



# CONFIDENTIAL

Confidential treatment has been requested for the following document:

Case # 10-2395-GA-CSS

- Page Count 22
- Date Filed 12/20/2011
- Filed by John W. Bentone on behalf of  
Interstate Gas Supply Inc
- ❖ Summary of document Exhibit A

RECEIVED-DOCKETING DIV

2011 DEC 20 PM 5:17

PUCO

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

SERVICE MARK LICENSE AGREEMENT

This Service Mark License Agreement ("Agreement") is entered into as of July 13, 2010, between NiSource Retail Services, Inc. ("NRS"), a Delaware corporation ("Licensor") and Interstate Gas Supply, Inc. ("IGS"), an Ohio corporation, ("Licensee"), each a "Party" and collectively "the Parties".

RECITALS

WHEREAS Licensor is an affiliate of NiSource Corporate Services ("NCS"), which owns certain common law rights and registrations in various service marks (the "Service Marks" as further defined below);

WHEREAS Licensor is a licensee of the Service Marks and is authorized by [redacted] to license the Service Marks to IGS;

WHEREAS Licensee intends to provide services to its customers in connection with the sale of [redacted] ("the Services");

WHEREAS Licensee desires to obtain a license to use the Service Marks in connection with providing Services as detailed in this Agreement;

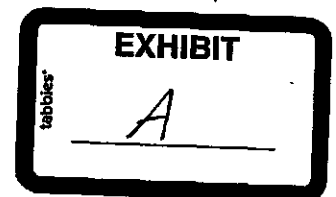
WHEREAS Licensor is willing to grant such license subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated as part of this Agreement, the mutual promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

PROVISIONS

1. **Grant of License.** During the term of this Agreement, Licensor grants to Licensee [redacted] its customers in connection with the [redacted] ("Licensed Services") [redacted] Licensee shall not [redacted] In providing the Licensed Services, Licensee shall at all times be [redacted]

2. **Definitions.** In addition to the terms defined below and elsewhere in this Agreement, the term "Service Marks" means the logos, trade marks and service marks identified for use by Licensor in writing from time to time, including those identified in Exhibit A hereto as such Exhibit may be modified by Licensor from time to time.



CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

- 2.1 [REDACTED]
- 2.2 "Auction Customers" means customers served via COH's Standard Service Offer ("SSO") or Standard Choice Offer ("SCO") [REDACTED]
- 2.3 "Commodity Products" means the IGS natural gas commodity products made available, to the general public through various IGS marketing channels including, but not limited to, natural gas commodity products posted on IGS' website, offered through IGS' inbound call center or IGS direct mail efforts.
- 2.4 "Effective Date" shall be [REDACTED] from which the initial term shall be calculated for purposes of this Agreement. [REDACTED]
- 2.5 [REDACTED]
- 2.6 "Initial Term" means, unless terminated earlier pursuant to the terms hereof, the [REDACTED]
- 2.7 "Mass Market Choice Customers" means [REDACTED]
- 2.8 "Mass Market Eligible Customers" means [REDACTED]
- 2.9 "Excluded Customers" means [REDACTED]
- 2.10 [REDACTED]

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

2.11 "NDC Service Territories" means the service area in which the NDC operates as authorized and approved by the applicable state commission for each respective NDC.

2.12 [REDACTED]

3. License Limitations.

3.1 Unless otherwise specified by Licensor in writing, Licensee shall only use the versions of the Service Marks and related artwork in the manner described in Section 3.2 that are provided, or otherwise approved by Licensor. Licensee shall not use the Service Marks in any other medium or format than that provided by Licensor, including in connection with any other goods and services other than the Licensed Services. [REDACTED]

[REDACTED] Licensor reserves the right to modify the Service Marks from time to time upon written notice to Licensee. [REDACTED]

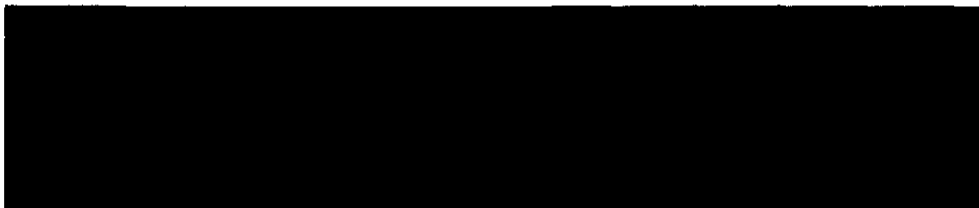
3.2 The grant of the license only applies to the use of the Service Marks in the marketing of IGS Commodity Products in the NDC Service Territories, which includes but is not limited to use of the Service Marks on IGS' website, in printed media, public displays, in telemarketing activities, call center, and other marketing areas as such are approved from time to time in accordance with Section 7 herein. [REDACTED]

[REDACTED]

3.3 [REDACTED]

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY



3.4 IGS shall file, and has the right to file documents with the applicable agency or entity, typically [redacted]

[redacted] NiSource will provide IGS with necessary signatures related to such filings and otherwise assist in such filings if needed, [redacted] and such similar forms in other states, as applicable. This provision shall not alter or diminish in any way NiSource's own rights to register any Service Marks with any agency or entity.

