

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's )  
Review of the Natural Gas Retail ) Case No. 13-1307-GA-COI  
Market Development. )

ENTRY

The Commission finds:

- (1) Natural gas companies, as defined in R.C. 4905.02 and 4905.03, are subject to the jurisdiction of the Commission in accordance with R.C. 4905.04 through 4905.06, and 4929.03.
- (2) R.C. 4929.02 provides that it is the policy of the state of Ohio to, inter alia: promote effective competition and the diversity of natural gas supplies and suppliers, by giving consumers effective competitive choices; and recognize the continuing emergence of competitive natural gas markets, by developing and implementing flexible regulatory treatment.
- (3) R.C. 4929.04 authorizes the Commission, upon the application of a natural gas company, to exempt any commodity sales service or ancillary service from certain provisions of the Revised Code. R.C. 4929.04(A) provides that the Commission shall approve the request for exemption upon a finding, after hearing, that an applicant is in substantial compliance with the policy of this state specified in R.C. 4929.02 and that either: the company is subject to effective competition with respect to the commodity sales service or ancillary service; or customers of the commodity sales service or ancillary service have reasonably available alternatives.
- (4) In accordance with R.C. Chapter 4929, to date, the Commission has authorized Columbia Gas of Ohio, Inc.

(Columbia),<sup>1</sup> The East Ohio Gas Company d/b/a Dominion East Ohio (Dominion),<sup>2</sup> and Vectren Energy Delivery of Ohio, Inc. (Vectren),<sup>3</sup> to conduct competitive auctions in order to secure natural gas supplies for their customers.<sup>4</sup>

(5) With the statutory framework in mind, by Entry issued June 5, 2013, the Commission recognized that it has been five years since the first natural gas utility was authorized to secure natural gas for retail customers utilizing an auction process. Therefore, the Commission initiated this docket to review certain aspects of the natural gas retail market and obtain feedback from interested persons, and requested interested persons address designated questions as they relate to the current structure of the natural gas retail market in Ohio and the current standard choice offer (SCO) auctions. The Commission invited interested persons wishing to address the questions set forth in the Entry to file comments and reply comments by July 9, 2013, and July 30, 2013, respectively.

(6) Comments were filed by:

- Buckeye Energy Brokers, Inc. (Buckeye) - Buckeye is a competitive retail natural gas service (CRNGS) supplier.
- AARP
- Columbia

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<sup>1</sup> *In re Columbia Gas of Ohio, Inc.*, Case No. 08-1344-GA-EXM, Opinion and Order (Dec. 2, 2009) and Second Opinion and Order (Sept. 7, 2011) (08-1344); and Case No. 12-2637-GA-EXM, Opinion and Order (Jan. 9, 2013) (12-2637 or *Columbia SCO Case*).

<sup>2</sup> *In re The East Ohio Gas Company d/b/a Dominion East Ohio*, Case No. 05-474-GA-ATA, Opinion and Order (Apr. 8, 2005) (05-474); Case No. 07-1224-GA-EXM, Opinion and Order (June 18, 2008) (07-1224); and Case No. 12-1842-GA-EXM, Opinion and Order (Jan. 9, 2013) (12-1842 or *Dominion SCO Case*).

<sup>3</sup> *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 07-1285-GA-EXM, Opinion and Order (Apr. 30, 2008) (07-1285); and Case No. 12-483-GA-EXM, Opinion and Order (May 16, 2012) (12-483).

<sup>4</sup> Columbia, Vectren, and Dominion are local distribution companies (LDCs).

- Low-income Advocates<sup>5</sup>
- Citizens Coalition
- Vectren
- Northeast Ohio Public Energy Council (NOPEC)
- Ohio Oil and Gas Association (the Association)
- Dominion
- Ohio Gas Marketers Group<sup>6</sup> and Retail Energy Supply Association<sup>7</sup> (jointly, OGMG/RESA) – OGMG/RESA represent two groups of CRNGS suppliers.
- Ohio Consumers' Counsel (OCC)
- Hess Corporation (Hess) – Hess is a CRNGS supplier and supplies natural gas to large commercial and industrial customers. Hess currently serves SCO tranches in the service territories of Vectren, Dominion, and Columbia.

Reply comments were filed by:

- AARP
- Low-income Advocates
- Dominion
- OCC
- NOPEC
- IGS Energy (IGS)
- and OGMG/RESA

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<sup>5</sup> The Low-income Advocates include: Ohio Partners for Affordable Energy; the Ohio Poverty Law Center; Edgemont Neighborhood Coalition; Pro Seniors, Inc.; Southeastern Ohio Legal Services; Legal Aid Society of Columbus; Legal Aid Society of Cleveland; Communities United for Action; and the Citizens Coalition.

