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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Joint Motion 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. :

Case No. 12-2637-GA-EXM

PUCO

POSTHEARING BRIEF
OF
DOMINION RETAIL, INC.

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I. INTRODUCTION

This case is before the Commission upon the amended joint motion filed herein on November 27, 2012 by Columbia Gas of Ohio, Inc. (“COH”), Commission staff, the Ohio Gas Marketers Group (“OGMG”), the Retail Energy Supply Association (“RESA”), and Dominion Retail, Inc. (“Dominion Retail”) (collectively, “Joint Movants”) seeking modifications of certain Section 4929.04, Revised Code, exemptions previously granted by the Commission in Case No. 08-1344-GA-EXM that changed the framework under which natural gas supply service is provided to COH distribution customers.¹ The motion was accompanied by an amended stipulation and recommendation (the “Amended Stipulation”) executed by the Joint Movants and the Office of the Ohio Consumers’ Counsel (“OCC”).² If adopted by the Commission, the Amended Stipulation would continue the transition from traditional, regulated pricing of supply service to a market-based pricing regime that was initiated by the Commission’s December 2,

¹ See Joint Exhibit 2.

² See Joint Exhibit 1. The Amended Stipulation, which was docketed on November 27, 2012, replaced the stipulation and recommendation previously filed by the Joint Movants on October 4, 2012 (*see* Joint Exhibit 3). OCC was not a signatory to the original stipulation.

2009 opinion and order in Case No. 08-1344-GA-EXM (“First Opinion and Order”)³ and confirmed by the Commission’s September 7, 2011 opinion and order in that docket (“Second Opinion and Order”).⁴

The unopposed stipulation adopted by the Commission in the First Opinion and Order (the “2009 Stipulation”)⁵ eliminated the gas cost recovery rate (“GCR”) as the mechanism by which COH recovered the cost of the gas delivered to its non-shopping customers effective April 1, 2010, and replaced the GCR with a default standard service offer (“SSO”) rate to be determined as the result of two annual wholesale auctions conducted to establish the SSO rates applicable during the ensuing twelve-month service periods (*i.e.*, April 2010 through March 2011 and April 2011 through March 2012). The 2009 Stipulation further provided that, effective April 1, 2012, the SSO default rate for Choice-eligible non-shopping customers would be replaced by a standard Choice offer (“SCO”) rate. The SCO program also utilizes an annual descending-clock auction to establish the price for supply service to be charged to non-shopping customers for the ensuing twelve-month service period. However, rather than vying to provide wholesale gas supply to COH to serve its default service customers, bidders in the SCO auction compete for the right to serve one or more tranches (up to a maximum of four) of individual non-shopping customers, with each tranche representing approximately one-sixteenth of COH’s total Choice-eligible non-shopping customer demand. The bids are for the retail pricing adjustment (“RPA”) to be added to the NYMEX final settlement price during each month of the SCO program year to determine the monthly SCO per-Mcf commodity rate. Thus, although the RPA

³ See *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 dated December 2, 2009).

⁴ See Case No. 08-1344-GA-EXM (Second Opinion and Order dated September 7, 2011).

⁵ See Case No. 08-1344-GA-EXM (Joint Stipulation and Recommendation dated October 7, 2009).

basis established by the winning bids does not change over the SCO year, the SCO rate changes monthly as a result of changes in the monthly NYMEX settlement price.

As permitted under the 2009 Stipulation,⁶ in May of 2011, OCC and Ohio Partners for Affordable Energy (“OPAE”) filed objections to the transition from the SSO auction to an SCO auction. However, in its Second Opinion and Order, the Commission reaffirmed the provisions of the 2009 Stipulation, specifically finding, after a hearing on the objections, that the evidence demonstrated that there were significant benefits associated with the SCO approach and that the SCO program was consistent with the state energy policy set forth in Section 4929.02, Revised Code.⁷ Accordingly, the SCO program was implemented on April 1, 2012 as contemplated by the 2009 Stipulation, and Choice-eligible non-shopping customers will continue to pay the SCO rate established through the 2012 SCO auction through March 31, 2013. Although the initial term of the 2009 Stipulation expires on that date, the stipulation provided that the SCO auction process for securing supply service for non-shopping customers will continue until modified by the Commission.⁸