4. Use Inures to Licensor. Any use of the Service Marks by Licensee shall inure to the benefit of Licensor. Licensee shall not, at any time, do or cause to be done any act or thing that may in any way adversely affect any rights of Licensor in and to the Service Marks. Licensee acknowledges that all rights in the Service Marks belong exclusively to Licensor, and agrees that nothing in this Agreement shall give Licensee any right, title or interest in the Service Marks other than the right to use the Service Marks in accordance with the license granted herein. Licensor shall not combine or join the Service Marks with any other trademark or service mark. Licensee agrees not to adopt, use or register any word, phrases or symbols that are identical to or confusingly similar to the Service Marks, except for use as explicitly permitted herein.

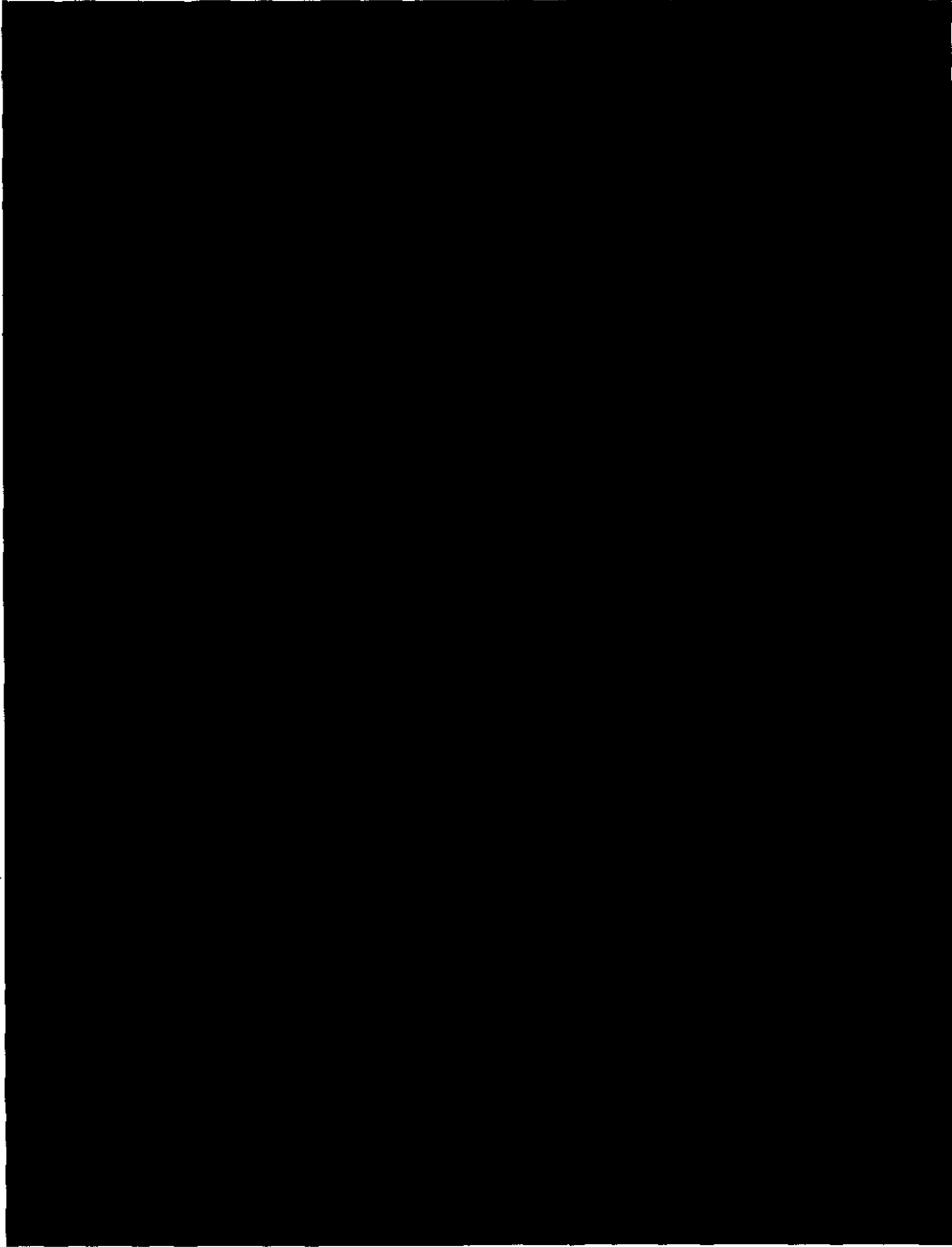
5. Licensing Fee. During the Initial Term of this Agreement the Licensing Fee will be based upon [redacted] which will be paid by IGS to NRS in exchange for the use of the Service Marks. For any renewal Term, the Licensing Fee will be [redacted] unless otherwise agreed to in writing by the Parties.

