

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**BRIEF  
BY  
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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**BRIEF BY OCC**

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**I.     INTRODUCTION**

The 1.2 million residential consumers in the service territory of Columbia Gas of Ohio, Inc. (“Columbia” or “Utility”) have had the opportunity to save a lot of money on their purchases of natural gas through Columbia’s standard rate. When residential and non-residential customers chose competitors’ rates instead of the standard rate, those customers lost \$885 million since 1997, according to Columbia’s “shadow-billing.”<sup>1</sup>

In a settlement (“Amended Stipulation”) filed on November 27, 2012, the Office of the Ohio Consumers’ Counsel (“OCC”), Columbia, the Staff of the Public Utilities Commission of Ohio (“PUCO” or “Commission”) and marketers<sup>2</sup> achieved a compromise that leaves for another day and another case the PUCO’s consideration of whether to continue Columbia’s standard rate for Ohio’s residential consumers. Under the settlement, the consumer protections include:

- The soonest Columbia could apply to end its residential standard rate is February 1, 2016;
- Columbia is not required to ever apply to end its residential standard rate;
- Columbia is the only party allowed to apply to end its residential standard rate, meaning for example that marketers cannot apply;

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<sup>1</sup> OCC Hearing Ex. No. 2 (Attachment A to OCC’s Comments, being Columbia’s shadow-billing data per OCC Request to Produce No. 65).

<sup>2</sup> Ohio Gas Marketers Group (“OGMG”), Retail Energy Supply Association (“RESA”) and Dominion Retail, Inc.

- If Columbia applies to end the residential standard rate, the PUCO is not required to grant the application;
- If Columbia applies to end the residential standard rate, the PUCO is required to hold a hearing for expert testimony and is required to hold at least six local hearings for testimony from Ohio consumers;
- Columbia is required to continue its shadow-billing program that has documented customer losses using a competitor's rate compared to using the standard rate;
- OCC reserves its right to recommend continuation of the residential standard rate in any future case, and to oppose withdrawal of the standard rate offer;
- The security deposit for SCO standard rate suppliers is reduced from the \$0.10 per Mcf in the first settlement to \$0.06 per Mcf in the Amended Stipulation, and OCC did not join the settlement term and disagreed with the rationale regarding the security charge to standard-rate suppliers
- Columbia must share more money with consumers from Columbia's off-system sales;<sup>3</sup>
- Consumers cannot be billed twice for certain expenses related to balance service fee.
- OCC did not join the Amended Stipulation with regard to provisions addressing any elimination of the standard rate for non-residential customers.

This Amended Stipulation, of November 27, 2012, superseded a settlement signed by the same parties—without OCC—that was filed on October 4, 2012. The improvements for consumers that were achieved in the newer settlement can be seen in a comparison document that is BMH-Attachment 1 to the testimony of OCC witness Bruce Hayes (OCC Hearing Ex. No. 1). OCC appreciates the cooperative process involving the Amended Stipulation.

In the October 4, 2012 settlement, Columbia was *required* to apply to end the standard rate if certain conditions were met (settlement page 8). (This end to the standard rate is called, in the parlance of the industry, an “exit from Columbia’s merchant function.”) And, in the October 4 settlement, the PUCO was required to end the residential standard- rate if Columbia applied and certain conditions were met (settlement

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<sup>3</sup> Joint Hearing Ex. No. 1, Amended Stipulation at 18 (November 27, 2012).

page 5). Those terms are gone from the November 27 settlement, making the Amended Stipulation a compromise that is much more protective of Ohio consumers.

As background, since 2010 the standard rate has been the Standard Choice Offer (“SCO”) that is determined through a market-based competitive auction. The SCO competitive auction is a descending clock auction conducted annually to establish the price of natural gas for SCO customers. The SCO is an option available to customers for the purchase of the commodity of natural gas, delivered through Columbia’s monopoly of pipes. Other options exist including the independent rate offers from Columbia’s competitors (marketers). The resulting SCO auction price is based on the New York Mercantile Exchange (“NYMEX”) market price and an Adder that is set by the auction. The SCO option has been extremely beneficial for consumers, saving those who use it lots of money.

The issue in an exit from the merchant function or “Exit” proceeding involves whether the PUCO will continue to require a natural gas utility to provide customers with their historic default option to purchase natural gas through the utility -- in this instance through the auction-based SCO. The Ohio Gas Marketers Group (“OGMG”),<sup>4</sup> Retail Energy Supply Association (“RESA”),<sup>5</sup> and Dominion Retail Inc. (“Dominion Retail”)<sup>6</sup> were focused on achieving a full Exit (implicating non-residential and residential

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<sup>4</sup> 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.

<sup>5</sup> 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; 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.

<sup>6</sup> OGMG, RESA and Dominion Retail are collectively referred to as “the Marketers.”

customers). In exchange for the certainty that the October 4 Stipulation provided the Marketers with regard to an Exit,<sup>7</sup> the Marketers agreed with the Utility on certain issues of financial interest to the Utility – issues that directly impacted residential customers and not Marketers.<sup>8</sup>

Following the filing of the October 4 Stipulation, the Utility, PUCO Staff and the Marketers continued to meet with the Office of the Ohio Consumers' Counsel ("OCC") to discuss the issues raised in that Stipulation. After approximately seven weeks of additional negotiations, OCC, the Utility, PUCO Staff and the Marketers were able to reach agreement on consumer-related revisions to the October 4 Stipulation.<sup>9</sup> Through its participation in the Amended Stipulation filed on November 27, 2012, OCC sought to protect Ohio consumers' option to purchase natural gas through Columbia at a standard rate that is set through a competitive auction—and hopefully to protect opportunities for consumers to save lots of money.

## **II. CASE HISTORY**

The broad history of this case began (before this case was opened) with the PUCO's adoption of a wholesale auction, or Standard Service Offer, for most of Columbia's customers who had not chosen a Choice Supplier for providing their natural gas commodity needs in April 2010. The auction was immediately successful for

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<sup>7</sup> Joint Hearing Ex. No. 3, October 4 Stipulation at 5 (October 4, 2012) "The Parties agree that Columbia will exit the merchant function if participation in Columbia's CHOICE program meets specified thresholds."

<sup>8</sup> Joint Hearing Ex. No. 3, October 4 Stipulation at 4, (October 4, 2012) See Off-System Sales and Capacity Release, See also Capacity Allocation Process.