The signatory parties to the 2009 Stipulation reserved the right to propose modifications to the exemptions authorized by the Commission in Case No. 08-1344-GA-EXM to become effective after the expiration of the stipulation’s initial term.⁹ A number of COH stakeholder meetings were held over the course of 2012 to discuss possible post-March 31, 2013 program changes. Although COH had not previously indicated that intended to exit the merchant function, various stakeholders suggested during these discussions that such an exit would be

⁶ See Case No. 08-1344-GA-EXM (Joint Stipulation and Recommendation dated October 7, 2009, at 9).

⁷ See Case No. 08-1344-GA-EXM (Second Opinion and Order dated September 7, 2011, at 11).

⁸ See Case No. 08-1344-GA-EXM (Joint Stipulation and Recommendation dated October 7, 2009, at 8).

⁹ *Id.*

warranted if shopping were to reach levels sufficient to justify permitting competitive retail natural gas (“CRNG”) suppliers to undertake responsibility for providing commodity service to all Choice-eligible customers.

As a result of these discussions, the Amended Stipulation now before the Commission proposes, among other things, that when shopping statistics show that at least 70 percent of COH’s Choice-eligible non-residential distribution customers have been supplied by CRNG providers for a period of three consecutive months, COH will exit the merchant function with respect to non-residential customers effective the following April 1.¹⁰ At that point, all Choice-eligible non-residential SCO customers would be assigned to CRNG suppliers participating in the COH Choice program for service at a monthly variable rate (“MVR”) consisting of the NYMEX closing price plus a basis equal to the lowest offer of the CRNG supplier for variable rate service posted on the Apples-to-Apples chart on the Commission’s website.¹¹ However, although providing that CRNG suppliers may elect on February 1 to be an MVR supplier for the coming program year,¹² the Amended Stipulation does not address the manner in which non-residential SCO customers will be allocated to CRNG suppliers for MVR service upon COH’s exit from the merchant function for non-residential service. Rather, the Amended Stipulation provides that the customer allocation methodology is a matter that should be addressed through testimony and resolved in this proceeding.¹³

¹⁰ See Joint Exhibit 1, at 9 (Paragraph 23).

¹¹ See Joint Exhibit 1, at 13 (Paragraph 40).

¹² See Joint Exhibit 1, at 13 (Paragraph 38).

¹³ See Joint Exhibit 1, at 13 (Paragraph 39).

Although providing for the same 70 percent shopping trigger in connection with COH's exit from the merchant function for residential supply service,¹⁴ the Amended Stipulation requires COH to file an application with the Commission to secure the exemption that would permit it to exit the merchant function in connection with residential service.¹⁵ Further, the Amended Stipulation leaves the decision to file such an application to COH's discretion even if the 70 percent shopping trigger is reached.¹⁶ Moreover, COH is prohibited from filing such an application until at least one month after the third consecutive month of at least 70 percent residential shopping and for at least 22 months after its exit from the merchant function for non-residential supply service, so as to permit COH to capture data relating to the non-residential exit for at least two full winter heating seasons in evaluating whether to proceed with an application for a residential exit.¹⁷ As in the case of the exit from non-residential service, the Amended Stipulation does not specify the methodology for allocating residential SCO customers to CRNG suppliers for MVR service upon COH's exit from the residential merchant function, but states that this issue may be addressed in testimony in this proceeding, with the proviso that no party will be precluded from offering proposals regarding the allocation of Choice-eligible non-shopping residential customers in the future.¹⁸

Hearings on the Amended Stipulation were held on December 3, 5, and 6, 2012 before Attorney Examiner Christine Pirik, during which ten witnesses presented testimony. Dominion

¹⁴ See Joint Exhibit 1, at 8-10 (Paragraphs 29-31).

¹⁵ See Joint Exhibit 1, at 10-11 (Paragraphs 30-32).

¹⁶ See Joint Exhibit 1, at 10 (Paragraph 31).

¹⁷ See Joint Exhibit 1, at 10-11 (Paragraph 31).

¹⁸ See Joint Exhibit 1, at 13 (Paragraph 39).

