

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**JOINT MOTION TO MODIFY ORDERS
GRANTING EXEMPTION
AND MOTION FOR BIFURCATION OF THE CAPACITY
AND BALANCING ISSUES ON AN EXPEDITED BASIS**

By an Opinion and Order issued in Case No. 08-1344-GA-EXM ("the Exemption Proceeding") on December 2, 2009 ("First Opinion and Order"), the Commission, pursuant to R.C. 4929.04, granted an exemption authorizing Columbia Gas of Ohio, Inc. ("Columbia") to eliminate its gas cost recovery mechanism and replace it with an auction process. On September 7, 2011, the Commission issued a Second Opinion and Order in Case No. 08-1344-GA-EXM, further ruling upon issues associated with the First Opinion and Order (the two orders will be referred to collectively as the "Exemption Orders").

By this Motion, Columbia, Staff, Ohio Gas Marketers Group¹, Retail Energy Supply Association² and Dominion Retail, Inc. (all of the foregoing referred to collectively as the "Joint Movants") respectfully request, pursuant to R.C. 4929.08(A) and the terms of the Commission's First Opinion and Order, that the

¹ The Ohio Gas Marketers Group for purposes of this proceeding includes Constellation NewEnergy, Inc., Direct Energy Services, LLC, Direct Energy Business, LLC, Interstate Gas Supply, Inc., Integrys Energy, Inc., Just Energy Group, Inc. and SouthStar Energy LLC.

² RESA's members include Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P.

Commission modify the Exemption Orders, and thus the terms of the exemption, for a five-year period to begin after the initial term of the stipulation ("2009 Stipulation") approved in Case No. 08-1344-GA-EXM.

In the 2009 Stipulation, the signatory parties reserved their rights to propose modifications to the exemption, and the Commission's right to grant modifications to the exemption, to become effective after the Stipulation's initial term. R.C. 4929.08(A) also authorizes the Commission to modify an order granting an exemption only after notice and a hearing. To facilitate the scheduling of such a hearing, the Joint Movants have filed, concurrently with this Motion, a Stipulation and Recommendation designated as Joint Exhibit 1.

The ongoing operation of Columbia's CHOICE and Standard Choice Offer ("SCO") programs will be affected by the Commission's action with respect to the Stipulation and Recommendation. Under the Revised Program Outline that the Commission approved in the Second Opinion and Order, an SCO Auction for the next program year (April 1, 2013 through March 31, 2014) will be conducted on January 29, 2013. The supplier education meeting for potential SCO suppliers will be held on December 4, 2012. In order to ensure that Columbia will have sufficient time to prepare for that supplier education meeting, the Joint Movants respectfully request issuance of a final order on at least the capacity-, SCO-, and billing-related issues in the Stipulation and Recommendation by no later than November 30, 2012. The Joint Movants respectfully propose that the Commission bifurcate this proceeding to allow a determination on those issues first, with the remaining sections of the Stipulation and Recommendation (the sections relating to Columbia's potential exit of the merchant function and Monthly Variable Rate Program) decided subsequently.

For the reasons discussed in this Motion and the attached Memorandum in Support, the Joint Movants request that the Commission modify the Exemption Orders as requested herein. The Joint Movants also request that the proceeding instituted by the Commission to review this Motion be bifurcated so that the capacity, balancing, SCO, and billing issues may be determined prior to the supplier education meeting for the next SCO auction. Pursuant to Rule 4901-1-12(C), Ohio Admin. Code, the Joint Movants respectfully request an expedited ruling on this Motion.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

INTRODUCTION

On January 30, 2009, as supplemented on March 26 and 31, 2009, Columbia filed an application pursuant to Section 4929.04, Revised Code, for approval of a general exemption of certain natural gas commodity sales services or ancillary services contained in Chapters 4905, 4909, and 4935, Revised Code. That application was docketed as Case No. 08-1344-GA-EXM. Much of the detail related to Columbia's proposal was included in a Program Outline that was an attachment to the Application.