<sup>9</sup> Columbia Hearing Ex. 7, Supplemental Testimony of Thomas J. Brown, Jr. at 4 (November 27, 2012).

customers purchasing their natural gas through Columbia, resulting in significantly lower prices and saving lots of money for customers using that standard rate.<sup>10</sup>

On October 4, 2012, Columbia, the Marketers, and the PUCO Staff jointly filed a Motion requesting the Commission Modify its Orders Granting Exemption.<sup>11</sup> This Motion meant that Columbia, the Marketers and the PUCO Staff sought to implement a process to initially remove the standard-rate option for commercial (non-residential) customers to purchase their natural gas through the Utility. The October 4, 2012 Settlement could have ended the standard-rate option for residential customers, potentially as soon as twelve months after a non-residential exit. And, the settlement did not prohibit Columbia from requesting an elimination of the standard-rate prior to that time.

Numerous parties filed Motions to Intervene: OCC (October 5, 2012), Hess Corporation (“Hess”) (October 9, 2012), Ohio Partners for Affordable Energy (October 12, 2012), Stand Energy, Inc. (“Stand”) (October 22, 2012), Northeast Ohio Public Energy Council (“NOPEC”) and the Ohio Schools Council (October 25, 2012), Volunteer Energy (November 1, 2012). Direct Energy, LLC (“Direct”) (November 12, 2012), and Interstate Gas Supply, Inc. (“IGS”) (November 5, 2012). On October 18, 2012, the Attorney Examiner issued an Entry that established a procedural schedule, with

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<sup>10</sup> *In re Columbia SSO Case*, Case No. 08-1344-GA-EXM, Post-Auction Report at 2 (February 23, 2010); see also Staff Report at 2 (February 8, 2011); see also. Staff Report at 2-3 (February 14, 2012).

<sup>11</sup> Joint Hearing Ex. No. 4, Joint Motion to Modify Orders at 1 (October 4, 2012) [“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 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.”)]

Comment and Reply Comment periods<sup>12</sup>, deadlines for filing testimony and the date for the evidentiary hearing.<sup>13</sup> The Attorney Examiner Entry also granted the interventions of OCC, OPAE and Hess.<sup>14</sup>

In accordance with the Attorney Examiner's Entry, on November 5, 2012, OCC and OPAE filed Comments.<sup>15</sup> On November 13, 2012, Reply Comments were filed by Columbia and OGMG/RESA.<sup>16</sup> On November 13, 2012, Columbia filed Prepared Direct Testimony.<sup>17</sup> Additional Joint Movant testimony was also filed by Marketers on November 13, 2012.<sup>18</sup>

An Amended Joint Motion and Amended Stipulation were filed on November 27, 2012. The Amended Joint Motion was signed by Columbia, the PUCO Staff, and various marketers or marketer groups (but not signed by OCC that signed only the Amended Stipulation).<sup>19</sup> The Amended Joint Motion specifically noted that:

“[w]hile OCC supports approval of the Amended Stipulation, the Joint Movants would make clear that the legal positions set forth in this Motion and the attached Memorandum in Support are theirs

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<sup>12</sup> The Comments and Reply Comments were admitted into the record of this proceeding.

<sup>13</sup> Entry at 4 (October 18, 2012).

<sup>14</sup> Entry at 6 (October 18, 2012).

<sup>15</sup> OCC Hearing Ex. No. 2, OCC Comments (November 5, 2012); and OPAE Hearing Ex. No. 1, OPAE Comments (November 5, 2012).

<sup>16</sup> Columbia Hearing Ex. No. 8, Columbia Reply Comments; (November 8, 2012) and OGMG/RESA Hearing Ex. No. 2, OGMG/RESA Reply Comments (November 12, 2012).

<sup>17</sup> Columbia Hearing Ex. No. 6, Prepared Direct Testimony of Thomas Brown, Jr.(November 13, 2012); Columbia Hearing Ex. No. 4, Prepared Direct Testimony of Michael Anderson (November 13, 2012); Columbia Hearing Ex. No. 5, Prepared Direct Testimony of Michelle Caddell (November 13, 2012).

<sup>18</sup> OGMG/RESA Hearing Ex. No. 3, Direct Prepared Testimony of Vince Parisi; OGMG/RESA Hearing Ex. No. 5 (November 13, 2012), Direct Prepared Testimony of Teresa Ringenbach; IGS Hearing Ex. No. 1 (November 13, 2012), Direct Testimony of Lawrence Friedeman; and Direct Hearing Ex. No. 1 (November 13, 2012); and Direct Prepared Testimony of Cory Byzewski (November 13, 2012).

<sup>19</sup> The Amended Joint Motion requested issuance of a final Order on **all** issues in the case by December 31, 2012. The Commission should not consider bifurcating issues in this case, because the Amended Stipulation does not contemplate such resolution of this case.



only. Joint Movants do not represent that OCC holds these legal positions or that OCC should be bound by them in any future proceeding.”<sup>20</sup>

Columbia, OCC and the Marketers filed Supplemental Testimony in support of the Amended Stipulation.<sup>21</sup> On November 30, 2012, Intervenor Testimony was filed by OPAE<sup>22</sup> and Hess.<sup>23</sup>

The evidentiary hearing commenced on December 3, 2012, with a call and continue, and the evidentiary hearing reconvened on December 5, 2012, and concluded on December 6, 2012. The public was invited to testify at the hearing in Columbus on December 3<sup>rd</sup>,<sup>24</sup> but there was no public notice specifically inviting them to do so. At the conclusion of the evidentiary hearing, the Attorney Examiner ruled that Initial Post-Hearing Briefs are due by noon, November 11, 2012,<sup>25</sup> and in accordance with the Attorney Examiner’s October 18, 2012 Entry, there will be no reply briefs.<sup>26</sup>

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<sup>20</sup> Joint Hearing Ex. No. 2, Amended Joint Motion at 2 (November 27, 2012).

<sup>21</sup> Columbia Hearing Ex. No. 7, Supplemental Testimony of Thomas Brown, Jr. (November 27, 2012). (In Mr. Brown’s Supplemental Testimony he specifically notes that the question and answer on page 23 lines 9-23 of his Direct Prepared Testimony are withdrawn.) OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes (November 27, 2012), OGMA/RESA Hearing Ex. 4, Supplemental Testimony of Vince Parisi (November 27, 2012).

<sup>22</sup> OPAE Hearing Ex. No. 2, Direct Testimony of Stacia Harper (November 30, 2012); OPAE Hearing Ex. No. 2A Errata pages.

<sup>23</sup> Hess Hearing Ex. No. 1, Direct Testimony of Randy Magnani (November 30, 2012).

<sup>24</sup> Entry at 2 (November 26, 2012).

<sup>25</sup> Tr. Vol. II at 321 (Pirik) (December 6, 2012).

<sup>26</sup> Entry at 4 (October 18, 2012). (No Reply Briefs are permitted.).

### III. THE AMENDED STIPULATION SUPERSEDES THE OCTOBER 4TH STIPULATION, WITH A NUMBER OF KEY PROTECTIONS FOR RESIDENTIAL CONSUMERS.