Retail hereby submits its posthearing brief in accordance with the briefing schedule established by the attorney examiner at the conclusion of the hearing.¹⁹

As a review of the record will show, there is no disagreement among the parties with respect to most elements of the Amended Stipulation, including, among other things, its five-year term,²⁰ the continuation of the current off-system sales and capacity release sharing mechanism through March 31, 2018,²¹ the reduction in the balancing fee from \$.32/Mcf to \$.27/Mcf and the provision that the balancing fee will be charged directly to customers rather than to suppliers as is currently the case,²² the specified adjustments to COH's firm city gate interstate and intrastate pipeline transportation and storage capacity,²³ and COH's capacity allocation process.²⁴ Indeed, the only issues in dispute are those raised in the testimony of Hess Corporation ("Hess") witness Magnani and OPAE witness Harper.

II. SUMMARY OF DISPUTED ISSUES

Although supporting COH's exit from the merchant function for non-residential service when the 70% shopping trigger is reached, Hess witness Magnani advocates that the former non-residential SCO customers should be allocated among the winning bidders in the two SSO auctions and all subsequent SCO auctions for service under the MVR program rather than assigned to CRNG suppliers participating in COH's Choice program as provided in the

¹⁹ See Tr. III, 321.

²⁰ See Joint Exhibit 1, at 3 (Paragraph 5).

²¹ See Joint Exhibit 1, at 3 (Paragraph 6).

²² See Joint Exhibit 1, at 4 (Paragraph 10).

²³ See Joint Exhibit 1, at 5 (Paragraph 11).

²⁴ See Joint Exhibit 1, at 5-6 (Paragraph 12-16).

Amended Stipulation.²⁵ Mr. Magnani also maintains that that the SCO default service should be retained for Choice-eligible non-shopping residential customers,²⁶ at least until residential shopping reaches a level considerably higher than 70 percent.²⁷ Finally, Mr. Magnani opposes the new \$.06 per Mcf cash security deposit that would be assessed to SCO suppliers under Paragraph 9 of the Amended Stipulation, and, more specifically, to the provision that would flow any unused funds remaining at the end of the program year through to all customers via the Choice/SSO/SCO reconciliation rider (“CSRR”) commencing June 2014, for the 2013 program year rather than returning the remaining balance to the SCO suppliers.²⁸

OPAE witness Harper takes the position that SCO program should not be eliminated regardless of shopping levels and also opposes the \$.06 per Mcf cash security deposit.²⁹ In addition, Ms. Harper argues that a decision with respect to the methodology to be employed to allocate SCO customers among suppliers for service at the MVR rate should be deferred to a separate proceeding to be conducted if the SCO default service is, in fact, eliminated.³⁰ However, Ms. Harper also appears to suggest that a rotational assignment of SCO customers to MVR suppliers would be preferable to an allocation based on an MVR supplier’s relative market share.

As contemplated by the Amended Stipulation, COH witness Brown, Interstate Gas Supply, Inc. (“IGS”) witness Friedeman, and Direct Energy Services, LLC and Direct Energy

²⁵ See Hess Exhibit 1 (Magnani Direct), 4.

²⁶ *Id.*

²⁷ See Tr. III, 144.

²⁸ See Hess Exhibit 1 (Magnani Direct), 4; Tr. II, 169.

²⁹ See OPAE Exhibit 2, 25-26, 27.

³⁰ See OPAE Exhibit 2, 26-27.

Business, LLC (collectively “Direct”) witness Byzewski provided testimony addressing the appropriate basis for allocating SCO customers to CRNG suppliers participating in the Choice program for service under the MVR program when COH exits the merchant function. All three witnesses advocate assigning the former SCO customers to CRNG suppliers based on relative market share as reflected by the proportion of their Choice enrollment and governmental aggregation customers at the time of the allocation.³¹ COH witness Brown, whose recommendation is limited to the allocation of non-residential customers, suggests that a minimum of 1 percent of the customers to be allocated be assigned to an MVR supplier with a market share less than or equal to 1 percent, and that new customers (*i.e.*, customers seeking service subsequent to COH’s exit for non-residential service) be done on a rotational basis.³² On the other hand, IGS witness Friedeman proposes that new customers would also be allocated to MVR suppliers on a proportional market-share basis,³³ and both IGS witness Friedman and Direct witness Bryznewski contend that the methodology should be established for allocating both non-residential and residential customers to MVR suppliers as a part of this proceeding.³⁴