The parties to the case filed a Joint Stipulation and Recommendation on October 7, 2009 ("2009 Stipulation"). The Stipulation recommended approval of Columbia's exemption from regulation and recommended approval of revisions to the Program Outline. Among other things, the Stipulation did the following:

- Eliminated Columbia's gas cost recovery mechanism as of April 1, 2010, and replaced it with two annual Standard Service Offer ("SSO") auctions, followed by annual Standard Choice Offer ("SCO") auctions;
- Established an agreed upon level of Columbia's peak day demand and peak day capacity portfolio, which levels would not be subject to audit through March 31, 2013.
- Established Columbia's off-system sales/capacity release revenue sharing mechanism through March 31, 2013

By Opinion and Order dated December 2, 2009 ("First Opinion and Order"), the Commission approved the 2009 Stipulation, as well as the Program Outline.

Pursuant to the terms of the 2009 Stipulation, on May 9, 2011, the Office of the Ohio Consumers' Counsel ("OCC") and Ohio Partners for Affordable Energy ("OPAЕ") filed objections to the transition from an SSO auction to an SCO auction. After hearing, the Commission issued a Second Opinion and Order in Case No. 08-1344-GA-EXM on September 7, 2011, in which it reaffirmed Columbia's transition to an SCO auction.

The most recent version of the Program Outline is that docketed on April 15, 2011, with a replacement page docketed on October 14, 2011, pursuant to the Commission's Second Opinion and Order on September 7, 2011.

As noted above, several provisions of the 2009 Stipulation expire March 31, 2013. Significant among the provisions that expire March 31, 2013, are Columbia's specified levels of peak day demand and peak day capacity portfolio exempt from audit. The ongoing operation of Columbia's CHOICE and SCO programs is affected by Columbia's levels of peak day demand and peak day capacity portfolio. Columbia also has interstate pipeline contracts that expire that same date – March 31, 2013.

Columbia's stakeholder group has met during 2012 in order to discuss issues associated with the provisions of the 2009 Stipulation that expire March 31, 2013. Those discussions have resulted in the filing of the Joint Stipulation and Recommendation attached hereto as Joint Exhibit 1.

ARGUMENT

A. The Commission Has Authority To Modify Its Orders Granting An Exemption

The 2009 Stipulation, which the Commission's First Opinion and Order approved in its entirety, allowed the Stipulation's parties to seek, and the Commission to grant, modifications to the exemption's terms for the period after the Stipulation's initial term. On page 8 of the 2009 Stipulation, the signatory parties "reserve[d] the right to propose changes to the Agreement to become effective after the end of the initial term." On the same page, the parties agreed that the provisions of the Stipulation would "continue [after the expiration of the initial term] until modified by the Commission."

Ohio statute also authorizes the Commission to modify the terms of the exemption. The Exemption Orders were issued under R.C. 4929.04. The Commis-

sion has the authority to modify or abrogate the Exemption Orders under certain specified conditions. Specifically, R.C. 4929.08(A) provides:

The public utilities commission has jurisdiction over every natural gas company that has been granted an exemption or alternative rate regulation under section 4929.04 or 4929.05 of the Revised Code. As to any such company, the commission, upon its own motion or upon the motion of any person adversely affected by such exemption or alternative rate regulation authority, and after notice and hearing and subject to this division, may abrogate or modify any order granting such an exemption or authority only under both of the following conditions:

(1) The commission determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest;

(2) The abrogation or modification is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.

Twice this year, the Commission has applied R.C. 4929.08 in granting motions to modify previous Commission orders granting exemptions. *See In the Matter of the Application to Modify, in Accordance with Section 4929.08, Revised Code, the Exemption Granted to The East Ohio Gas Company d/b/a Dominion East Ohio in Case No. 07-1224-GA-EXM, Case No. 11-6076-GA-EXM, Opinion and Order, at 5 (Feb. 14, 2012); In the Matter of the Application and Joint Stipulation and Recommendation of Vectren Energy Delivery of Ohio, Inc., for Approval of its Exemption Authority Granted in Case No. 07-1285-GA-EXM, Case No. 12-483-GA-EXM, Opinion and Order, at 5 (May 16, 2012).*

As discussed below, certain findings upon which the Exemption Orders were based are no longer valid. As a result, Columbia is adversely affected by the exemption as it currently stands, and modification of the Exemption Orders is in the public interest. The eight-year limitation in R.C. 4929.08(A)(2) does not apply, because Columbia consents to the modifications sought in this proceeding. Regardless, the First Opinion and Order was approved two and one half years ago, well under the eight-year limit imposed by R.C. 4929.08(A)(2). Therefore, under both the Commission's First Opinion and Order and statute, the Commission has the authority to modify the Exemption Orders granting Columbia's exemption.