Attached hereto is the comparison document,<sup>27</sup> from the testimony of OCC witness Hayes, that shows how the October 4th Stipulation was modified and improved by including certain benefits for residential customers.<sup>28</sup> One such modification removed a provision in the October 4 Stipulation that **required** Columbia to file an application to exit the merchant function for its CHOICE-eligible residential customers if Columbia had already exited the merchant function for its CHOICE-eligible non-residential customers and at least 70% of CHOICE-eligible residential customers had participated in CHOICE for at least three consecutive months.<sup>29</sup>

As Columbia witness Brown testified, “Columbia is **permitted** to file an application to exit the merchant function for its residential customers if those conditions are met, **but is not obligated to do so.**”<sup>30</sup> This modification—that Columbia is not required to seek an end to the standard rate—is an important benefit for consumers.

Another key improvement is that the settlement no longer requires that Columbia (will exit) for residential customers if certain thresholds are met, per the removal of a sentence on page 5 of the October 4 Stipulation. The following is a summary of the changes between the Amended Stipulation and the Stipulation it superseded:

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<sup>27</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at Attachment BMH-1 (November 27, 2012), Attachment BMH-1 is Attached hereto as Attachment.

<sup>28</sup> Tr. Vol. I at 102 (Hayes (December 5, 2012)).

<sup>29</sup> Joint Hearing Ex. No. 3, October 4 Stipulation at 8 (October 4, 2012).

<sup>30</sup> Columbia Hearing Ex. No. 7, Prepared Supplemental Testimony of Thomas J. Brown at 6 (November 27, 2012) (emphasis added). See also Exhibit 1 at ¶32, see also OCC Hearing Ex. No. 1, Direct Testimony of Bruce Hayes at 10 (November 27, 2012).

**(1) Potential Exit from the Merchant Function:** The Amended Stipulation addresses the pre-conditions that are used as a basis for Columbia to determine whether or not it will exit the merchant function for non-residential customers.<sup>31</sup> The Amended Stipulation also modifies several of the provisions relating to Columbia's potential exit from the merchant function for its commercial, industrial, and/or residential customers. These modifications are discussed below:

(a) Under the October 4 Stipulation, Columbia would exit from the merchant function for its non-residential customers if at least 70% of CHOICE eligible non-residential customers participated in CHOICE for at least three consecutive months. Columbia was required to formally determine whether the consecutive three-month 70% customer participation threshold had been met each June 1 during the term of the Amended Stipulation. Under the Amended Stipulation, Columbia would make that formal determination each August 1 (and OCC can challenge it).<sup>32</sup>

(b) As discussed previously, The Amended Stipulation contains a provision that does not require Columbia to ever file an application to end the standard rate (to seek an exit) for residential customers.<sup>33</sup> Another key improvement is that the settlement no longer requires that Columbia (will exit) for residential customers if certain thresholds are met, per the removal of a sentence on page 5 of the October 4 Stipulation.

(c) The Amended Stipulation further includes clarification that only Columbia may file an application to exit the merchant function for Columbia's residential customers.<sup>34</sup>

(d) The October 4 Stipulation required Columbia to wait at least 12 months after exiting the merchant function for its non-residential customers before filing an application to exit the merchant function for its residential customers.

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<sup>31</sup> The Amended Stipulation contains a process for whether or not Columbia will exit the merchant function for non-residential customers. OCC is not a Signatory Party for purposes of any provision in the Amended Stipulation regarding a non-residential exit.

<sup>32</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶28 (November 27, 2012).

<sup>33</sup> Id. at ¶32.

<sup>34</sup> Id. at ¶31.

Under the Amended Stipulation, Columbia must wait at least twenty-two months (with two heating seasons) before filing an application to exit for its residential customers.<sup>35</sup> This additional time frame guarantees consumers will have the option to purchase their natural gas through Columbia at a standard rate until at least April 2017.

(e) The Amended Stipulation includes a provision that the Commission will hold at least six local public hearings on any such application to exit the merchant function for residential customers.<sup>36</sup> This protection enables residential consumers to testify on the issue prior to the PUCO making a decision about how to proceed.

(f) In the Amended Stipulation, OCC has reserved the right to oppose any Columbia application to eliminate the standard rate for residential customers.<sup>37</sup> This enables OCC to effectively advocate on consumers' behalf if Columbia were to apply to eliminate the residential standard rate.

(g) The October 4 Stipulation required Columbia to send monthly updates to Columbia's stakeholders regarding CHOICE participation rates starting on April 1, 2013. The Amended Stipulation includes a provision that requires Columbia to distribute the monthly Choice participation reports throughout the term of the Amended Stipulation.<sup>38</sup>

(h) The Amended Stipulation provides OCC the opportunity to challenge the reported CHOICE participation levels.<sup>39</sup> This means that OCC, if it believes that Columbia is misreporting the figures that are a condition to Columbia's consideration of this issue, can petition for relief.

**(2) Study of a Non-Residential Exit (if there is a Non-Residential Exit):** If Columbia exits the merchant function for its non-residential customers, the Amended Stipulation requires

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<sup>35</sup> Id. at ¶31.

<sup>36</sup> Id. at ¶32.

<sup>37</sup> Id. at ¶32.

<sup>38</sup> Id. at ¶23.

<sup>39</sup> Id. at ¶23.

Columbia to study the exit's impact on those customers and share that information with its stakeholders. The Amended Stipulation recommends that the Commission direct Columbia and its stakeholders to discuss and determine the parameters of this study.<sup>40</sup>

(3) **Monthly Variable Rate (“MVR”)**: the Amended Stipulation provides a clarification in a provision that addresses Columbia's proposed MVR program that assures the MVR program shall not apply to any customer class unless and until Columbia has exited the merchant function for that customer class.<sup>41</sup> The clarification included in the Amended Stipulation will help prevent customer confusion prior to the elimination of the standard rate for a particular customer class, and will not contribute to increasing Choice participation levels as was experienced in Dominion's service territory with the MVR implementation.<sup>42</sup>

(4) **Shadow-Billing**: Additionally, the Amended Stipulation requires that Columbia's shadow-billing program will continue.<sup>43</sup> Shadow-billing provides important information about whether consumers save money or lose money compared to the standard rate that is available when the utility is providing the merchant function for supplying natural gas. The Amended Stipulation requires Columbia to continue its CHOICE Program Shadow-Billing for at least the term of the Amended Stipulation (through 2018) and make such shadow-billing information available to OCC upon request.<sup>44</sup> The Amended Stipulation specifically instructs that, if Columbia exits the merchant function with regard to its non-residential customers, the Shadow-Billing for those customers will thereafter compare the non-residential CHOICE customers' monthly billed gas costs to the residential monthly SCO auction price.<sup>45</sup>

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<sup>40</sup> Id. at ¶29.