For those reasons set forth below, Dominion Retail urges the Commission to reject the recommendations of the Hess and OPAE witnesses and adopt an allocation of former SCO customers to CRNG suppliers participating in the MVR program based on their relative market share, including governmental aggregation service, at the time the allocation is made. Dominion Retail also joins with IGS and Direct in supporting the proposition that the customer allocation methodology following both the non-residential and residential exits should be approved in the

³¹ See COH Exhibit 6 (Brown Direct), 16; IGS Exhibit 1 (Friedeman Direct), 12; Direct Exhibit 1 (Bryznewski Direct), 3-4.

³² See COH Exhibit 6 (Brown Direct), 16.

³³ See IGS Exhibit 1 (Friedeman Direct), 12.

³⁴ See IGS Exhibit 1 (Friedeman Direct), 5; Direct Exhibit 1 (Bryznwski Direct), 4.

context of this case. Finally, Dominion Retail supports the imposition of the \$.06 per Mcf cash security deposit for the reasons stated in the testimony of OGMG Parisi presented in support of the Amended Stipulation.³⁵

III. ARGUMENT

A. THE ALLOCATION OF FORMER SCO CUSTOMERS TO CRNG SUPPLIERS FOR SERVICE UNDER THE MVR RATE BASED ON RELATIVE MARKET SHARE IS REASONABLE AND SUPPORTED BY THE RECORD.

1. The rationale offered by Hess witness Magnani for allocating SCO customers to winning bidders in SSO and SCO auctions should be rejected by the Commission.

As previously discussed, Hess witness Magnani supports the termination of SCO service to Choice-eligible non-residential customers when shopping by non-residential customers reaches the 70 percent level, but disagrees with the proposal in the Amended Stipulation that the former SCO customers should be allocated to Choice CRNG suppliers for MVR service. However, the rationale offered by Mr. Magnani for the proposition that winning bidders in the two SSO auctions and all subsequent SCO auctions should be assigned the former SCO non-residential customers will not stand up to even cursory scrutiny.

First, it became apparent on cross-examination that Mr. Magnani had not considered the ramifications of the customer allocation methodology he recommends. Mr. Magnani failed to consider the fact that a number of the winning bidders in prior auctions are no longer providing service in COH territory.³⁶ On the stand, Mr. Magnani suggested that, in such, instances the SCO customers formerly served by such bidders would come out of the numerator,³⁷ a proposal that would reward the remaining winning bidders with a larger share of the MVR customers than

³⁵ See OGMG Exhibit 3 (Parisi Direct), 19-20.

³⁶ See Tr. III. 145-146.

³⁷ *Id.*

that to which they otherwise have been entitled under his recommended methodology. In addition, Mr. Magnani's recommendation ignores that some winning bidders may not wish to – or be equipped to – provide MVR service certain customer classes³⁸ Indeed, the record shows that Hess itself does not serve residential customers, and Mr. Magnani stated that he did not know at this time to if Hess would have any interest in providing residential customers with MVR service when the SCO program is terminated.³⁹ In fact, Mr. Magnani went so far as to state that “(b)ecause we serve SCO does not mean we would serve individual customers,”⁴⁰ which is directly at odds with his notion that SCO suppliers should be rewarded by being assigned former SCO customers upon COH's exit from the merchant function.

In this same vein, when asked what MVR rate would apply in instances where the winning bidder is not an active participant in the Choice program, and, thus, has no published Choice offers on the Apples-to-Apples chart, Mr. Magnani basically indicated that this was a bridge Hess would cross when it came to it by posting an MVR rate for the customers it wished to serve.⁴¹ It does not take much imagination to envision that a supplier, such as Hess, that is not in the business of competing for Choice-eligible customers could post any price it wanted to on the Apples-to-Apples chart and charge that price as the MVR to the customers allocated to it. Plainly, it makes far more sense to assign the former SCO customers to CRNG providers that are actively engaged in the Choice market than to winning bidders in prior auctions that are no longer providing service in the COH territory or that have no interest in supplying certain customer classes under the MVR program.

