

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application to Modify,)
in Accordance with Section 4929.08,)
Revised Code, the Exemption Granted) Case No. 12-2637-GA-EXM
Columbia Gas of Ohio, Inc., in Case No. 08-)
1344-GA-EXM.)

ENTRY

The attorney examiner finds:

- (1) By opinion and order issued on December 2, 2009, in *In the Matter of the Application of Columbia Gas of Ohio, Inc., for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Case No. 08-1344-GA-EXM (08-1344), the Commission approved the terms of a stipulation and recommendation (08-1344 stipulation) entered into by the parties in that proceeding. The 08-1344 stipulation provided, *inter alia*, that Columbia Gas of Ohio, Inc. (Columbia), would hold an auction to secure natural gas supplies, initially through a standard service offer (SSO) structure and, subsequently, through a standard choice offer (SCO) structure, and approved a Program Outline, which reflected the changes necessary to implement the SSO structure through March 31, 2012.
- (2) On September 7, 2011, the Commission issued a second opinion and order in 08-1344, which, *inter alia*, authorized the continuation of the 08-1344 stipulation and approved a Revised Program Outline reflecting the changes necessary to implement the initial SCO auction in February 2012, for the 12-month period beginning April 1, 2012.
- (3) On October 4, 2012, Columbia, Ohio Gas Marketers Group, Retail Energy Supply Association, Dominion Retail, Inc., and Staff (jointly referred to herein as joint movants) initiated the instant case and filed a joint motion to modify the December 2, 2009, and September 7, 2011, orders in 08-1344, in accordance with Section 4929.08(A), Revised Code (joint motion to modify), along with a Stipulation and Recommendation (Stipulation). According to joint movants, the Stipulation

would modify the details of Columbia's exemption granted in 08-1344 for a five-year term commencing on April 1, 2013 through March 31, 2018.

- (4) On October 5, 2012, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this matter stating that the issues in this proceeding, including the joint movants' proposed allocation of the revenues from off-system sales and Columbia's possible exit from the merchant function, will affect residential customers' rates. Therefore, as the representative of the residential customers of Columbia, OCC states that it should be granted intervention.
- (5) On October 9, 2012, Hess Corporation (Hess) filed a motion to intervene in this matter submitting that, as a large energy provider, a competitive retail natural gas service provider in Ohio, and an active participant in Columbia's SCO auctions, it should be granted intervention. Hess states that its participation will contribute to the resolution of the facts in this case, it will not prolong or delay this proceeding, and its unique financial interests cannot be adequately represented by any other party.
- (6) On October 10, 2012, Ohio Partners for Affordable Energy (OPAЕ) filed a motion to intervene in this matter stating that, as an advocate for affordable energy policies for low and moderate income Ohioans, including residential and nonprofit organizations, it has a real and substantial interest in this case. According to OPAЕ, no other party to this proceeding will represent its interests.
- (7) In accordance with Rule 4901-1-12, Ohio Administrative Code (O.A.C.), upon consideration of the motions to intervene filed by OCC, Hess, and OPAЕ, the attorney examiner finds that they are reasonable and should be granted.
- (8) As part of their October 4, 2012, filing, joint movants also filed a motion for bifurcation of the Commission's consideration of the issues addressed in the Stipulation. Joint movants explain that, because the education meeting for potential SCO suppliers that will be participating in the January 29, 2013, SCO auction, will be held on December 4, 2012, the Commission's order considering issues contained in the

Stipulation that pertain to capacity, balancing, SCO, and billing should be issued no later than November 30, 2012. Therefore, joint movants request that these issues be considered by the Commission on an expedited basis. With regard to the remaining issues contained in the Stipulation, joint movants offer that the process and order considering these issues can be scheduled for a later time.

- (9) On October 9, 2012, Hess filed a memorandum contra joint movants' motion. Hess states that it opposes an expedited ruling on the joint motion to modify the orders granting exemption, because, in accordance with Section 4929.08(A), Revised Code, notice and a hearing must be provided before the Commission's previous order can be modified; thus, an expedited ruling would be unlawful. However, Hess does not oppose an expedited ruling on the motion for bifurcation, nor does it oppose the motion for bifurcation, as long as the Stipulation is also bifurcated and the parties are provided ample due process in each phase of the proceeding, including meaningful time for discovery, hearing, and briefing.
- (10) On October 11, 2012, OCC and OPAE jointly filed a memorandum contra the joint motion to modify and the joint movants' motion to bifurcate the issues. In response to the motion to bifurcate, OCC and OPAE point out that, if consideration of the issues is bifurcated, the Commission would not be able to determine if the Stipulation, as a package, benefits customers and is in the public interest, which is one prong of the three-prong standard used by the Commission in considering stipulations. In addition, OCC and OPAE note that the joint movants have not been clear as to exactly which provisions of the Stipulation should be bifurcated and considered on an expedited basis. OPAE and OCC submit that the Commission should not rush the procedural process in this case and should provide interested parties due process.
- (11) Section 4929.08, Revised Code, provides that, upon the motion of any person adversely affected by an exemption, and after notice and hearing, the Commission may modify any order granting such exemption.