<sup>41</sup> Id. at ¶37.

<sup>42</sup> *In the Matter of the Application of Dominion East Ohio for Approval of a General Exemption of Certain Natural Gas Commodity Sales Services or Ancillary Services*, Opinion and Order at 14 (June 18, 2008).

<sup>43</sup> Id. at ¶36.

<sup>44</sup> The Amended Stipulation explains that Columbia will not be obligated to continue its CHOICE Program Shadow Bill after it exits the merchant function for its residential customers. The Amended Stipulation preserves OCC's right to seek a Commission order requiring Columbia to continue its CHOICE Program Shadow Bill after the term of the Amended Stipulation and/or after Columbia exits the merchant function for its residential customers.

<sup>45</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶36 (November 27, 2012).

**(5) Off-system sales and capacity release revenue sharing**

**mechanism:** The Amended Stipulation modifies the off-system sales and capacity release sharing mechanism to provide a greater share of the revenues from such sales to Columbia's customers. Under the revised mechanism, half of all off-system sales revenues up to \$1 million and half of all revenues between \$2 million and \$27 million will be credited to Columbia's CHOICE/SCO Reconciliation Rider ("CSRR").<sup>46</sup> Columbia will retain all off system sales revenues between \$1 million and \$2 million.<sup>47</sup> The Amended Stipulation also reduces the cumulative cap from \$60 million to \$55 million which could potentially provide an additional \$5 million benefit to consumers. These modifications to the Amended Stipulation provide benefits for customers which will reduce the rate customers pay through the Choice/SSO/SCO Reconciliation Rider ("CSSR").<sup>48</sup> These savings to consumers may total up to \$7.5 million.

**(6) Balancing service fee:** The October 4 Stipulation would reduce Columbia's Balancing Fee from \$0.32/Mcf to \$0.27/Mcf and would make Columbia responsible for levying that charge directly to customers, rather than suppliers levying that charge. The proposed change regarding the responsibility for levying the balancing fee charge is to begin on April 1, 2013. The Amended Stipulation maintains those provisions, but adds a new provision prohibiting any CHOICE Supplier from charging a rate that was designed or intended to provide compensation for the prior \$0.32/Mcf balancing fee after April 1, 2013.<sup>49</sup> Consumers are protected by avoiding the potential for Choice customers to be charged twice for the balancing service fee which could have cost a typical customer approximately \$27.00 per year.<sup>50</sup>

**(7) SCO Supplier Security Deposit:** The Amended Stipulation reduces the security deposit that Columbia and the marketers would have imposed on SCO Suppliers. The reduction is 40%, from ten cents per Mcf to six cents per Mcf.<sup>51</sup> This reduction of the security deposit charged to Standard Choice Customers could

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<sup>46</sup> Id. at ¶18.

<sup>47</sup> Id. at ¶18.

<sup>48</sup> Id. at ¶18.

<sup>49</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶10 (November 27, 2012).

<sup>50</sup> OCC Hearing Ex. No. 1, Amended Stipulation at ¶10 (November 27, 2012); Direct Testimony of Bruce M. Hayes at 11-12 (November 27, 2012).

<sup>51</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶9 (November 27, 2012).

potentially save a typical residential customer \$3.40 per year.<sup>52</sup> This reduction could save all Columbia residential SCO customers a total of \$16 million over 5 years.

(8) **Billing Enhancements:** (a) the October 4 Stipulation listed several enhancements to Columbia's billing system that the Utility proposed to implement for the benefit of Choice Marketers and their customers. The Amended Stipulation provides a tentative timeline and cost estimates for the listed billing enhancements.<sup>53</sup> Additionally, the Amended Stipulation preserves OCC's right to challenge the reasonableness and prudence of Columbia's costs for those billing enhancements.<sup>54</sup> If an independent audit of those costs is conducted, the Amended Stipulation clarifies that any costs associated with such audit will be recovered through the CSRR.<sup>55</sup> (b) The October 4 Stipulation would allow Choice Marketers to pay Columbia a competitively neutral fee in order for the Marketers' logos to be enlarged and more prominently repositioned on Columbia's consolidated bill statements provided to CHOICE customers. The Amended Stipulation retains this modification, but requires Columbia to credit any net revenues from this service to the CSRR.<sup>56</sup>

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<sup>52</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 12 (November 27, 2012). ("OCC joins only those provisions of the Amended Stipulation that relate to residential customers (so, for example, OCC is not joining this Amended Stipulation regarding a non-residential exit of the merchant function). **Additionally, OCC does not join the provisions of this Amended Stipulation that relate to SCO Supplier Security Requirements (e.g. the \$0.06/Mcf SCO Supplier security deposit fee). As noted in the first page of the settlement, OCC disagrees with the rationale supporting the security deposit fee, but will not litigate this issue given the totality of this Amended Stipulation .** OCC's decision not to litigate this issue will not be used as precedent against OCC in other cases. In addition, the Amended Stipulation does not limit OCC's future advocacy with regard to the Monthly Variable Rate provision and/or the Billing Enhancements provision.") (Emphasis added).

<sup>53</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶45 (November 27, 2012); see also Amended Stipulation at Amended Stipulation Attachment 1 (November 27, 2012).

<sup>54</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶47 (November 27, 2012).

<sup>55</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶47 (November 27, 2012).

<sup>56</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶43 (November 27, 2012).

#### IV. RECOMMENDATIONS

##### A. The Amended Stipulation Should Be Approved By the PUCO.

OCC is a Signatory Party to the Stipulation, and therefore, encourages the Commission to approve the Stipulation. The standard of review for consideration of a stipulation has been discussed in a number of Commission cases and by the Ohio Supreme Court. As the Ohio Supreme Court stated in *Duff*:

A stipulation entered into by the parties present at a commission hearing is merely a recommendation made to the commission and is in no sense legally binding upon the commission. The commission may take the stipulation into consideration, but must determine what is just and reasonable from the evidence presented at the hearing.<sup>57</sup>

The Court in *Consumers' Counsel* considered whether a just and reasonable result was achieved with reference to criteria adopted by the Commission in evaluating settlements:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties? And is there diversity among signatories?<sup>58</sup>
2. Does the settlement, as a package, benefit customers and the public interest?
3. Does the settlement package violate any important regulatory principle or practice?<sup>59</sup>

The Court in *Consumers' Counsel* decided: “We endorse the commission’s effort utilizing these criteria to resolve its cases in a method economical to ratepayers and

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<sup>57</sup> *Duff v. Pub. Util. Comm.* (1978), 56 Ohio St.2d 367.

<sup>58</sup> *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, Opinion and Order at 13 (December 2, 2009). (“The Commission notes that the signatory parties represent a wide diversity of interests including the utility, residential consumers, marketers, industrial consumers, and the Staff.”)