B. Pursuant To R.C. 4929.08(A), The Commission Should Modify The Exemption Order

1. Certain findings upon which the Exemption Order was based are no longer valid, adversely affecting Columbia

The exemption from regulation granted Columbia in Case No. 08-1344-GA-EXM was the first such exemption for Columbia. In abandoning the GCR and implementing gas supply auctions, Columbia was initiating a new method of supplying gas to customers.

The auction process is now no longer new or novel, and there is no longer uncertainty about the auction process. Columbia has held three auctions, and the parties agree that the auctions have provided customer benefits. The Retail Price Adjustment in Columbia's second and third auctions decreased from that in the first and second auctions respectively.

While there is now less uncertainty about the auction process, since the 2009 Stipulation was approved in December 2009, the introduction of Marcellus shale gas into the marketplace has created greater uncertainty about Columbia's best use of interstate pipeline capacity. The introduction of Marcellus shale gas, and subsequently Utica shale gas, has created the potential for new gas supply opportunities in Ohio. How these opportunities will develop is unknown, but the opportunities could potentially impact Ohio utilities' use of interstate pipeline capacity. It will likely take several years to fully assess the full impacts of shale gas on Ohio markets, and until all market participants can assess these impacts it makes sense not to make long-term interstate pipeline capacity contract decisions that could adversely impact Columbia's ability to make the best use of all pipeline capacity available to it. Consequently, the factual assumptions underlying Columbia's capacity contracts have changed since the Commission issued the Exemption Orders. Yet, the 2009 Stipulation approved by the Exemption Orders provides for a peak day capacity portfolio that is not geared to meet Columbia's needs during the period after the Stipulation's initial term.

Columbia has also begun to plan for a possible exiting of the merchant function. When the 2009 Stipulation was approved in December 2009, Columbia had not expressed a present intent to, and did not contemplate seeking to, exit the merchant function. Since then, the stakeholders believe such an exit may be warranted, if participation in Columbia's CHOICE program were to meet sufficient levels. The Exemption Orders do not, however, authorize Columbia to exit the merchant function.

For these reasons, Columbia's stakeholders believe that the Exemption Orders are adversely affecting Columbia, the findings underlying the Commission's Exemption Orders are no longer valid, and modifications to those Orders should be granted.

2. Certain modifications to the Exemption Order are in the public interest

The Joint Stipulation and Recommendation attached hereto as Joint Exhibit 1 would modify the details of Columbia's exemption for a term that will commence on April 1, 2013, and continue until March 31, 2018. The stakeholders believe that there are likely benefits to be derived from continuing the current exemption agreement, with modifications. Such a continuation would permit Columbia to retain flexibility in a rapidly evolving marketplace. The exact terms under which the exemption should continue involve interrelationships among complicated issues, including uncertainty as to how best contract for interstate pipeline capacity in a changing marketplace. These terms, including revisions to the Program Outline, are set forth in the Joint Stipulation and Recommendation attached hereto as Joint Exhibit 1 and in the revised Program Outline, which will be filed in this docket in the near future.

It is in the public interest for the Commission to permit Columbia and its stakeholders to maintain flexibility, particularly with regard to interstate pipeline capacity, while the market for shale gas develops. The other substantive modifications to the Exemption Orders are also in the public interest. Modifying the Balancing Fee, which is currently charged to Suppliers (and factored into Suppliers' charged rates), to instead charge it directly to customers would improve transparency in the way marketers' rates are set. The proposed modifications would allow Columbia to upgrade its computer systems to allow for more varied and diverse marketing services. The proposed modifications would also allow new Columbia customers to enroll in the CHOICE program immediately, if they choose, and would enable Columbia to exit the merchant function entirely if certain levels of shopping are achieved. All of these modifications would further the state's policies, as outlined in R.C. 4929.02, to "[e]ncourage innovation and market access for cost-effective supply- * * * side natural gas services and goods[.]" "[r]ecognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment[.]" and "[p]romote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transac-

tions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code[.]” R.C. 4929.02(5), (6), and (7).