5.1 [redacted]



CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY



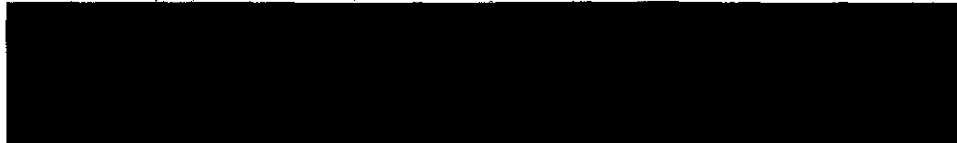


**7. Quality Control; Quality Standards.**

**7.1 Quality Standards.** The nature and quality of all Licensed Services, and all of Licensee's advertising and promotional Materials in which the Service Marks appear, shall conform to the standards set by, and be under the control of, Licensor. Licensor shall have the right, upon prior written request, to inspect and review from time to time the services, and related promotional materials, covered by the license in this Agreement for compliance with quality standards. Such inspection and review shall not unreasonably interfere with the business and operations of Licensee. In addition, upon request by Licensor, Licensee will supply Licensor with specimens of all uses of the Service Marks.

**7.2 Approval of Marketing Materials.** The Parties shall

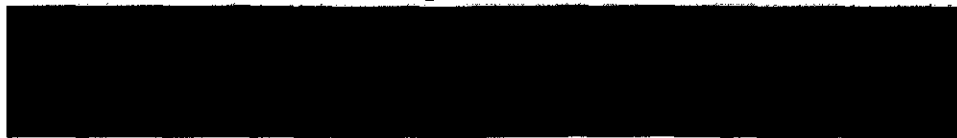
\_\_\_\_\_ prior  
\_\_\_\_\_ IGS shall not use the Service Marks in any marketing materials or marketing  
campaigns until \_\_\_\_\_. IGS shall  
electronically submit all marketing materials utilizing the Service Marks \_\_\_\_\_



**7.3 Compliance with Applicable Laws.** Licensee agrees to use the Service Marks with appropriate statutory legends and disclaimers in accordance with the Guidelines. Licensee's use of the Service Marks and all of Licensee's activities relating to the foregoing will comply with all applicable laws and regulations, including without limitation all applicable health and safety laws and regulations.

**8. Term and Termination.**

**8.1 The term of this Agreement**



**8.2 Licensor shall have the right to terminate this Agreement as follows:**



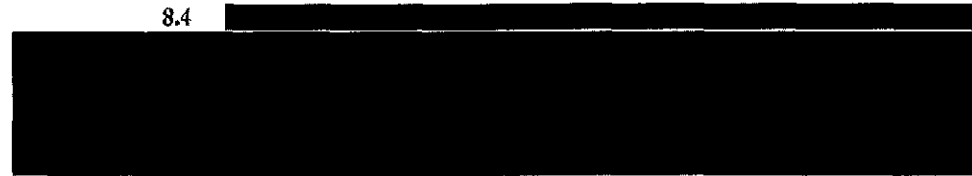


CONFIDENTIAL

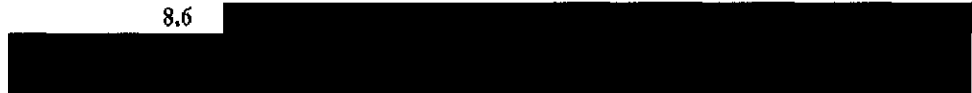
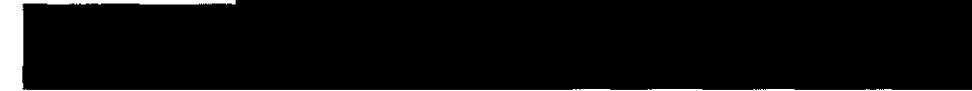
CONFIDENTIAL - ATTORNEY EYES ONLY



8.3 Upon termination of this Agreement for any reason, the license hereunder shall automatically be revoked, and Licensee shall cease all use of the Service Marks and to promote, advertise, or provide Licensed Services using the Service Marks.