<sup>59</sup> *Consumers' Counsel*, 64 Ohio St.3d at 123, 592 NE 2d at 1373.



public utilities”<sup>60</sup> The Commission should find that the three-part criteria for evaluating Stipulations can be met in this case.

**1. The settlement was a product of serious bargaining among capable, knowledgeable parties. And there is diversity among the participants.**

As testified by OCC witness Hayes, the Amended Stipulation is a product of serious bargaining.<sup>61</sup> The changes negotiated into the Amended Stipulation are numerous, and as discussed above, address a number of important issues for Columbia’s natural gas customers, the Utility and the natural gas suppliers that service to customers. The changes incorporated into the Amended Stipulation are a result of serious bargaining. In this regard, the PUCO has a standard of diversity of participants, for this first prong of the standards for adopting a settlement.

The addition of OCC as a stipulating party in the Amended Stipulation provides the diversity that was lacking in the superseded October 4th Stipulation.<sup>62</sup> That diversity comes from the addition of the statewide consumer advocate (OCC) on the settlement.

Regarding the other element of the first prong, Mr. Hayes noted that each of the signatory parties has a history of active participation in PUCO proceedings and is knowledgeable and capable on natural gas utility issues.<sup>63</sup>

**2. The settlement, as a package, benefits customers and the public interest.**

OCC witness Hayes explained in his testimony that the Amended Stipulation benefits Customers and is in the public interest in many important ways. The Amended

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<sup>60</sup> Id at 126.

<sup>61</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 9-10 (November 27, 2012).

<sup>62</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 10 (November 27, 2012).

<sup>63</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 10 (November 27, 2012).

Stipulation provides additional time (22 months instead of 12 months) between a non-residential exit and the potential application for a residential exit.<sup>64</sup>

It is for Columbia to decide whether to file for a residential exit to end the standard rate. Columbia is not required to make such a filing. And Columbia cannot file unless the preconditions are met. The Amended Stipulation would require a full evidentiary hearing. And the settlement provides for six local public hearings to allow consumers an opportunity to provide the PUCO with testimony on this important consumer issue.<sup>65</sup> The Amended Stipulation also reserves the right of OCC and others to challenge Columbia's Application to Exit for residential customers, if Columbia were to file such an Application.<sup>66</sup>

The Amended Stipulation also requires Columbia to continue to calculate shadow-billing information and to provide the same to OCC,. The shadow-billing information is an important tool in the analysis of bill impacts of an exit from the merchant function on non-residential customers if an Exit for those customers were to occur.<sup>67</sup>

As discussed previously, the Amended Stipulation proposes a change in the manner that balancing services are charged to customers.<sup>68</sup> The Amended Stipulation provides a modification intended to protect consumers from potentially being billed twice for balancing service, once from Marketers as part of an existing bi-lateral Choice

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<sup>64</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶ 31 (November 27, 2012).

<sup>65</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 10 (November 27, 2012).

<sup>66</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 10-11 (November 27, 2012).

<sup>67</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 11 (November 27, 2012).

<sup>68</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶10 (November 27, 2012).

contract or through a governmental aggregation contract charged by the Marketer, and then again, by Columbia under the new billing arrangement. Without this modification, the possibility existed that a typical customer could be billed for the balancing service twice; the duplicate charge could cost a typical customer approximately \$27.00 per year.<sup>69</sup>

The Amended Stipulation includes an important consumer protection with regards to avoiding the potential double billing for the balancing service fee. However, the Signatory Parties agree that a mechanism for assuring Choice and Governmental Aggregation Suppliers are in compliance with this provision of the Amended Stipulation has not been proposed.<sup>70</sup> Therefore, the PUCO should assure that any Opinion and Order approving the Amended Stipulation includes a process whereby the PUCO and its Staff, as well as OCC and other interested parties, have the ability to verify that the Choice and Governmental Aggregation Suppliers are in compliance, and that no customers are double-billed. The balancing fee billing change is slated to begin April 1, 2013,<sup>71</sup> so it will be important for the PUCO to establish the mechanism, or ask the Columbia Stakeholder Group to provide a proposal to the Commission early in 2013, and require Commission approval of such proposal.

In addition, the Amended Stipulation modified the provision that requires SCO Marketers to post an additional cash security deposit based upon the tranches won through the SCO auction. OCC has not signed the Amended Stipulation with regard to

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<sup>69</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 11-12 (November 27, 2012).

<sup>70</sup> Tr. Vol. I at 38-40, 55 (Brown) (December 5, 2012), Tr. Vol. II at 186-189 (Parisi), 239-241 (Ringebach) (December 6, 2012).

<sup>71</sup> Joint Hearing Ex. No. 1, Amended Stipulation at ¶10 (November 27, 2012).

this provision (see Amended Stipulation footnote 1), and disagrees with the rationale supporting the fee. But OCC has agreed not to litigate the issue based upon the totality of the settlement package that, *inter alia*, includes this fee being a security deposit and reduced from \$0.10 to \$0.06 per Mcf. The reduction in the SCO Supplier security deposit amount can save the average residential SCO customer approximately \$3.40 per year, and could save all SCO customers \$3.2 million dollars per year in retail price adder costs.<sup>72</sup>

The SCO Supplier Security Deposit Fee is collected from SCO Suppliers. However, if the SCO Supplier does not default during the SCO term, the Amended Stipulation states: “Any funds remaining at the end of each Program Year will be transferred to customers through the Choice/SSO/SCO Reconciliation Rider (“CSRR”) commencing June 2014, for the 2013 Program Year.” This charge is in the Amended Stipulation as a security deposit fee and not as any other sort of fee or cost for recovery from customers.

The Amended Stipulation also modifies the Off-System Sales (“OSS”) and Capacity Release (“CR”) Revenues sharing mechanism from the October 4 Stipulation in ways that provide benefits to customers and is in the public interest. Columbia’s retained revenue from OSS and CR transactions, as modified by the Amended Stipulation, will now be capped annually at \$14 million with the cumulative 5-year cap being reduced from \$60 million to \$55 million, to the benefit of customers. The modification included in the Amended Stipulation also provides customers with an additional \$2.5 million in

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<sup>72</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 11-12 (November 27, 2012).

revenues over 5 years that Columbia otherwise would have retained for the first million collected.<sup>73</sup>

**3 The settlement package does not violate any important regulatory principle or practice.**

OCC witness Hayes testified to a key provision in state policy, which is the requirement that Columbia's customers be provided reasonably priced natural gas service under Ohio Revised Code 4929.02(A)(1).<sup>74</sup> Having an auction-based standard rate (the SCO) can serve that regulatory principle. And the Amended Stipulation helps in that regard by establishing a very deliberate process, with safeguards for consumers, for any consideration of eliminating the standard choice offer (through an exit of Columbia's merchant function). The standard rate has been very successful in saving money for Ohio consumers.<sup>75</sup>

In addition, Mr. Hayes testified that another key component of state policy is the promotion of diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers, under Ohio Revised Code 4929.02(A)(3).<sup>76</sup> The standard rate has provided diversity of natural gas supplies. The Amended Stipulation serves this regulatory principle by ensuring the availability of this standard offer for a period of time (until at least April 1, 2017), and by establishing due process for any future consideration of whether to continue the standard rate option.<sup>77</sup>

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<sup>73</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 11-12 (November 27, 2012).