<sup>6</sup> For this proceeding, OGMG includes: Commerce Energy; Constellation NewEnergy, Inc.; Interstate Gas Supply, Inc.; Just Energy; and Southstar Energy, LLC.

<sup>7</sup> RESA members include: AEP Energy, Inc.; Champion Energy Services, LLC; ConEdison Solutions; Constellation NewEnergy, Inc.; Direct Energy Services, LLC; GDF SUEZ Energy Resources NA, Inc.; Hess Corporation; Homefield Energy; IDT Energy, Inc.; Integrys Energy Services, Inc.; Just Energy; Liberty Power; MC Squared Energy Services, LLC; Mint Energy, LLC; NextEra Energy Services; Noble Americas Energy Solutions, LLC; NRG, Inc.; PPL EnergyPlus, LLC; Stream Energy; TransCanada Power Marketing Ltd.; and TriEagle Energy, L.P.

- (7) The Commission has reviewed the comments and the reply comments and Attachment A to this Entry contains a summary of the filings made in response to the June 6, 2013 Entry. Additionally, in light of the comments and reply comments summarized in Attachment A, the Commission has made certain conclusions detailed in the findings below.
- (8) The first question issued for comment by the Commission inquired as to what regulatory changes, if any, should be made to further support a fully-competitive retail natural gas marketplace. Based on the comments received in this proceeding, the Commission does not recommend widespread regulatory changes at this time. Stakeholders have provided sufficient evidence that the Commission has the appropriate regulatory oversight to monitor Ohio's competitive retail natural gas industry; however, some future action may be necessary, as further discussed within this Entry.
- (9) The second question issued for comment concerned what types of educational programs, if any, should be implemented in order to ensure that retail customers are fully aware of the options available for purchasing retail natural gas service. There is general agreement among the stakeholders that additional educational programs would be helpful for Ohio's consumers. The Commission notes that we have approved educational programs relating to natural gas choice in the past. See *Dominion SCO Case*; *Columbia SCO Case*. Additionally, the Commission has created the Office of Retail Competition within the Commission. That Office's foremost goal is to educate Ohio's ratepayers as to how they can fully exercise their right of choice within Ohio's natural gas and electric markets. As is evident, the Commission fully recognizes the importance of this type of consumer education, and will continue to strive to educate consumers about their right of choice within Ohio's natural gas market. The proceeding before us, however, is limited in scope as to how an educational

program would be conducted and funded. Therefore, the Commission may, if it finds that further consumer education is necessary, initiate, through a separate entry, workshops to be conducted with more fully developed objectives relating to consumer education and program funding.

- (10) The third and fourth questions issued for comment inquired whether the SCO provides a competitive level playing field for CRNGS providers and whether there are barriers to market entry associated with the SCO, respectively.

Marketer stakeholder comments state that the current structure of default service may create structural barriers for CRNGS providers to compete on a level playing field with the default pricing created by the SCO.

The marketers assert that imposing requirements on retail offerings made by CRNGS suppliers, that SCO suppliers bypass through the auction format, creates a structural barrier within the industry whereby the SCO and CRNGS prices are not comparable. Consequently, this potential structural barrier, according to the marketers, suggests that the price created by the SCO structure should not be used as a price-to-compare against CRNGS retail offerings. As described by the marketer stakeholders in this proceeding, default structure may provide SCO suppliers with a relaxed regulatory environment, avoidance of literature fulfillment and record retention requirements, and, arguably, enhanced access to customer information that creates advantages for the SCO supplier.

The consumer advocate stakeholders assert that the SCO does provide a level playing field and that any artificial inflation of the market price of the SCO would diminish the effectiveness of the model that has saved customers money. In support, the consumer advocate stakeholders point out that multiple marketers were offering prices below the SCO at the time comments were filed in this

docket. The consumer advocate stakeholders also assert that there are no or minimal barriers to market entry associated with the SCO.

In general, the LDC stakeholders emphasize that there are inherent differences in how the SCO rate is established and how CRNGS offers are presented, and request that any attempt to modify these cost structures be made with customers' interests in mind. Further, the LDC stakeholders assert that there may be minimal barriers to the SCO market entry, but argue that such barriers do not appear to have affected the growth of Ohio's competitive retail natural gas market given the number of suppliers and customers participating.