CONCLUSION AND REQUEST FOR EXPEDITED RULING

Accordingly, the Joint Movants respectfully request that the Commission modify the Exemption Orders to continue the exemptions granted in those orders, but with the modifications requested herein.

Due to the fact that the supplier education meeting for the next SCO auction will be held on or about December 4, 2012, the Joint Movants respectfully request an expedited ruling on this Joint Motion. For the same reason, the Joint Movants further request that the Commission bifurcate this proceeding, so as to allow for a determination on the time-sensitive capacity-related issues in the attached Joint Stipulation and Recommendation (as well as the other issues not related to Columbia’s potential exit of the merchant function and Monthly Variable Rate Program) in sufficient time for Columbia to incorporate the necessary revisions to the SCO Auction process into the materials and presentation for its supplier education meeting – ideally, by November 30, 2012. The Joint Movants respectfully suggest that expedited discovery (if necessary), followed by a hearing and oral argument (in lieu of briefs) on the non-exit-related provisions of this Joint Motion, may best allow for a timely ruling on those issues.

Respectfully submitted,

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JOINT EXHIBIT 1

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JOINT STIPULATION AND RECOMMENDATION

INTRODUCTION

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

Pursuant to Rule 4901-1-30, OAC, Columbia Gas of Ohio, Inc. ("Columbia"); Staff; Ohio Gas Marketers Group¹; Retail Energy Supply Association²; and Dominion Retail, Inc. (hereinafter "the Parties") enter into and request the Public Utilities Commission of Ohio ("Commission") to accept the following Joint Stipu-

¹ The Ohio Gas Marketers Group for purposes of this proceeding includes: Constellation NewEnergy, Inc., Direct Energy Services, LLC, Direct Energy Business, LLC, Interstate Gas Supply, Inc., Integrys Energy, Inc., Just Energy Group, Inc. and SouthStar Energy LLC.

² RESA's members include: Champion Energy Services, LLC; ConEdison *Solutions*; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; Energetix, Inc.; Energy Plus Holdings LLC; Exelon Energy Company; GDF SUEZ Energy Resources NA, Inc.; Green Mountain Energy Company; Hess Corporation; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions LLC; PPL EnergyPlus, LLC; Reliant; TransCanada Power Marketing Ltd. and TriEagle Energy, L.P. The comments expressed in this filing represent the position of RESA as an organization but may not represent the views of any particular member of RESA.

lation and Recommendation (also referred to as "the Stipulation" or "Second Agreement") in the above-captioned proceeding.

This Stipulation, which shall be designated as Joint Exhibit 1, is supported by adequate data and information; represents a just and reasonable resolution of certain issues in this proceeding; violates no regulatory principle or precedent; is in the public interest; and is the product of lengthy, serious bargaining among knowledgeable and capable parties, and parties that are representative of the many interests and stakeholders in a cooperative process undertaken by the Signatory Parties. While this Stipulation is not binding on the Commission, where, as here, it is sponsored by Parties representing a significant cross section of interests, including the Commission's Staff, it is entitled to careful consideration by the Commission. Except for enforcement purposes, neither this Stipulation nor the information and data contained herein or attached, shall be cited as precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves this Stipulation.

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

CHANGES FROM THE 2009 STIPULATION

Term

The Parties agree that the Second Agreement shall commence on April 1, 2013, and shall have a term extending until March 31, 2018. After the expiration of the term, the provisions of this Second Agreement including the then-approved method of supplying commodity for standard service offer and Standard CHOICE Offer ("SCO") service shall continue until modified by the Commission unless otherwise stated herein. All Parties reserve the right to propose changes to the Agreement to become effective after the end of the term.