8.5 In the event the Agreement is terminated by NRS, the Licensing Fees due under this Agreement:



9. **Infringement.** If Licensee becomes aware of any infringement of the Service Marks, it will promptly notify the Licensor. Licensor shall have the sole right to take such action with respect to the infringement, as it deems appropriate, and pay all associated costs with any action taken. At Licensor's reasonable request, Licensee will cooperate with Licensor in any such action. As between Licensor and Licensee, Licensor will be entitled to any monetary recovery resulting from such enforcement.

10. **Representations and Warranties.**

10.1 Licensor represents and warrants to Licensee that: (i) it is the licensee of the Service Marks identified in this Agreement, and it has the right to grant the license in Section 3; (ii) it has the full power and authority to enter into and perform this Agreement; and (iii) as of the effective date of this Agreement, there is no claim, action, or proceeding relating to the Service Marks pending or, to its knowledge, threatened before any court.

10.2 Licensee represents and warrants that: (i) it has the full power and authority to enter into and perform this Agreement; and (ii) it will not knowingly commit any acts or cause others to commit any acts that could adversely affect Licensor's rights in and to the Service Marks.

11. **Assignment; Binding Upon Successors.** Licensee shall not assign this Agreement or its rights hereunder without the prior written consent of Licensor, which consent may be withheld for any reason. Any transaction pursuant to which legal or equitable title to more than fifty percent of the capital stock (or equity interest) of Licensee is transferred or more than one-half the business or assets of Licensee is sold, shall be deemed an assignment in violation of this Section 8 unless Licensor consented thereto in writing in advance. Licensor may assign this Agreement to a successor, assignee or transferee to Licensor's business, or to that portion of the business to which the Service Mark pertains. This Agreement and each and every covenant, term and condition herein shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns.

12. [REDACTED]

13. **Confidentiality.** All information provided by a disclosing Party that is provided in confidence shall remain confidential unless and until it is made public by the disclosing Party or otherwise becomes generally available to the public. Customer lists, mailing or call lists, customer contracts, marketing materials, plans, drafts, and all related material are deemed confidential unless specifically stated to the contrary, in writing, by the disclosing Party. Other information marked or disclosed as confidential shall be deemed confidential at the time the disclosing Party so states. Confidential information remains the proprietary information of the disclosing Party and nothing in the disclosure shall be deemed to have waived the confidential nature of the information. The receiving Party shall not disclose the disclosing Party's confidential information except (i) to directors, officers, employees, agents and consultants of the receiving Party and its affiliates to the extent reasonably necessary to perform the receiving Party's obligations under this Agreement and who agree to maintain the confidentiality of such confidential information, and (ii) to the extent such disclosure is required in the opinion of the receiving Party's legal counsel by any applicable law, regulation, subpoena or other legal process, or by any regulatory authority having jurisdiction over the receiving Party or its affiliates.

14. [REDACTED]

15. **Management Meetings.** [REDACTED]

[REDACTED]

16. **Compliance.** IGS will comply with all applicable state and federal laws, rules and regulations in connection with its solicitation of Mass Market Eligible Customers and service to Mass Market Choice Customers.

16.1 In the event a state commission or regulatory agency or office of the attorney general receives any complaints from Customers or other parties where a NRS NDC is named in the complaint and the subject of the complaint is a IGS product branded with the Service Marks, [REDACTED]

[REDACTED]

16.2 If IGS violates any material federal, state or local law, rule or regulation, in the marketing of products using the Service Marks, [REDACTED]

[REDACTED]

17. **Commodity Supply.** [REDACTED]

[REDACTED]

18. **Audit.** NRS reserves the right to audit Mass Market Choice Customer contracts as needed. IGS will provide all requested information within 5 business days of such request, so long as the requested information is related to auditing the throughput relevant to the Monthly Licensing Fee calculations. IGS may, at its discretion provide NRS with authorization to obtain relevant information from the NDC directly. [REDACTED]

[REDACTED]

19. **Regulatory/Legislative Collaboration.** [REDACTED]

[REDACTED]

20. **IGS Activities.** IGS is responsible for all Customer acquisition, Customer service and retention activities at IGS' sole cost and expense. NRS shall not be liable for any costs with respect to the development and distribution of marketing materials, Customer acquisition, Customer service or retention activities. IGS will determine in its sole discretion the timing, frequency, amount and type of direct mail and telemarketing activities it will conduct related to its marketing activity.



21. **Notices.** All notices under this Agreement will be in writing, and will be delivered by hand, by facsimile, or by Fed Ex, DHL or other commercial courier service to the contact points set forth in the signatory block or to such other addresses, fax numbers, and individuals as a Party may designate in writing. Notices will be effective upon receipt.