As Ohio has a statutory duty to promote natural gas competition, the Commission will remain focused on whether the avoided costs described by the stakeholders in this proceeding exist and should be investigated and remediated by the Commission within the confines of dockets specific to the continuation of the SCO by the LDCs. As the Commission continues to further examine these issues in such proceedings, we will be mindful of the need to also analyze whether this asserted disparity creates structural barriers that hinder market development.

- (11) The fifth and final question issued for comment inquired whether the SCO is functioning as a competitive market price.

The marketer stakeholders assert that the SCO is not functioning as a competitive market price because, due to inequities and subsidies, marketers are forced to provide offers at a higher rate than the SCO. Consequently, the marketers recommend that, if SCO service is continued, the structure of the SCO should be modified to create true comparability of SCO prices and CRNGS retail prices.

The consumer advocate stakeholders argue that the SCO is functioning as a competitive variable market price because it passes through wholesale market prices with an adder approved by the Commission as part of the auction process. Further, the consumer advocate stakeholders argue that the auction process provides a price benchmark that benefits everyone. Similarly, the LDC stakeholders generally contend that the SCO is functioning effectively as a competitive market price, or at least is reflective of the competitive market. In support, the LDC stakeholders cite high customer participation rates in the SCO program and participation by retail natural gas suppliers in the auction process.

As we have supported competitive retail markets in Ohio, we will continue to evaluate all permutations of that market in order to bring about the best possible price to consumers. The legislature and the Commission have forged this path of competitive market development with a certain amount of faith in the market to provide the best possible price for consumers. We must allow for the market to signal if and when the SCO, whether seen as a competitive offering in itself or not, must be eliminated. The Commission is constantly monitoring these markets and is confident that it will have strong indications from the market if and when the time comes to eliminate the SCO.<sup>8</sup>

- (12) Finally, the Commission finds that the purpose of this docket has been fulfilled and this docket should be closed of record.

It is, therefore,

ORDERED, That this case be closed of record. It is, further,

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<sup>8</sup> For example, in the *Dominion SCO Case*, the Commission committed to monitor the effects of the elimination of the SCO option for nonresidential customers, including whether: new and varied products are offered; the transition results in increased complaints; and suppliers have increased investments in Ohio and local communities.

ORDERED, That a copy of this Entry be sent to the gas-pipeline industry service list. It is, further,

ORDERED, That a copy of this Entry be served upon: all natural gas local distribution companies; all CRNGS providers; all parties in 08-1344, 12-2637, 05-474, 07-1224, 12-1842, 07-1285, 12-483; the Ohio Gas Association; the Oil and Gas Association; and the Ohio Petroleum Council.

THE PUBLIC UTILITIES COMMISSION OF OHIO

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Todd A. Snitchler, Chairman

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Entered in the Journal

**FEB 13 2014**

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Barcy F. McNeal

Barcy F. McNeal  
Secretary



Attachment A

The following is a summary of the comments received from interested persons in response to the five questions posed in the Commission's June 6, 2013 Entry issued in this docket. The Commission notes that, in their comments, some respondents went beyond the scope of the purpose outlined in our June 6, 2013 Entry. The following summary focuses solely on those questions which were posed in our Entry.

The Association did not respond to each question individually, but commented generally in response to the questions stating that the Commission should not take any action or steps that may inhibit, stifle, or adversely affect the production and marketing of Ohio-produced gas and oil (Association at 2).

**(a) What regulatory changes, if any, should be made to further support a fully-competitive retail natural gas marketplace?**

Hess recommends no regulatory changes, at this time. Hess states that residential customers are typically motivated by price, versus commercial customers whose usage profiles and business interests make fixed-price and index/cap offerings attractive. According to Hess, the current framework provides residential customers with a vast array of options that allow them to select a product that fits their needs, risk profile, and price preferences. Hess believes CRNGS suppliers should be able to market various fixed- and variable-priced supply offerings to all sizes of customers. Hess submits that the auctions for Dominion, Columbia, and Vectren have provided residential customers with a low and stable price for natural gas supply, and enabled them to gain the benefit of wholesale prices, while providing transparency in the competitive market to evaluate various CRNGS offerings. Hess observes that it is difficult for the CRNGS suppliers to compete against the SCO price on a straight-cost basis, because the SCO program allows the suppliers to bid on a huge pool of customers at one time and optimize upstream assets for that large, quantifiable group of customers. Therefore, the SCO product has proven to be the superior option for residential customers seeking a variable-rate product; however, residential customers are also free to choose fixed-price and value-added products. (Hess at 2-3.)