- (12) Upon consideration of joint movants' motion for bifurcation and the responses of Hess, OCC, and OP&E, the attorney examiner finds that, at this time, insofar as joint movants request bifurcation of the hearing process, the motion to bifurcate should be denied. Understanding that the SCO auction is scheduled for the end of January 2013, the attorney examiner believes that due process, including discovery, notice, and a hearing, can be achieved within this timeframe. The attorney examiner notes that, while the process will move forward and the joint motion to modify and the Stipulation will be considered, in total, at the hearing scheduled herein, upon consideration of the record in this matter, the Commission may, subsequent to the hearing, consider joint movants' request to bifurcate consideration of the issues.
- (13) To facilitate the Commission's timely review of the joint motion to modify and the Stipulation, the attorney examiner finds it appropriate to set the following procedural schedule:
- (a) November 5, 2012 - Deadline for the filing of motions to intervene.
 - (b) November 5, 2012 - Deadline for the filing of comments and/or memorandum contra the October 4, 2012, joint motion to modify.
 - (c) November 12, 2012 - Deadline for the filing of reply comments and replies to memorandum contra the October 4, 2012, joint motion to modify.
 - (d) November 12, 2012 - Deadline for the filing of direct testimony by joint movants. In its testimony, Columbia must delineate, in detail (referencing page numbers, section headings, and paragraphs), the issues in the Stipulation that relate to capacity, balancing, SCO, and billing, that it needs to have resolved expeditiously.
 - (e) November 26, 2012 - Deadline for the filing of testimony on behalf of intervenors.

- (f) December 3, 2012 – A hearing shall commence at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio.
 - (g) Briefs will be due three calendar days after conclusion of the hearing. Reply briefs will not be accepted. In order to accommodate the timely filing of briefs, Columbia should arrange for same-day transcripts.
- (14) In accordance with Section 4929.08, Revised Code, the attorney examiner finds that Columbia shall publish notice of the hearing in this case one time in a newspaper of general circulation in each county of Columbia's service area. Such notice shall be published by October 28, 2012. The notice shall read as follows:

LEGAL NOTICE

Columbia Gas of Ohio, Inc., and various parties filed an application addressing the provision of pipeline capacity to customers as of April 2013 and proposing to discontinue providing commodity service to choice-eligible nonresidential customers, Case No. 12-2637-GA-EXM. As proposed, once Columbia's Choice Program reaches specific thresholds, nonresidential customers would receive commodity service from a competitive retail natural gas supplier. Motions to intervene are due by November 5, 2012. A hearing is scheduled for December 3, 2012, 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-A, Columbus, Ohio. Further information may be obtained by contacting the Public Utilities Commission of Ohio, 180 East Broad Street, Columbus, Ohio 43215-3793, viewing the Commission's web page at <http://www.puc.state.oh.us> or contacting the Commission's hotline at 1-800-686-7826.

- (15) The attorney examiner finds that, in the event any additional motions are made in this proceeding, any memorandum contra shall be filed within four calendar days and reply memorandum will not be accepted. Parties shall provide service of pleadings via hand delivery, facsimile, or e-mail.
- (16) In addition, the attorney examiner finds that the response time for discovery shall be shortened to five calendar days. Unless otherwise agreed to by the parties, discovery requests and replies shall be served by hand delivery, facsimile, or e-mail. An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming. If the parties can not resolve a dispute regarding discovery, the party requesting such discovery must immediately notify the attorney examiner.

It is, therefore,

ORDERED, That the motions to intervene filed by OCC, Hess, and OPAE be granted. It is, further,

ORDERED, That, in accordance with finding (12), joint movants' motion to bifurcate be denied. It is, further,

ORDERED, That notice of the hearing be published as set forth in finding (14). It is, further,

ORDERED, That the procedural schedule and time frames set forth in findings (13), (15), and (16) be adhered to by the parties. It is, further,

ORDERED, That copies of the entry be served upon all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Christine M. T. Pirik

By: Christine M. T. Pirik
Attorney Examiner

JRJ/dah

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in

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

Summary: Attorney Examiner Entry denying the motion to bifurcate and establishing the procedural schedule in this case; electronically filed by Debra Hight on behalf of Christine M. T. Pirik, Attorney Examiner, Public Utilities Commission of Ohio.