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

The OSS/CR Program's prior revenue sharing mechanism will continue for a five-year term (April 1, 2013 through March 31, 2018), except as modified and described herein.

CHANGES TO THE PROGRAM OUTLINE

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

SCO Auction Goals, Objectives, Timing, and Calendar

This section will be revised to reflect that the SCO has been approved and continues unless discontinued by Commission action or by Columbia's exit from the merchant function.

SCO Supplier Security Requirements

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

SCO Supplier Payments

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

Columbia Capacity Contracts

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

Capacity Allocation Process

Columbia will continue the use of its existing annual design peak day calculation process for Core Market demand, which is premised on a 1-in-10 probability of occurrence. Such process includes all standby service quantities elected by Transportation Service customers on a year-to-year basis. Columbia shall retain storage and related transportation service capacity equal to the elected standby service volumes. Customer standby service demand and related retained capacity shall be removed from the capacity allocation calculations.

Columbia will assign Suppliers capacity, including the Columbia provided peaking service, equal to up to 100% of the design peak day requirements of their customers.

Columbia shall determine its design peak day demand annually, as noted above, for the term of the Agreement. Columbia will retain its existing peak day capacity portfolio through March 31, 2018 with the following modifications to Columbia's capacity contracts: (1) the Sempra peaking contract for 31,200 Dth/day shall be permitted to terminate effective March 31, 2013; (2) 22,964 Dth/day of North Coast Gas Transmission transportation capacity along with 23,255 Dth/day of Crossroads transportation capacity will be terminated when the respective contracts expire October 31, 2013; and, (3) Columbia shall renew 100% of its existing Columbia Gulf FTS-1 capacity through March 31, 2016. Thereafter, Columbia will renew its Columbia Gulf FTS-1 contracts to cover 75% of the volume under contract prior to March 31, 2016, and such renewal shall be for the two-year period April 1, 2016 through March 31, 2018.

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

There will be no contract capacity review via the Second Agreement during the term of the Second Agreement.

Daily Nominations – Demand and/or Supply Curves

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

Off-System Sales and Capacity Release

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

OTHER CHANGES

Possible Exit From the Merchant Function

The Parties agree that Columbia will exit the merchant function if participation in Columbia's CHOICE program meets specified thresholds. The term "exit the merchant function" shall mean that all of Columbia's residential and/or non-residential customers are provided commodity service by a Competitive Retail Natural Gas Supplier ("Supplier"). The pricing for the competitive portions of the default service would be based on the closing New York Mercantile Exchange ("NYMEX") price plus basis (the monthly variable rate or "MVR" price).

Upon exit from the merchant function, Columbia will provide no default commodity service for CHOICE-Eligible customers. CHOICE-Eligible Customers may enroll with a Supplier. Those CHOICE-Eligible Customers that do not enroll with a Supplier will be assigned to a Supplier, pursuant to Columbia's MVR Program.

CHOICE-Eligible Customers are those customers who:

- Use less than 6,000 Mcf per year, or are a Human Needs Customer regardless of annual consumption; and,
- Are not enrolled in the Percentage of Income Payment Plan; and,
- Are not a Transportation Service customer; and,
- Are not more than 60 days in arrears in payment of their Columbia bills, or not more 30 days in arrears in payment of their Columbia bills if enrolled in a payment plan.

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

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

Beginning the first month following the signing of the Stipulation, Columbia will evaluate customer participation³ in its CHOICE program. Beginning April 1, 2013, Columbia will send monthly updates on the percentage of participation in the CHOICE program to Staff and other interested members of the stakeholder group.

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

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

Phase 1 of the education program will be implemented by the first day of October after the Non-Residential Customer participation level in the CHOICE program meets or exceeds 70% of the CHOICE-Eligible Non-Residential Customers for three consecutive months, as described below. Phase 1 of the education plan will target all CHOICE-Eligible Non-Residential Customers about changes in the CHOICE program, specifically that Columbia will no longer pro-

³ Customer participation in the CHOICE program is measured according to the percentage of CHOICE-Eligible accounts that are not served under the SCO because they have selected a CRNGS supplier or are participating in a governmental aggregation.

vide SCO service to CHOICE-Eligible customers after the actual exit of the merchant function occurs. Education materials will be tailored to address educational needs identified through the surveys and information about the Commission's Apples to Apples chart.