Columbia states that, at this time, it is not necessary to make any additional regulatory changes to support a fully-competitive retail natural gas market. According to Columbia, the Commission's rules for CRNGS contained in Ohio Adm.Code Chapters 4901:1-27 through 4901:1-34 (CRNGS rules) provide adequate customer protection, effective competition, diversity of suppliers, and adequate supplier oversight. These rules have resulted in the establishment of a competitive marketplace that allows customers to choose to purchase natural gas from a CRNGS provider, a government aggregator, or through the auction process. Columbia offers that the Commission's five-year review of these rules allows for appropriate change, as the marketplace and regulatory environment

evolve. Moreover, Columbia notes that it has been just over a year since it launched its SCO program and it seems premature to suggest further regulatory change is needed before gaining some experience with the relatively new SCO program. (Columbia at 1-2.) Similarly, Vectren recommends no additional regulatory changes, stating that CRNGS suppliers are responsible for driving the market and managing costs in order to be competitive (Vectren at 1).

OCC suggests that the standard service offer (SSO) and SCO auctions have been successful in delivering benefits of competition to Ohioans' natural gas bills, and promotes to consumers the availability of adequate, reliable, and reasonably priced natural gas services and goods. According to OCC, the current structure of the market and the SCO auction has produced a fully-competitive marketplace, by providing customers with the option of selecting a Choice supplier or retaining the default SCO. OCC argues there should be no further changes for a fully-competitive marketplace. (OCC at 1, 3-4, 7.) NOPEC agrees that the auctions have proven helpful in creating a more competitive environment and, consequently, agrees that no changes should be made at this time (NOPEC at 2).

OCC also notes that any changes to the recent stipulations approved by the Commission in the *Columbia SCO Case* or the *Dominion SCO Case*, where the timing and procedures for consideration of additional changes to the existing marketplace were agreed to by the parties in those cases, could alter the quid pro quo for the signatory parties of those stipulations. If the Commission determines to make further regulatory changes, OCC recommends a study first be conducted to consider what is effective competition and to what extent it currently exists for Ohio consumers. In addition, OCC asserts that changes to law should be made in the consumers' best interest and should preserve existing options for customers purchasing natural gas. (OCC at 7-9).

AARP maintains that any suggestion to eliminate the SCO is misguided and in conflict with R.C. 4928.02, which seeks to substitute market forces for regulation when setting the price of natural gas for consumers. OCC agrees that further steps to alter the retail market, such as eliminating the SCO, would take a competitive option away from residential customers. OCC alleges information in the *Columbia SCO Case* showed that customers who have switched to marketers have paid more than those that stayed on the standard offer; therefore, the customers' right to choose the standard offer must be preserved. (AARP at 3; OCC at 4-5.)

AARP notes that the Commission has conducted auctions to give customers to winning CRNGS providers based on a formulaic approach to pass through monthly variable wholesale market prices, known as the SCO. However, while this approach to pass through monthly price changes may work to the advantage of customers in the current market, the potential volatility of the wholesale market price for natural gas has

historically demonstrated the dangers and risks when relying on the manner of providing default or standard offer service. AARP supports a more stable and portfolio-based approach to the provision of standard offer to residential customers. At a minimum, AARP recommends the Commission undertake no further initiatives to erode default service. AARP submits that Ohio's natural gas market is already fully competitive and should not be the subject of more radical changes. AARP believes the current available multiplicity of offers provides customers with a broad range of competitive options and each option presents market opportunities. For example, AARP explains that the SCO and governmental aggregation options minimize costs, and bilateral contracts provide an opportunity for marketers to provide customers with more options, as well as compete on price. (AARP at 3-4, 7.)

According to AARP, the most important thing that can be done to support the competitive market is to effectively regulate CRNGS providers. AARP notes that the Commission is reviewing certain Administrative Code rules which affect the competitive markets and AARP has filed comments expressing its recommendations. *See In re Rules for Competitive Retail Natural Gas Service*, Case No. 12-925-GA-ORD (CRNGS Rules Case). For example, in the CRNGS Rules Case, AARP states consumers would benefit from stricter regulation of CRNGS, recommending: a focus on consumer protections and preventing unconscionable and illegal business practices; providing customers with the number of complaints filed against CRNGS providers and the outcomes of those complaints; and that the Commission be more vigilant in overseeing the actions of the CRNGS providers and the operation of markets. Moreover, AARP asserts customers need to have clear disclosures and understanding of terms, conditions, and pricing, and the ability to compare among multiple offers, in order to trust the market. (AARP at 7-8, 11.)