³⁸ See Tr. III, 147-148.

³⁹ See Tr. III, 148.

⁴⁰ *Id.*

⁴¹ See Tr. III, 148-149.

Second, Mr. Magnani argues that suppliers will no longer wish to participate in SCO auctions if, at the end of the day, they are not rewarded by being assigned customers previously served under the default SCO rate. This argument is belied by history. The Commission must bear in mind that the SCO auctions set the default price for a discreet, one-year service period. Despite Mr. Magnani's claim that suppliers need the incentive of MVR customer allocation to make the investments necessary to participate in the auctions,⁴² the prior COH auctions have been successful notwithstanding that this incentive was not even on the horizon at the time. As explained by witnesses Brown, Friedeman, and Bryznewski, allocating the former SCO customers to CRNG Choice suppliers based on relative market share promotes retail competition because it provides these suppliers, who are in the business of serving individual customers, with additional incentive to increase their customer base by offering the lowest possible rates. Moreover, unlike the SCO suppliers, who serve a tranche of customers for single year without the need to interact with the customers other than to send them a bill, CRNG Choice suppliers, to be successful, must necessarily look to build long-term relationships with their customers.

2. The claim of Hess witness Magnani and OP&E witness Harper that SCO service should not be eliminated upon COH's exit from the merchant function because this would eliminate the lowest cost supply option is not supported by the record.

Mr. Magnani and Ms. Harper each make the point that, because SCO suppliers do not have customer acquisition costs it is reasonable to assume that the SCO price will always be lower than price at which CRNG providers can provide supply service to shopping customers. Several points bear mention.

First, although both Mr. Magnani and Ms. Harper rely on the shadow billing data provided by COH in response to an OCC discovery request in this case to show that SCO service

⁴² See Hess Exhibit 1 (Magnani Direct), 8.

is the lower cost option, neither correctly interprets this data. Mr. Magnani states in his prefiled testimony that, for the period from April 2010, date SSO service was implemented, through September 2012, shopping customers served by CRNG suppliers have paid some \$300 million more for supply service that they would have paid under the auction-based default SSO/SCO rates.⁴³ However, not only did Mr. Magnani not know what the numbers on his Exhibit OM-4 actually represented,⁴⁴ but no one, including the Commission, has ever suggested that this shadow billing data is the appropriate measure of the relative costs of auction-based service versus Choice service. Moreover, as Mr. Magnani acknowledged on cross-examination, \$264 million of his \$300 million figure is attributable to the period when the default price was set by an SSO auction, which meant that the CRNG Choice numbers reflect the sales tax rather than the lower gross receipts tax that was applicable to SSO service.⁴⁵ In addition, Mr. Magnani did not know how much of the difference was attributable to fixed price CRNG contracts.⁴⁶ Clearly, for a number of customers, the certainty of a fixed price contract overrides the desire for the lowest possible rate in a particular month. Thus, even if the shadow billing information shows that even if Mr. Magnani were correct that the shadow billing information shows that shopping customers, generally, would have experienced a savings had they been on SCO service, this would not necessarily mean, as Mr. Magnani and Ms. Harper would have it, that SCO service is the best option.

⁴³ See Hess Exhibit I (Magnani Direct), 10.

⁴⁴ See Tr. III, 161-162.

⁴⁵ See Tr. III, 162.

⁴⁶ *Id.*

Second, the Apples-to-Apples chart on the Commission's website shows that there are currently CNRG monthly variable rate offers out there that are below the SCO price.⁴⁷ Mr. Magnani suggested that some of these offers reflected introductory rates, but this makes the marketers' point. CRNG suppliers offer a variety of products to consumers and will be even more incentivized to do so if former CSO customers are allocated to CRNG Choice suppliers based on relative market share. Incredibly, Mr. Magnani finds CRNG marketing efforts "annoying,"⁴⁸ but customers can only reap the full benefits of increased retail competition if they are provided with the necessary information to make an informed choice.

