the reasons set forth above, IGS requests that the testimony be redacted pursuant to O.R.C. § 1333.61. Additionally, this information discloses how IGS determined the pricing mechanisms and financial consideration in the SMLA. Within the context of private contracts, financial considerations are trade secrets. *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009).

75:15-76:19

Lines 15 and 16 identify [REDACTED]
[REDACTED]. These lines, which contemplate duration and termination of the SMLA, are protected trade secrets as found in the Order. (Order at 7); *Ohio Consumers' Counsel v. PUCO*, 121 Ohio St. 3d 362, 369 (Ohio 2009). The remainder of this portion of the transcript describes the financial structure of the license fee, [REDACTED], [REDACTED], [REDACTED]

[REDACTED]. For the reasons set forth in reference to Section 5, 5.1, and 5.2 above, IGS requests that the proposed redacted versions be treated as confidential trade secrets pursuant to O.R.C. § 1333.61.

77:7-78:17

The testimony describes [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. Further, the testimony describes [REDACTED]
[REDACTED].

IGS performance under the contract should remain confidential because it can signal to competitors IGS' market strength, which the competitors can use to the detriment of IGS' business. Additionally, the discussion of the [REDACTED] should remain confidential because that the [REDACTED] determines the structure of the license fee. This information constitutes "business information or plans," "method[s]," "process[es]," and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

79:1-2

The testimony refers to the [REDACTED]. As set forth in reference to Section 5, 5.1 and 5.2 above, this information constitutes trade secrets pursuant to O.R.C. § 1333.61.

79:3-79:16

The information redacted from 79:3-79:16 describe the initial term of the agreement and [REDACTED] provision in the contract. As set forth in reference to Sections 2.6 and 8.1 of the SMLA, IGS requests that this information remain redacted and treated as confidential trade secrets pursuant to O.R.C. § 1333.61.

79:21-24

Whether IGS believes that its decision to enter into the SMLA makes “good business sense” is not public information. IGS is a private corporation and its internal evaluations of its own decisions is not for public consumption. Furthermore, disclosing this information would give IGS’ competitors insight into whether they should pursue their own license agreement without taking any of the risk that IGS engaged in. The disclosure of this information would be competitively unfair to IGS. Accordingly, this information constitutes “business information or plans,” that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

79:25

The redacted portion of the testimony is confidential because it reveals [REDACTED]
[REDACTED]
[REDACTED], which should remain redacted pursuant to O.R.C. §1333.61.

81:24-82:12

The redacted portion of the testimony is confidential for the same reason that IGS requested that Section 8.6 of the SMLA be redacted. For the reasons set forth

above, IGS requests that 81:24-82:12 be redacted and treated as confidential trade secret information pursuant to O.R.C. §1333.61.

92:6-92:16

The testimony in this portion of the transcript describes the details of Exhibit C. For the reasons set forth above in reference to Exhibit C of the SMLA, IGS requests that this information be treated as confidential trade secret information pursuant to O.R.C. §1333.61.

93:2-5; 93:21

The testimony refers to the contents of Exhibit C, which for the reasons set forth above, constitutes trade secrets pursuant to O.R.C. §1333.61. Furthermore, the specific number [REDACTED] that identifies an excluded customer is confidential information that competitors could use to target specific marketing efforts to excluded customers because they would know that the excluded customers were not marketed to by CRE.

93:9-13

The testimony in this redacted portion of the transcript identifies the "mass market" customer, which IGS has kept confidential. For the reasons set forth in reference to Sections 2.7 and 2.8 of the SMLA, IGS requests that this testimony be treated as confidential trade secrets pursuant to O.R.C. §1333.61.

95:6-13

IGS' marketing budget in 2010 and 2011 is private information of a privately held corporation. IGS' marketing budget is highly sensitive information that IGS' competitors would use to know how much money to invest in marketing to compete with IGS.

Disclosing this information publicly would give a competitive advantage to IGS' competitors. Accordingly, this information constitutes "business information or plans," that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. Furthermore, this testimony was totally irrelevant to the proceedings and serves no purpose to disclose publicly in connection with the case.

95:15-22

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]. Accordingly, this information constitutes "business information or plans" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61. This information should remain protected from public disclosure.

117:6

As set forth above, [REDACTED] is a key component to determine the fee structure that IGS requests is treated as a trade secret in accordance with the Order. Accordingly, this information constitutes "business information or plans," that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

C. Confidential Transcript Volume II.

Testimony of Vincent Parisi, General Counsel of IGS

427:8-17

[REDACTED]
[REDACTED] would publicize information regarding the financial structure of the agreement. The Order found that information regarding the structure of

the licensing fee constitutes trade secrets. [REDACTED]

[REDACTED] and is a trade secret pursuant to O.R.C. §1333.61.

428:22-29

Mr. Parisi's testimony describes the customers that IGS markets to under the SMLA. The testimony constitutes confidential trade secrets because it publicly explains the thought process of a private corporation's marketing strategies in connection with a first of its kind license agreement. The release of this information would also publicize IGS' [REDACTED]

[REDACTED]. Accordingly, this information constitutes "business information or plans" and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

430:5-22; 431:20-432:7

The questioning in this portion of the testimony [REDACTED]

[REDACTED] . [REDACTED]
[REDACTED] . [REDACTED]
[REDACTED] . [REDACTED]
[REDACTED] . [REDACTED]
[REDACTED] . [REDACTED]
[REDACTED] . [REDACTED]

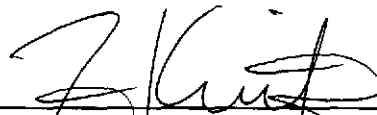
[REDACTED]. The information should not be disclosed in the public domain because releasing the information would again provide IGS' competitors with valuable information and insight into IGS' confidential business practices. Accordingly, this

information constitutes "business information or plans" and "financial information" that has economic value of which IGS has maintained its secrecy. O.R.C. § 1333.61.

III. CONCLUSION

For the foregoing reasons, the information redacted from the SMLA and the confidential transcripts has actual, substantial independent economic value from not being generally known, and not being ascertainable by proper means by persons that would derive economic value from disclosure. Public disclosure of this information cause substantial harm to IGS' business and competitive interests. Thus, IGS respectfully request the Commission to grant an order to protect the confidentiality of the above described confidential trade secret information.

Respectfully submitted,



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CERTIFICATE OF SERVICE

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