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

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

Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Second Agreement until Columbia exits the merchant function with regard to Non-Residential Customers, Columbia will evaluate Non-Residential Customer participation in Columbia's CHOICE program for the preceding twelve months ("the evaluation period"). On June 1 each year, Columbia will determine whether during the evaluation period preceding the June 1 review the Non-Residential Customer participation level in the CHOICE program met or exceeded 70% of the CHOICE-Eligible Non-Residential Customers for three consecutive months. If the consecutive three month 70% customer participation threshold has been met, then Columbia will exit the merchant function with regard to Non-Residential Customers effective the first April 1 that follows. If the consecutive three month 70% customer participation threshold for CHOICE-Eligible Non-Residential Customers has not been met by June 1 of any year during the term of this Second Agreement, then Columbia will continue its SCO auction for gas to be supplied to Non-Residential Customers during the subsequent program year (the following April 1 through March 31). Each June 1 during the term of this Second Agreement, Columbia shall determine whether the threshold has been met for Non-Residential customer participation until such level is met.

Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Second Agreement until Columbia has filed an application to exit the merchant function with regard to Residential Customers, Columbia also will evaluate Residential Customer participation in Columbia's CHOICE program for the preceding three months. If during the evaluation period the customer participation level in the CHOICE program met or exceeded 70% of the CHOICE-Eligible Residential Customers for three consecutive months, then Columbia shall file an application with the Commission to exit the merchant function for all CHOICE-Eligible Residential Customers on the first April that is: (1) at least one month after that evaluation period, and (2) at least twelve months after Columbia exits the merchant function with regard to Non-Residential Customers. The Commission will hold a hearing and Columbia will bear the burden of proof to show the Commission, in the exercise of its discretion, that it should approve Columbia's application. Columbia and the Ohio Gas Marketers Group shall prepare testimony supporting that final exit-the-merchant-function application following the filing of the application. The parties recognize the Commission may evaluate and consider the effects of Columbia's exiting the merchant function on Non-Residential Customers as part of the Commission's evaluation and consideration of Columbia's application to exit the merchant function for Residential Customers. If the Commission approves the application, Columbia will exit the merchant function with regard to Residential Customers effective the first April 1 that is at least five months after the issuance of the opinion and order approving the application. If the consecutive three month 70% customer participation threshold for CHOICE-Eligible Residential Customers has not been met, or the Commission has not issued an opinion and order approving an application by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers, by November 1 of any year during the term of this Second Agreement, then Columbia will continue its SCO auction for gas to be supplied to Residential Customers during the subsequent program year (the following April 1 through March 31).

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

sions to current programs necessary for an exit from the merchant function for CHOICE-Eligible Residential Customers.

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

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

Monthly Variable Rate (MVR) Program

If Columbia exits the merchant function, CHOICE-Eligible customers who have not selected a CHOICE Supplier and are not served through a Government Aggregation Program shall receive commodity service through Columbia's Monthly Variable Rate ("MVR") program. Such customers shall remain on Columbia's Customer List. The parties agree that the MVR program will apply to Non-Residential CHOICE-Eligible customers upon exit.

Suppliers that are active in Columbia's CHOICE program ("CHOICE Suppliers") may elect each February 1 to be MVR Suppliers for the upcoming program year (April through the following March). MVR Suppliers may elect each February to end their participation or continue in the MVR program for the following program year.

Non-residential customers establishing service with Columbia for the first time (including both the initial installation of a new meter at a premise as well as an account transfer or switch from one customer to another) and customers relocating within Columbia's service territory will be served under the Default Sales Service ("DSS") for two billing cycles. Subsequently, CHOICE-Eligible Non-Residential Customers who have not selected a CHOICE supplier and are not

served through a Governmental Aggregation Program will be assigned to an MVR Supplier. Prior to Columbia's exit of the merchant function, a method for assigning supply default Choice-Eligible Customers should be determined. The Parties acknowledge and agree that such method should be part of this proceeding and include both the initial allocation upon Columbia's exits as well as an allocation methodology for future supply default CHOICE-Eligible Customers. The Parties agree that the allocation methodology shall be addressed by the undersigned in the testimony phase of this proceeding.