22. **Miscellaneous.** If any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions will remain in full force and effect. The waiver by either Party of any breach of any provision of this Agreement will not constitute a waiver of any other breach of that or any other provision. Nothing in this Agreement will be construed as creating a joint venture, partnership, or an agency relationship between Licensor and Licensee. This Agreement, together with its exhibits and the documents referenced herein, all of which are hereby incorporated herein, constitutes the entire agreement between the Parties relating to its subject matter, and may not be modified except in a writing signed by the Parties. This Agreement may be executed in counterparts which may be transmitted via facsimile,

23. **Entire Agreement and Amendment.** This Agreement constitutes the full and entire understanding and agreement between NRS and IGS regarding the subjects described in this Agreement. NRS and IGS entered into this Agreement without reliance on any promises or representations, written or oral, other than those expressly contained in this Agreement, and this Agreement supersedes all other promises, warranties, and representations. This Agreement may not be modified or amended except in a writing signed by both NRS and IGS.

24. **Dispute Resolution and Choice of Law and Venue.**

24.1 Dispute Resolution.

(a) **Step Negotiations.** The Parties shall attempt in good faith to resolve all issues or disputes ("Controversy") arising under this Agreement promptly by negotiation, as follows. Any Party may give the other Party written notice of any Controversy not resolved in the normal course of business. Executives of both Parties at levels at least one level above the personnel who have previously been involved in the Controversy (the "Executives") shall meet at a mutually acceptable time and place within ten days after delivery of such notice, and thereafter as often as they reasonably deem necessary, to exchange relevant information and to attempt to resolve the Controversy. If the matter has not been resolved within thirty days from the referral of the Controversy to Executives, or if no meeting of Executives has taken place within fifteen days after such referral, either Party may initiate mediation as provided hereinafter. If the Executive intends to be accompanied at a meeting by an attorney, the other Party's Executive shall be given at least three working days notice of such intention and may also be accompanied by an attorney. All negotiations pursuant to this provision are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence and state rules of evidence.

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

(b) **Mediation.** In the event that any Controversy arising out of or relating to this Agreement is not resolved in accordance with the procedures provided above, such Controversy shall be submitted to mediation to mutually agreeable mediators from the American Arbitration Association. The mediation shall be administered at a location in Columbus, Ohio mutually agreeable to both Parties. If the mediation process has not resolved the Controversy within thirty days of the submission of the matter to mediation, or such longer period as the Parties may agree to, the mediation process shall cease.

(c) **Arbitration.** Provided that the mediation process has not resolved the Controversy within thirty days of the submission of the matter to mediation or a longer time if agreed to by the Parties, all Controversies will be decided by arbitration by the American Arbitration Association or by a mutually agreed upon arbitrator. The arbitration shall be administered at a mutually agreeable location in Columbus, Ohio and be conducted in accordance with a mutually agreed upon set of arbitration rules. This agreement to arbitrate, and any other agreement or consent to arbitrate entered into in accordance herewith, will be specifically enforceable under the prevailing arbitration law of any court having jurisdiction. Notice of demand for arbitration must be filed in writing with the other Parties to this Agreement and with the dispute resolution tribunal. The demand must be made within a reasonable time after the Controversy has arisen. In no event may the demand for arbitration be made after institution of legal or equitable proceedings based on such Controversy would be barred by the applicable statute of limitations. The arbitration award shall be specifically enforceable in any court of competent jurisdiction. No arbitration, arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement.

**24.2 Choice of Law and Venue.** This Agreement will be governed by the applicable laws of the United States and of the State of Ohio, without regard to Ohio's principles of, or conflicts of law. All legal action involving any disputes arising under or relating to this Agreement will be brought only in a court of the State of Ohio sitting in Franklin County, Ohio, or in the United States District Court for the Southern District of Ohio sitting in Columbus, Ohio. NRS and IGS waive a trial by jury with respect to any dispute or controversy under this Agreement. Licensee recognizes that Licensor would suffer irreparable injury by unauthorized use of the Service Marks and agrees that injunctive and other equitable relief is appropriate in the event of a breach of this Agreement by Licensee. Such remedy shall not be exclusive of any other remedies available to Licensor, nor shall it be deemed an election of remedies by Licensor.

**IN WITNESS WHEREOF,** each of the Parties hereto has caused this Agreement to be executed by a duly authorized officer as of the date and year written above.