Third, Mr. Magnani testified on cross-examination that the biggest risk associated with supplying is SCO service is the risk of customer migration.⁴⁹ However, Mr. Magnani never squared this with his statements that SCO service will always represent the lowest price option. Why would there be a risk of customer migration if SCO service is always the best deal for customers? Indeed, although COH's shopping rates are not as high as those of say, Dominion East Ohio (which, incidentally, also has an SCO program), shopping levels continue to rise in COH's territory. Either shopping customers are stupid as Mr. Magnani seems to imply, or, as the marketers believe, shopping customers view the pricing in their CRNG contracts as preferable to the SCO rate.

Finally, Dominion Retail finds it highly ironic that Hess witness Magnani purports to champion the interest of residential customers in arguing that the 70 percent shopping trigger for COH's residential exit is too low when Hess does not serve residential customers and does not know if will ever serve residential customers. Dominion Retail urges the Commission to read

⁴⁷ See Dominion Retail Exhibit 1.

⁴⁸ See Tr. III, 167.

⁴⁹ See Tr. III, 171.

between the lines of this recommendation. Hess wants SCO service to continue because this is the least-cost method for Hess to obtain customers.

B. A DETERMINATION BY THE COMMISSION IN THIS PROCEEDING THAT THAT FORMER RESIDENTIAL SCO CUSTOMERS SHOULD BE ALLOCATED TO CRNG PROVIDERS PARTICIPATING IN THE MVR PROGRAM BASED ON RELATIVE MARKET SHARE AT THE TIME OF COH'S RESIDENTIAL EXIT WILL PROMOTE RETAIL COMPETITION IN THE COH RESIDENTIAL MARKET.

Under the terms of the Amended Stipulation, COH cannot even consider filing a residential exit application until the level of residential shopping, currently at 41 percent,⁵⁰ reaches the 70 percent trigger. Although Hess witness Magnani opined that the formation one or two large opt-out governmental aggregations could quickly propel shopping past the 70 percent mark,⁵¹ Mr. Magnani conceded on cross-examination that it would take some time to secure voter approval for an opt-out aggregation via a ballot issue.⁵² Thus, the chances “that shopping statistics could change dramatically in a very short timeframe”⁵³ as the result of opt-out governmental aggregations as posited by Mr. Magnani are nil. Further, the one-month stay-out following the three-month period during which residential shopping reaches 70 percent, coupled with the 22-month stay-out after COH's exit from non-residential service,⁵⁴ means that the earliest COH could file an application to exit the merchant function for residential service would

⁵⁰ See OPAE Exhibit 2 (Harper Direct), Exhibit SH-2.

⁵¹ See Hess Exhibit 1 (Magnani Direct), 15.

⁵² See Tr. III, 164-165.

⁵³ See Hess Exhibit 1 (Magnani Direct), 15.

⁵⁴ Moreover, the exit from non-residential service cannot occur until shopping by Choice-eligible non-residential customers – currently at 26 percent for industrials and 52 percent for commercials – reaches 70 percent for three consecutive months. See OPAE Exhibit 2 (Harper Direct), Exhibit SH-2.

likely be 2017 even under the most optimistic scenario.⁵⁵ Thus, if, under the terms of the Amended Stipulation, COH cannot possibly exit the merchant function with respect to residential service until at least 2017, the question becomes why the Commission should determine the methodology for assigning residential SCO customers to MVR suppliers in its order in this case. The answer is that signaling CRNG suppliers participating in the COH Choice program that market share will be used to determine the assignment of SCO residential customers upon COH's residential exit will encourage these suppliers to compete vigorously for residential load, to the benefit of all residential customers.

C. THE PROVISION OF THE AMENDED STIPULATION REQUIRING A \$.06 PER MCF CASH SECURITY DEPOSIT FROM SCO SUPPLIERS IS REASONABLE AND SHOULD BE APPROVED BY THE COMMISSION.

Both Hess witness Magnani and OPAE witness Harper object to the new requirement for a \$.06 per Mcf cash security deposit by SCO suppliers on the ground that this measure will drive up the cost of SCO service to non-shopping customers because SCO supplier will price this charge into their bids.⁵⁶ These witnesses also oppose the provision that would flow any unused funds remaining at the end of the program year through to all customers via the CSRR, arguing that shopping customers should not benefit from the distribution of balances funded by non-shopping customers through the SCO rate.⁵⁷ In addition, Mr. Magnani argues that if COH requires protection against supplier default above and beyond that for which the remaining SCO suppliers are currently responsible, COH should simply up the initial security requirement the

⁵⁵ Tr. III, 153.