MVR Suppliers shall provide their MVR prices to Columbia each month for the applicable billing month. The MVR price provided to Columbia shall be no greater than the Supplier's MVR price posted on the Commission's Apples to Apples chart for the same billing period. MVR Suppliers agree to have their MVR prices posted on the Commission's Apples to Apples chart each month.

Non-residential customers may migrate from the MVR program by enrolling with a CHOICE Supplier or participating in a Government Aggregation program in accordance with the enrollment submission process, without incurring a cancellation fee.

An MVR Supplier that exits Columbia's CHOICE program must also exit the MVR program. If Columbia terminates the MVR Supplier from participation in Columbia's CHOICE program, Columbia will also terminate the supplier from participation in the MVR program. Columbia also may terminate MVR Suppliers that are in default of their obligations under the MVR Program from participation in the MVR program. If Columbia terminates an MVR Supplier from participation in the MVR Program, Columbia may also terminate the Supplier from participation in Columbia's CHOICE Program. If Columbia terminates an MVR Supplier from participation in the MVR program, that Supplier's customers will be reassigned to the remaining MVR Suppliers on a random, rotating basis.

Enhancements to Billing for Competitive Retail Natural Gas Suppliers

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

- Permit Suppliers the option to bill a fixed bill for the Suppliers' charges. Suppliers may submit a rate ready⁴ code to Columbia so that Columbia may bill a flat fee to their CHOICE customers covering the Suppliers' gas costs for the month;
- Increase rate ready billing codes to 100 per Supplier;
- Permit Suppliers to bill a rate based upon monthly NYMEX prices, plus or minus a value;
- Offer Suppliers larger logo size and placement on bill. For those Suppliers that elect this service, Columbia will enlarge and reposition the Supplier's logo to the top margin of the front page of the bill when Columbia is providing a consolidated bill to CHOICE customers. Columbia shall charge a competitively neutral fee to Suppliers that use this service;
- Permit rolling rate change submission. Suppliers shall be able to submit a rate change transaction for an existing CHOICE Customer each processing day; an accepted rate change will be effective with the CHOICE customer's next billing cycle; and,
- Permit contract portability. For those Suppliers who elect this service, Columbia will offer their CHOICE customers who transfer natural gas service within Columbia's service territory the ability to transfer their existing CHOICE contract to their new service address. This service will not be available to Government Aggregation customers.

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

- Offer rate ready billing and/or bill ready⁵ billing by individual customer. Suppliers will have the option to bill commodity-related charges to CHOICE customers via rate ready, bill ready, or a combination of the two under Columbia's consolidated billing option;
- Permit Suppliers to offer customers the opportunity to prepay the commodity portion of the bill. A credit amount will be provided by the Supplier and applied to the customer's bill; the credit will be used to offset Supplier charges. The pre-paid amount will be reported monthly to the

⁴ Rate ready refers to the billing method under which the Supplier provides rates to Columbia. Columbia then calculates charges for the Supplier and creates a consolidated billing statement sent to customers.

⁵ Bill ready refers to the billing method under which the Supplier provides charges to Columbia that are ready to be placed on the bill. Columbia then creates a consolidated billing statement sent to customers.

Supplier and offset with Supplier payments. The actual account balance and supplier monthly charges shall appear on the bill;

- Allow a new customer to start CHOICE immediately. Suppliers may elect annually to participate in this service. This optional service will allow customers to enroll in the CHOICE Program at the time they request service with Columbia. Such customers must inform Columbia when they want to establish service with their desired CHOICE Supplier. The initial rate for CHOICE customers under this service will be the same as the monthly SCO rate. If the SCO no longer exists because Columbia has exited the merchant function, the introductory rates will be established by each participating Supplier; and,
- Rolling Enrollment. Columbia will process CHOICE enrollment and drop transactions each processing day. As of the fifteenth day of each month, or the prior business day if the fifteenth falls on a non-business day, Columbia will take a snap-shot of CHOICE enrollment to develop the Demand and Supply Curves and the Capacity Allocation.