<sup>74</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 15 (November 27, 2012).

<sup>75</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 15 (November 27, 2012).

<sup>76</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 15-16 (November 27, 2012).

<sup>77</sup> OCC Hearing Ex. No. 1, Direct Testimony of Bruce M. Hayes at 15-16 (November 27, 2012).

## V. CONCLUSION

One of the best energy rates for Ohio consumers has been the standard rate. Its availability has saved consumers lots of money. Any proposal to consider whether to continue the standard rate for consumers is therefore a key issue in natural gas regulation.

Approximately 1.2 million Ohio residential consumers in Columbia's service area have been offered the opportunity to save lots of money for their purchases of natural gas, through the use of a competitive auction to set prices. The result of those auctions is the standard rate. Many consumers have availed themselves of that option to save money on the natural gas they need for heating their homes and for their cooking and other essential activities of daily life in Ohio. In the Amended Stipulation filed on November 27, 2012, OCC is sought to protect this important option for Columbia's residential customers.

The Commission should adopt the Settlement as filed in this case.

BRUCE J. WESTON  
OHIO CONSUMERS' COUNSEL

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this *Brief* has been served on the persons stated below via electronic service this 11th day of December 2012.

/s/ Larry S. Sauer

Larry S. Sauer  
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JOINT EXHIBIT NO. 24

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 )

**AMENDED ~~JOINT~~ STIPULATION**  
**AND RECOMMENDATION**

**INTRODUCTION**

1. ——— 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 proceeding before the Public Utilities Commission of Ohio (“Commission” or “PUCO”). ~~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.

2. ——— Pursuant to Rule 4901-1-30, OAC, Columbia Gas of Ohio, Inc. (“Columbia”); Staff; the Office of the Ohio Consumers' Counsel (“OCC”)<sup>1</sup>; Ohio

<sup>1</sup> OCC joins only those provisions of the Amended Stipulation that relate to residential customers (so, for example, OCC is not joining this Amended Stipulation regarding a non-residential exit of the merchant function). Additionally, OCC does not join the provisions of this Amended Stipulation that relate to SCO Supplier Security Requirements (e.g. the \$0.06/Mcf SCO Supplier security deposit fee). OCC disagrees with the rationale supporting the security deposit fee, but will not litigate this issue given the totality of this Amended Stipulation. OCC’s decision not to litigate this issue will not be used as precedent against OCC in other cases. In addition, the Amended Stipulation does not limit OCC’s future advocacy with regard to the Monthly Variable Rate provision and/or the Billing Enhancements provision, following the approval of this Amended Stipulation and consistent with its terms.

Gas Marketers Group<sup>2</sup>; Retail Energy Supply Association<sup>3</sup>; and Dominion Retail, Inc. (hereinafter “the Parties” or “the Signatory Parties”) enter into and request the ~~Public Utilities Commission of Ohio (“Commission”)~~ to accept the following ~~Amended Joint~~ Stipulation and Recommendation (“~~Amended~~ ~~(also referred to as “the Stipulation” or “Second Agreement”)~~”) in the above-captioned proceeding.

This Stipulation, which shall be designated as Joint Exhibit ~~21~~, 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. ~~While the Commission is not bound to adopt this Amended Stipulation, 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 ~~and except as otherwise specified herein,~~ neither this ~~Amended~~ Stipulation nor ~~any Commission ruling approving the Amended Stipulation, nor~~ the information and data contained herein or attached, shall be cited ~~or used~~ as precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves this ~~Amended Stipulation. The Signatory Parties’ agreement to this Amended Stipulation, in its entirety, shall not be interpreted in a future proceeding before this Commission as their agreement to only an isolated provision of this Amended Stipulation. Except as otherwise specified herein, no specific element or item con-~~

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<sup>2</sup> 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.

<sup>3</sup> 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.

tained in or supporting this Amended Stipulation shall be construed or applied to attribute the results set forth in this Amended Stipulation as the results that any Signatory Party might support or seek, but for this Amended Stipulation, in these proceedings or in any other proceeding.~~Stipulation.~~

3. \_\_\_\_\_

4. \_\_\_\_\_ 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 Amended Stipulation, except as expressly stated herein and/or reflected in the revised Program Outline.

#### CHANGES FROM THE 2009 STIPULATION

##### *Term*

5. \_\_\_\_\_ The Parties agree that the Amended Stipulation~~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 Amended Stipulation~~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. However, the Parties shall not seek modifications to this Amended Stipulation that would become effective during the term of this Amended Stipulation.

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

6. \_\_\_\_\_ The OSS/CR Program's prior revenue sharing mechanism (page 14 of the 08-1344-GA-EXM Stipulation and Recommendation dated October 7, 2009) 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

7. ——— 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*

8. ——— This section will be revised to reflect that the SCO has been approved and continues unless discontinued by Commission action on (by a Commission decision to authorize)~~or by~~ Columbia's exit from the merchant function.

### *SCO Supplier Security Requirements*

9. ——— In addition to the Letter of Credit, SCO Suppliers will be required to provide Columbia with a cash deposit in the amount of ~~sixteen~~ cents per Mcf multiplied by the initial estimated annual delivery requirements for the SCO Program Year of the tranches won by that SCO Supplier.<sup>4</sup> 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 customers through the Choice/SSO/SCO Reconciliation Rider ("CSRR") commencing June 2014, for the 2013 Program Year.<sup>5</sup>

### *SCO Supplier Payments*

10. ——— 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

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<sup>4</sup> Footnote 1 contains OCC's position on this section.

<sup>5</sup> The 2013 Program Year means April 1, 2013 through March 31, 2014. There are five such Program Years comprising the 5-Year term of the Amended Stipulation – April 1, 2013 through March 31, 2018.

charged to Suppliers. After April 1, 2013, no CHOICE Supplier<sup>6</sup> may charge retail CHOICE customers a rate that is designed or intended to provide compensation for the Balancing Fee that Columbia charged any suppliers prior to April 1, 2013, so as to avoid charging any customers twice for the same service.