⁵⁶ See Hess Exhibit 1 (Magnani Direct), 20; OPAE Ex. 2 (Harper Direct), 30.

⁵⁷ *Id.*

SCO suppliers must meet to participate in the program.⁵⁸ Finally, on cross-examination, Mr. Magnani stated that his real objection was that the unused funds generated by the deposits were paid to customers rather than refunded to the SCO suppliers.⁵⁹

Although these arguments may appear to be logical, they ignore that the purpose of the new cash deposit requirement is not strictly limited to protecting COH from the cost of an SSO supplier default that is not covered by the remaining SSO suppliers. As OGMG witness Parisi explained, COH incurs substantial costs in connection with arranging for SCO service for non-shopping customers.⁶⁰ These costs are recovered from both shopping and non-shopping through base rates and the CSRR, notwithstanding that shopping customers receive no benefit from the provision of default commodity service. As Mr. Parisi points out, one element of Ohio's stated energy policy is to avoid subsidies flowing to or from competitive services.⁶¹ Although the subsidy flowing from shopping customers to SCO customers has not been calculated with specificity, Mr. Parisi testified that the \$.06 per Mcf charge proposed in the Amended Stipulation represented a reasonable compromise in view of the alternative, which would be to assess SCO suppliers directly for all the SCO-related costs.⁶² It is also worthy of mention in this regard that Mr. Parisi is an officer of IGS, which is, itself, an SSO supplier as well as a participant in COH's Choice program,⁶³ and that Hess is the only SSO supplier that has objected to this mechanism. Thus, the Commission should have no qualms about approving this provision.

⁵⁸ See Tr. III, 169.

⁵⁹ *Id.*

⁶⁰ See OGMG Exhibit 3 (Parisi Direct), 17.

⁶¹ See OGMG Exhibit 3 (Parisi Direct), 13, citing Section 4929.02(A)(8), Revised Code.

⁶² See OGMG Exhibit 3 (Parisi Direct), 19-20. .

⁶³ See OGMG Exhibit 3 (Parisi Direct), 1, 20.

IV. CONCLUSION

Under the familiar three-pronged test utilized by the Commission for evaluating stipulations, the Commission must consider the following criteria in determining if the Amended Stipulation proposed in this case should be adopted: (1) Is Amended Stipulation the product of serious bargaining among capable, knowledgeable parties? (2) Does the Amended Stipulation, as a package, benefit ratepayers and the public interest? and (3) Does the settlement package embodied in the Amended Stipulation violate any important regulatory principle or practice? Dominion Retail respectfully submits that the Amended Stipulation unquestionably satisfies all three of these criteria.

There can be no debate that the Amended Stipulation is the product of serious bargaining among capable, knowledgeable parties. Indeed, the COH stakeholder group, which is open to all comers – including those parties to this case that did not ultimately sign the Amended Stipulation – negotiated for months during a series of scheduled meetings to develop the proposals contained in this document. Further, the wide range of interests represented by the signatory parties, which include the Commission staff and OCC, attests to the fact that the agreement was product of serious bargaining.

Moreover, for all those reasons set out in the testimony of the witnesses presented by the signatory parties, the Amended Stipulation benefit ratepayers and the public interest. More specifically, the Amended Stipulation promotes the development of retail competition in COH's service territory and is consistent with Ohio's stated energy policy as set forth in Section 4929.02, Revised Code.

Finally, the settlement package embodied in the Amended Stipulation does not violate any important regulatory principle or practice. The Amended Stipulation merely continues the

transition from a regulated gas supply rate to a fully-competitive, market-based pricing paradigm, while continuing to provide safeguards along the way.

Dominion Retail urges the Commission to approve the Amended Stipulation without modification.

Respectfully submitted,



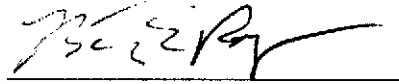
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by electronic mail this 11th day of December 2012.



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