To the extent that any of the billing enhancements listed above conflict with the requirements of Columbia's tariff or Commission regulations, Columbia will file an application with the Commission requesting a waiver of those conflicting requirements.

The Parties agree that Columbia may continue to include within the CHOICE/SCO Reconciliation Rider ("CSRR") the costs of implementing the CHOICE education program, the pre-exit-the-merchant-function education programs, and the billing system changes described above. The above program costs shall be subject to review during the Commission's annual audit of the CSRR.

Except as specified below, if Columbia exits the merchant function with regard to any class of customers, the Parties agree that Columbia may include within the CSRR the Incremental Program Costs relating to that exit. "Incremental Program Costs" means any prudent and necessary expense incurred by Columbia resulting from the implementation of the exits from the merchant function. These include, but are not limited to, the post-exit-the-merchant-function educational programs; and, information technology expenses incurred in development of revisions to current programs and development of new programs necessary for an exit from the merchant function for CHOICE-Eligible Residential Customers.

However, if the Commission denies an application filed by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers, any information technology expenses previously incurred in preparation for that exit shall instead be directly billed to all CHOICE and MVR Suppliers, and allocated based on throughput. Columbia will bill all information technology costs referenced in this paragraph directly to CHOICE and MVR Suppliers on a quarterly basis.

NON-SEVERABILITY OF STIPULATION PROVISIONS

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

Because the Joint Stipulation and Recommendation is an integrated settlement, it is expressly conditioned upon the Commission adopting same in its entirety without material modification. Rejection of all or any part of the Joint Stipulation and Recommendation by the Commission shall be deemed to be a material modification for purposes of this provision. If the Commission materially modifies all or any part of this Joint Stipulation and Recommendation, and such modifications are not acceptable to all the Parties, the Parties agree to convene immediately to work in good faith to attempt to formulate an alternative proposal that satisfies the intent of the Joint Stipulation and Recommendation, or represents a reasonable equivalent thereto, to be submitted to the Commission for its consideration through a joint application for rehearing filed by all the Parties.⁶ If the Parties do not reach unanimous agreement with respect to such an alternative proposal, no alternative proposal shall be submitted, and any Party

⁶ The Commission Staff is not considered a signatory Party for the purposes of requirements regarding rehearing applications.

may, within thirty (30) days of the Commission's order, file an application for rehearing supporting the adoption of the Joint Stipulation and Recommendation as filed. No Party shall oppose an application for rehearing filed by any other Party pursuant to this provision. Upon the Commission's issuance of an entry on rehearing that does not adopt this Joint Stipulation and Recommendation in its entirety without material modification, or the alternative proposal, if one is submitted, a Party may terminate and withdraw from the Joint Stipulation and Recommendation by filing a notice with the Commission within thirty (30) days of the Commission's entry on rehearing. No Party shall oppose the termination of the Joint Stipulation and Recommendation by any other party.

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

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

RECOMMENDATION

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

AGREED THIS 4TH DAY OF OCTOBER, 2012.

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

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

/s/ M. Howard Petricoff

(per email authorization 9/28/12)

M. Howard Petricoff

On behalf of the Ohio Gas Marketers
Group

/s/ M. Howard Petricoff

(per email authorization 9/28/12)

M. Howard Petricoff

On behalf of the Retail Energy Supply
Association

/s/ Barth E. Royer

(per email authorization 9/28/12)

Barth E. Royer

On behalf of Dominion Retail, Inc.

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Commission of Ohio Docketing Information System on

10/4/2012 9:22:03 AM

in

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

Summary: Motion -Joint Motion to Modify Orders Granting Exemption and Motion for Bifurcation of the Capacity and Balancing Issues on an Expedited Basis, Memorandum in Support, and Joint Stipulation and Recommendation electronically filed by Cheryl A MacDonald on behalf of Columbia Gas of Ohio, Inc.