### *Columbia Capacity Contracts*

11. ——— 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*

12. 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.
13. ——— 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.
14. ——— 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 ca-

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<sup>6</sup> CHOICE Supplier refers to Competitive Retail Natural Gas Suppliers providing service to individual Choice customers through bilateral contracts, as well as Choice Suppliers serving Governmental Aggregation Programs.

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.

15. ——— 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.

16. There will be no contract capacity review via the Amended Stipulation-Second Agreement during the term of the Amended Stipulation~~Second Agreement~~.

#### *Daily Nominations – Demand and/or Supply Curves*

17. ——— 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*

18. The annual cap on Columbia's retained Off-System Sales/Capacity Release revenues will be \$14 million during each of the five program years. The cumulative cap on Columbia's retained Off-System Sales/Capacity Release revenues will be reduced to a total of \$55 million over the five-year term of the Amended Stipulation. Off-system sales revenues above the \$14 million annual cap or above the \$55 million cumulative cap will be provided 100% for customers through the CSRR. Additionally, the formula for determining Columbia's share of off-system sales will be modified. For the first \$1 million of off-system sales, Columbia shall retain 50% of the revenue, and the remainder of this revenue shall be included in the CSRR mechanism for customers. For off-system sales from \$1 million to \$2 million, Columbia shall retain 100% of the revenue. For off-system sales from \$2 million to \$27 million, Columbia shall retain 50% of the revenue, and the remainder of the revenue shall be included in the CSRR mechanism for custom-

ers. Columbia shall provide a quarterly accounting of the Off-System Sales and Capacity Release Revenue activity to the Stakeholder Group through Columbia's quarterly CSRR report.

~~\_\_\_\_\_ 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*

19. ~~During the five-year term of this Amended Stipulation, \_\_\_\_\_ The Parties agree that~~ Columbia will not exit the merchant function for Non-Residential Customers, and will not file an application to exit the merchant function for Residential Customers, unless and until participation in Columbia's CHOICE program meets the specified thresholds in this Amended Stipulation and other conditions in this Amended Stipulation are met. The term "exit the merchant function" shall mean that all of Columbia's CHOICE-Eligible Residential~~residential~~ and/or Non-Residential~~non-residential~~ customers are provided commodity service by a Competitive Retail Natural Gas Supplier ("Supplier") through Columbia's CHOICE Program or Columbia's "~~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 Program."~~ price).

20. ~~If Columbia exits~~ Upon exit from the merchant function for any customer class, Columbia will provide no default commodity service for CHOICE-Eligible customers in that customer class upon exit. CHOICE-Eligible Customers in the customer class may enroll with a Supplier. Those CHOICE-Eligible Customers in the customer class that do not enroll with a Supplier will be assigned to a Supplier, and the pricing for such customers will be based on the closing New York Mercantile Exchange ("NYMEX") price plus basis (the monthly variable rate or "MVR" price).~~pursuant to Columbia's MVR Program.~~

21. ~~\_\_\_\_\_~~ 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.

22. If Columbia exits~~Upon exit~~ from the merchant function for any customer class, Columbia will continue as the supplier of last resort for that customer class. 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.

23. Beginning the first month following the signing of the Stipulation, Columbia will report on the levels of~~evaluate~~ customer participation<sup>7</sup> 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. Columbia commits to continue distributing its SCO/CHOICE Program Reports to stakeholders on a monthly basis during the term of this Agreement. OCC reserves the right to challenge the CHOICE participation levels reported in the monthly SCO/CHOICE Program Reports.

24. Following Commission approval of the Amended Stipulation~~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~~residential~~ customer survey to design an education program for all CHOICE-Eligible Non-Residential Customers regarding:

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<sup>7</sup>-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.



- 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).

25. 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 provide SCO service to CHOICE-Eligible Non-Residential 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.<sup>8</sup>

26. 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 explaining the MVR process and include, among other things, an informational letter at the initial transfer to an MVR Supplier and periodic bill inserts thereafter showing 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 Non-Residential customers to MVR Suppliers.

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

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<sup>8</sup> Parties agree that when developing education programs for residential customers, the materials will also be tailored to include references to OCC's *Comparing Your Natural Gas Choices* at OCC's website.

28. Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Amended Stipulation~~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 August~~June~~ 1 each year, Columbia will calculatedetermine whether, during the evaluation period preceding the August~~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.
29. Following the exit for Non-Residential Customers, Columbia will gather information from those customers and the SCO Suppliers regarding the impacts on customers from that exit, for use in evaluating any subsequent application by Columbia to exit the merchant function with regard to CHOICE-Eligible Residential Customers. Columbia will then share that information with its stakeholders. The gathering and use of this information does not limit any stakeholder or party to a case from providing, obtaining and using any other information. The Parties recommend that the Commission instruct its Staff to meet with Columbia and its stakeholders, following Commission approval of this Amended Stipulation, to discuss and determine the parameters of this study of the Non-Residential exit from the merchant function.
30. If the consecutive three-month 70% customer participation threshold for CHOICE-Eligible Non-Residential Customers has not been met by August~~June~~ 1 of any year during the term of this Amended Stipulation~~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 August~~June~~ 1 during the term of this Amended Stipulation~~Second Agreement~~, Columbia shall calculatedetermine whether the threshold has been met for Non-Residential customer participation until such level is met.
31. Beginning on or about April 1, 2013, and continuing on or about the first day of each month of the term of this Amended Stipulation unless

~~and Second Agreement~~ until Columbia ~~files~~~~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. ~~For~~~~If during~~ the term of the Amended Stipulation, the Parties agree that only Columbia may make a filing at the Commission to seek an exit from the merchant function for Columbia's CHOICE-Eligible Residential Customers. Columbia will not file an application with the Commission to exit the merchant function for all CHOICE-Eligible Residential customers unless and until~~evaluation period~~ the customer participation level in the CHOICE program has met or exceeded 70% of the CHOICE-Eligible Residential Customers for three consecutive months. ~~Additionally, then~~ Columbia ~~will not~~~~shall~~ file an application with the Commission to exit the merchant function for all CHOICE-Eligible Residential Customers ~~until on the first April that is:~~ (1) at least one month after the third consecutive month of at least 70% customer participation by CHOICE-Eligible Residential Customers~~that evaluation period~~, and (2) at least ~~twenty-two~~~~twelve~~ months after Columbia exits the merchant function with regard to Non-Residential Customers (where data are available for analysis from at least two full winter heating seasons of a non-residential exit during the time of case preparation leading up to a Commission hearing on an application for a residential exit).