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

Licensee	Licensor
Interstate Gas Supply, Inc. 6100 Emerald Parkway Dublin, OH 43016	NiSource Retail Services, Inc. 801 East 86 <sup>th</sup> Avenue Merrillville, IN 46410
Signature: <i>Scott White</i>	Signature: <i>Jimmy D. Staton</i>
Name: Scott White	Name: Jimmy D. Staton
Title: President	Title: Executive VP and Group CEO
Date: 7/13/2010	Date: 7/15/2010

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

EXHIBIT A

SERVICE MARKS

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

**EXHIBIT A**

**SERVICE MARKS**

**COLUMBIA RETAIL ENERGY (Registration application pending)**

**COLUMBIA RETAIL ENERGY and Design (Registration application pending):**

**Columbia  
Retail  
Energy**

**NOTE:**

Set forth below, is the language that IGS must add to any use of the service marks,

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

IGS000174



~~CONFIDENTIAL~~

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

EXHIBIT B



CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY



CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

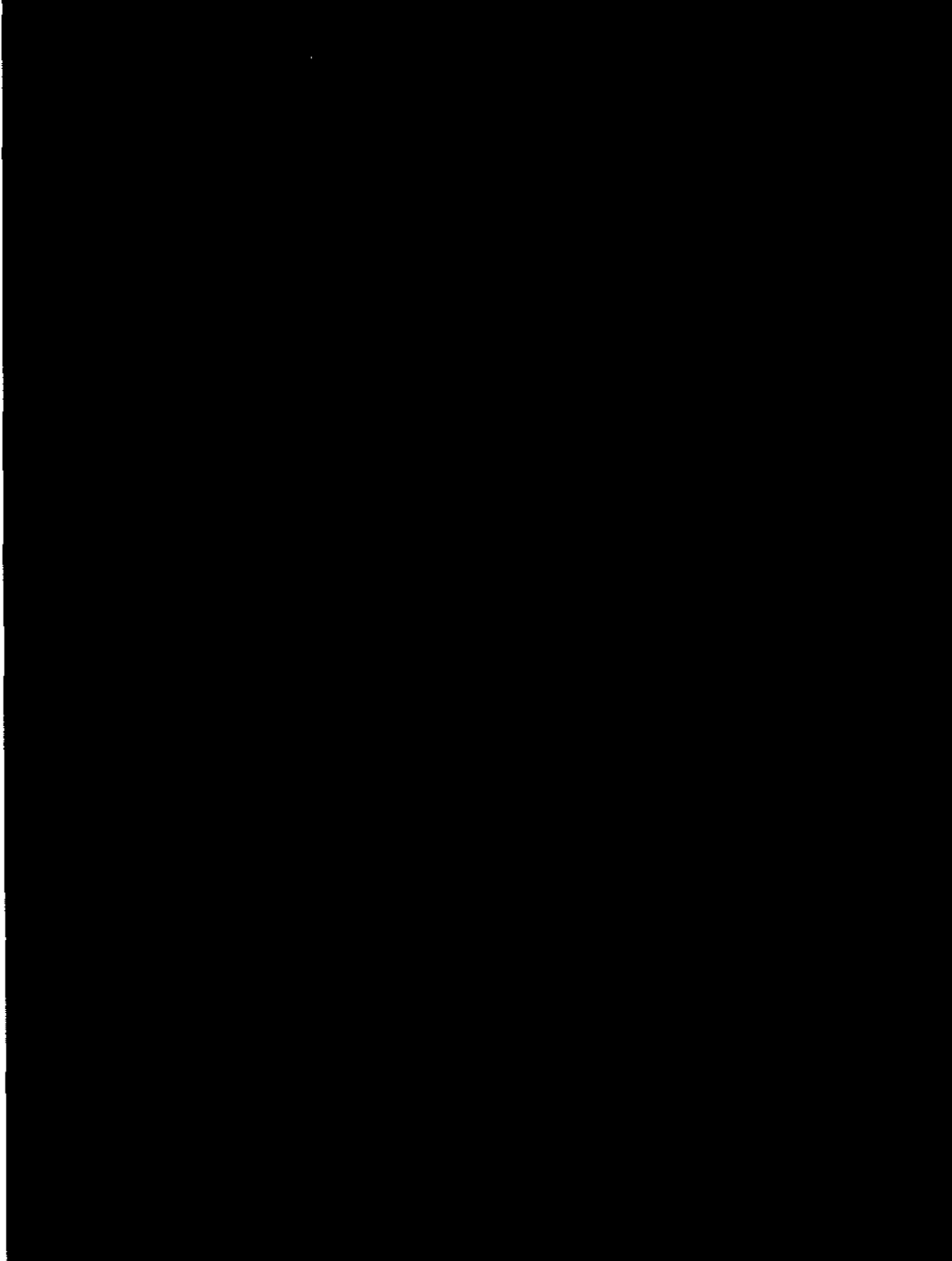
EXHIBIT C



CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY



7/13/2010

IGS000178

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

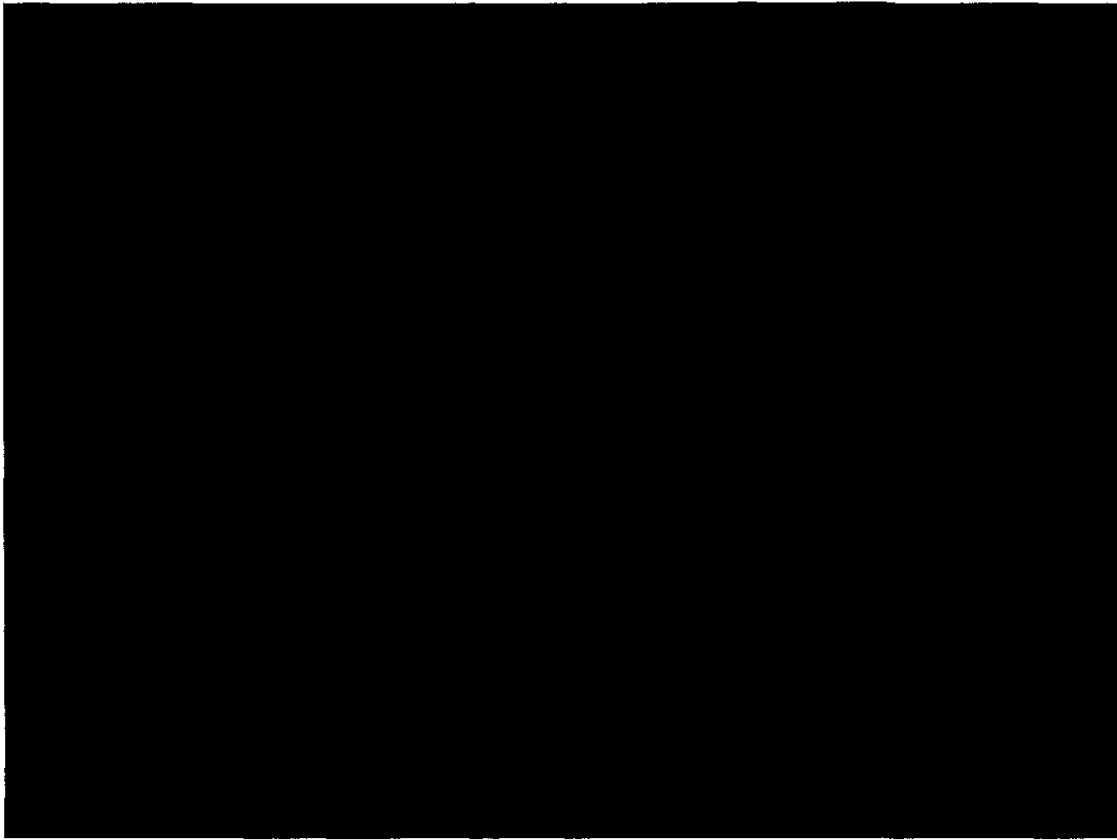
EXHIBIT D



CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

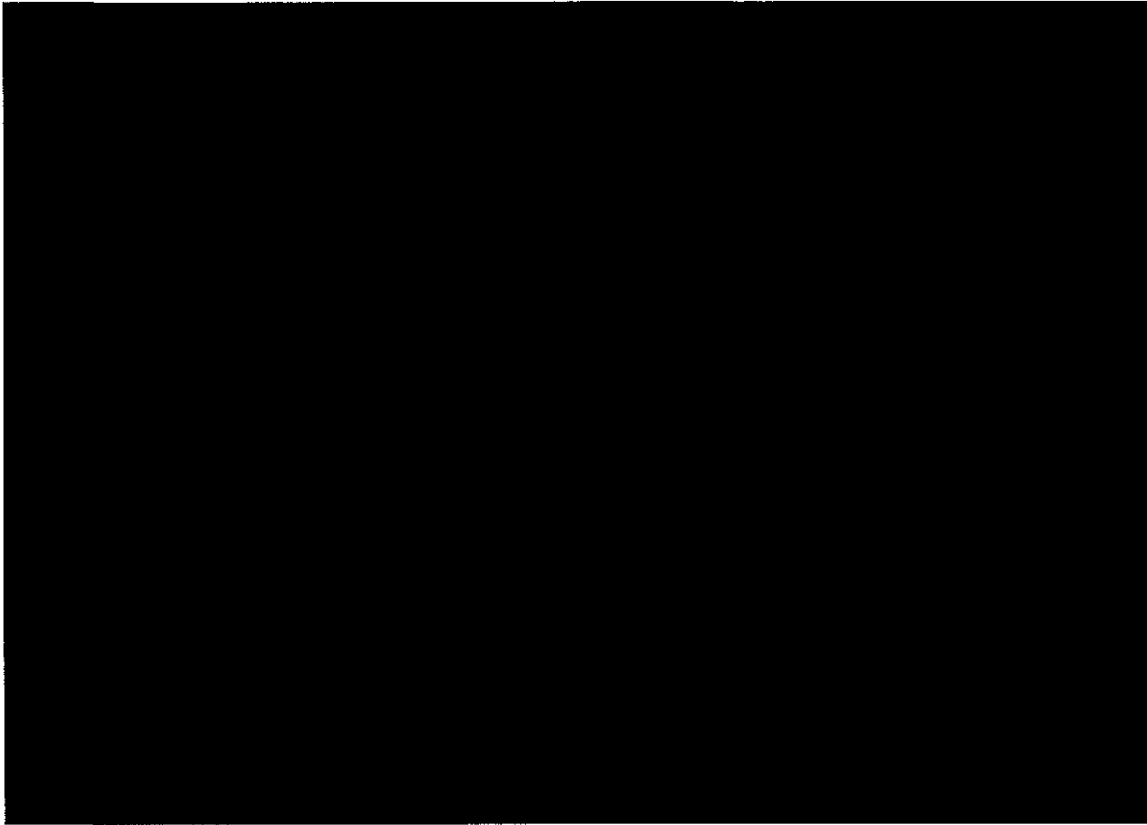


IGS000180

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY

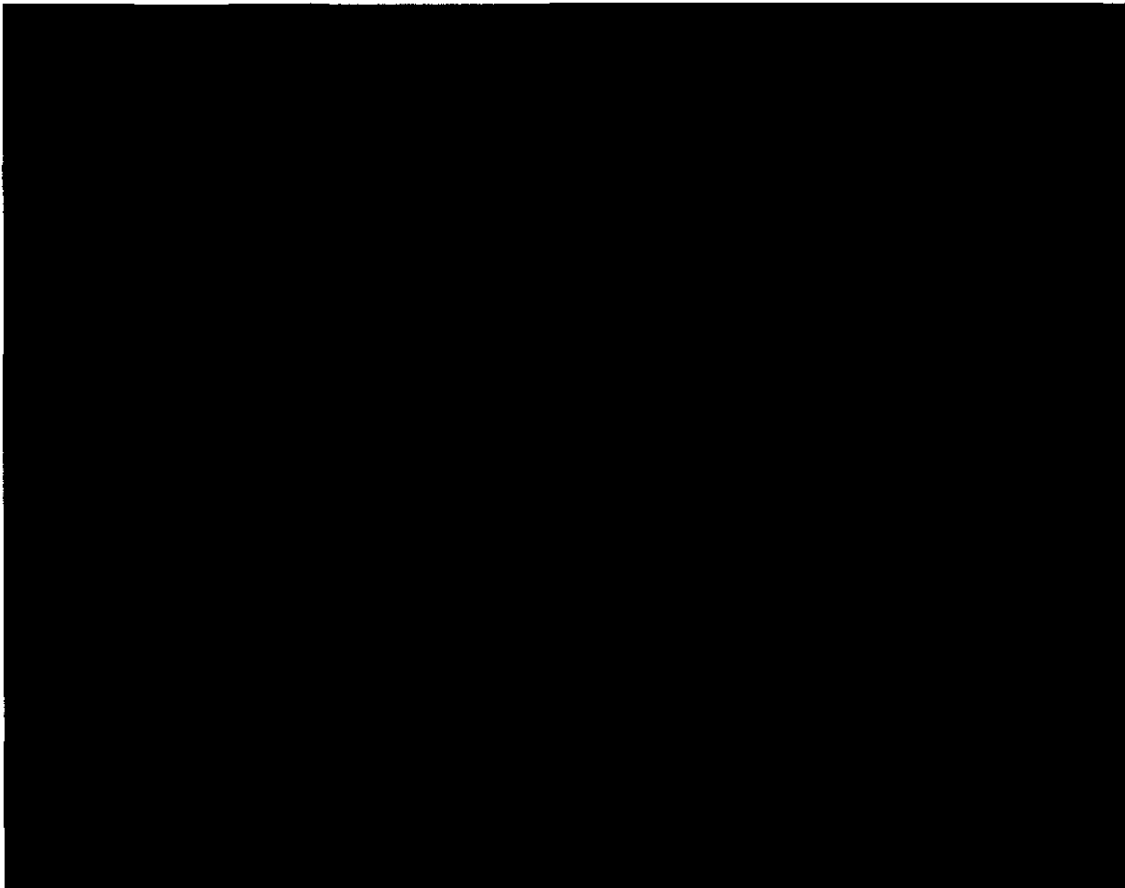


IGS000181

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL - ATTORNEY EYES ONLY



IGS000182