32. ~~If Columbia files such an application, the~~ ~~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. Testimony by Columbia and the Ohio Gas Marketers Group ~~shall prepare testimony~~ supporting that ~~final~~ exit-the-merchant-function application shall be filed following the filing of the application and before the filing of intervenor testimony. In the event Columbia files an application to exit the merchant function for Residential Customers, the Commission will hold at least six local public hearings throughout Columbia's service territory to provide customers the opportunity to testify on the proposed exit before the Commission makes a decision on the application. OCC reserves the right to oppose any application to exit the merchant function for Columbia's CHOICE-Eligible Residential Customers. Furthermore, OCC's signature on this Amended Stipulation cannot be used to make an argument that OCC supports a residential exit, or that OCC is precluded from challenging an application filed by Columbia seeking a residential exit. The parties recognize the Commission may evaluate and consider, among other things, the effects of Columbia's exiting the mer-

chant 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.

33. 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 ~~Amended Stipulation~~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 to current programs necessary for an exit from the merchant function for CHOICE-Eligible Residential Customers.~~

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

35. 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.

36. Columbia shall continue its full residential and non-residential CHOICE Program Shadow Bill during the term of this Amended Stipulation and shall make such shadow-billing information available to OCC upon request. If Columbia exits the merchant function with regard to Non-Residential Customers, Columbia's CHOICE Program Shadow Bill for Non-Residential Customers after that exit shall compare the Non-Residential CHOICE customers' monthly billed gas costs to the residential monthly SCO auction price. Columbia will not be obligated to continue its CHOICE Program Shadow Bill for any customer class, including the residential class, if and when Columbia exits the merchant function for the residential class. This Amended Stipulation does not require Columbia to discontinue its CHOICE Program Shadow Bill after the term of this Amended Stipulation. OCC and others have the right to seek an order from the Commission requiring Columbia to continue its CHOICE Program Shadow Bill after the term of this Amended Stipulation or after Columbia exits the merchant function for Residential Customers, if such an exit occurs during the term of this Agreement. Any Party may object to such a request by the OCC.

***Monthly Variable Rate (MVR) Program***

37. 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. The parties further agree that an MVR program will not be implemented for any customer class unless and until Columbia exits the merchant function for that class.
38. 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.

39. 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 ~~can~~shall be addressed by the undersigned in the testimony phase of this proceeding; however, this provision does not preclude any of the Parties from making proposals in the future with regards to the allocation methodology for Residential Customers. -
40. 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. MVR suppliers will provide OCC with a copy of the MVR prices that are provided to the Commission.
41. 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.
42. 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 ter-



minates 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*

43. 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 ready<sup>9</sup> 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. The net revenues for this service shall be credited to the CSRR;
- 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 ad-

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<sup>9</sup> 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.

dress. This service will not be available to Government Aggregation customers.

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

- Offer rate ready billing and/or bill ready<sup>10</sup> 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 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.

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<sup>10</sup> 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.



45. A tentative timeline and an estimate of the costs for these billing enhancements is attached as Amended Stipulation Attachment 1.
46. 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. OCC reserves all its rights to advocate positions regarding the content and timing of communications with customers.
47. The Parties agree that Columbia may continue to collect from customers through~~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, to determine whether or not such costs are appropriate for collection from customers, and this Amended Stipulation does not limit OCC's rights to participate in cases involving such reviews. Also, OCC reserves its rights in CSRR proceedings to challenge the reasonableness and prudence of Columbia's costs for the billing system enhancements outlined above. If the audit is conducted by an independent auditor, the costs of such audit shall be collected from customers through the CSRR.
48. Except as specified below, if Columbia exits the merchant function with regard to any class of customers, the Parties agree that Columbia may collect from customers through~~include within~~ the CSRR the Incremental Program Costs relating to that exit. "Incremental Program Costs" means any ~~prudent and necessary~~ expense that is incurred by Columbia resulting from the implementation of the exits from the merchant function and that is found by the Commission to be prudent, reasonable and necessary. 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.
49. 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

50. The settlement agreement embodied in this ~~AmendedJoint~~ 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 ~~AmendedJoint~~ 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 ~~AmendedJoint~~ 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 ~~AmendedJoint~~ Stipulation ~~and Recommendation~~ shall not be relied upon ~~or used~~ 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 ~~AmendedJoint~~ Stipulation ~~and Recommendation~~.

51. Because the ~~AmendedJoint~~ 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 ~~AmendedJoint~~ 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 ~~AmendedJoint~~ 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 ~~AmendedJoint~~ 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.<sup>11</sup> If the Parties do not reach unan-

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<sup>11</sup> The Commission Staff is not considered a signatory Party for the purposes of requirements regarding rehearing applications.

imous agreement with respect to such an alternative proposal, no alternative proposal shall be submitted. In that circumstance (the lack of unanimous agreement on an alternative proposal), ~~and~~ any Party may, within thirty (30) days of the Commission's order, file an application for rehearing supporting the adoption of the Amended Stipulation as filed or may, within thirty (30) days of the Commission's Order, file a notice with the Commission terminating the Amended ~~Joint~~ Stipulation and withdrawing from it with service to all Parties. ~~Recommendation as filed.~~ No Party shall oppose an application for rehearing or termination notice filed by any other Party pursuant to this provision. Upon the Commission's issuance of an entry on rehearing or any other ruling that does not adopt this Amended ~~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~~ Amended ~~Joint~~ Stipulation and withdraw from it ~~Recommendation~~ by filing a notice with the Commission within thirty (30) days of ~~such~~ the Commission's entry on rehearing or other ruling. No Party shall oppose the termination of the Amended ~~Joint~~ Stipulation ~~and Recommendation~~ by any other party.

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

53. The Parties have agreed to the above-described process to be followed in the event the Commission materially modifies the terms of this Amended ~~Joint~~ Stipulation ~~and Recommendation~~ in recognition of the unique circumstances involved. A Party's agreement to this process for purposes of this Amended ~~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 Amended ~~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

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

AGREED THIS ~~TH4TH~~ DAY OF ~~NOVEMBER~~OCTOBER, 2012.

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

/s/ Stephen Reilly  
(per telephone authorization  
11/ ~~10/4/12~~)  
Stephen Reilly  
Assistant Attorney General,  
Public Utilities Section  
On behalf of the Staff of the Public Util-  
ities Commission of Ohio

/s/ M. Howard Petricoff  
(per email authorization 11/ ~~9/28/12~~)  
M. Howard Petricoff  
On behalf of the Ohio Gas Marketers  
Group

/s/ M. Howard Petricoff  
(per email authorization 11/ ~~9/28/12~~)  
M. Howard Petricoff  
On behalf of the Retail Energy Supply  
Association

/s/ Barth E. Royer  
(per email authorization 11/ ~~9/28/12~~)  
Barth E. Royer  
On behalf of Dominion Retail, Inc.

/s/ Larry S. Sauer  
(per email authorization 11/ ~~9/28/12~~)  
Larry S. Sauer  
On behalf of the Office of the Ohio  
Consumers' Counsel

**This foregoing document was electronically filed with the Public Utilities**

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