The Low-income Advocates do not believe that any regulatory changes, other than improvements in the regulation of marketers and marketing practices, need to be made. The Low-income Advocates offer that the General Assembly has established a process for considering alternative regulation plans that require the filing of an application, public notice, and a hearing, which provides customers with the opportunity to review and potentially alter the proposal to ensure consumers are protected. They note that each LDC is unique, as they are served by different combinations of pipelines, have different storage options, and different proximities to new and old sources of gas; therefore, individual alternative regulation plans make sense. The Low-income Advocates assert that the Commission's investigation into the natural gas retail market in this case should not substitute for the statutory process dictated for the adoption of alternative regulation plans. (LIA at 6, 11.)

The Low-income Advocates state that, overall, customers seem satisfied with how natural gas service is currently provided. According to the Low-income Advocates, using the market has proven superior to the gas cost recovery (GCR) process; however, this must

be weighed against the need to protect customers from unfair business practices of marketers. They believe the Commission has implemented Ohio law in a manner that provides customers with access to essential natural gas services at a reasonable price. The Low-income Advocates submit that the issues that still need to be addressed are improved marketer regulation and greater transparency in marketer offers, particularly in variable rate contracts. The Commission must be more vigilant in overseeing the actions of marketers and the operation of markets. (LIA at 5, 7, 11.)

The current approaches to harnessing the market, including of bilateral contracts, government aggregations, and the SCO, have been effective in providing reasonably priced service and represent options that are consistent with the state's policy because they provide customers with diverse competitive options, according to the Low-income Advocates. They declare that the current multiplicity of offers provides customers with a broad range of competitive options and each option presents market opportunities, i.e., the SCO and governmental aggregation options minimize marketing costs, and bilateral contracts provide an opportunity for marketers to present customers with more options and compete on price. (LIA at 7-8, 11.)

The Low-income Advocates assert that eliminating the SCO option will reduce market-based alternatives that are currently available to customers, stating that there is no evidence that discontinuing the SCO will lead to an overall increase in competition or that the SCO is hindering a competitive market. The Low-income Advocates offer that the SCO is transparent in its terms and conditions and in the manner the price is set, and it serves three additional functions: provides a benchmark for prices, thus, allowing customers a price-to-compare; provides regulatory bodies with a benchmark to gauge if prices are just and reasonable, and if marketers are engaging in proper business practices; and enhances competitive forces by using a market mechanism to establish a barrier against predatory pricing or tacit collusion. (LIA at 8-9.)

Buckeye believes that having the SCO set on the close of New York Mercantile Exchange (NYMEX) is too late; therefore, Buckeye recommends the SCO rate be set 45 days prior to gas flow. Buckeye explains that, since customers must commit to gas flow before knowing the SCO rate, the date that the rate is set should be moved up. Buckeye recommends 45 days because, since regulations provide for 45-days notice before contracts end, Buckeye asserts 45-days notice for the SCO rate would be consistent. (Buckeye at 1.) Dominion disagrees with Buckeye, asserting that an SCO rate established that far in advance may not reflect market prices as closely as one set just prior to the effective date of the rate; further many buyers purchase their interstate gas supply for the upcoming month at the end of each month (Dominion Reply at 3-4).

OGMG/RESA comment that, in a fully-competitive retail natural gas market, all customers are engaged in the market, making reasoned purchasing decisions through

direct contact with sellers, and there is no need for a default service program. They argue the SCO, as a government-authorized default service, in a market that has readily available competitive options is antithetical to the development of a fully-competitive market. Therefore, they assert that, for the retail natural gas market to be truly fully-competitive, the default service should be replaced with default suppliers charging market rates. According to OGMG/RESA, the first step to accomplishing this is to remove the subsidies that are currently flowing from shopping customers to the SCO. (OGMG/RESA at 2-3.)

According to OGMG/RESA, while the SCO is heralded as the price-to-compare, in actuality, the prices between the SCO suppliers and the CRNGS suppliers are not remotely comparable because of the costs that the SCO supplier avoids (OGMG/RESA at 5). OGMG/RESA set forth a number of instances where the costs incurred by CRNGS suppliers differ from the costs incurred by the SCO suppliers, namely:

- (1) The CRNGS rules, specifically Ohio Adm.Code Chapter 4901:1-29, create a level playing field for all CRNGS suppliers because they contain requirements concerning: disclosure of the exact terms of a retail product, i.e., fixed versus variable, early termination fees, etc.; enrollment of customers; verification of customer consent; notification to customers of right to rescind a contract; and record retention. Compliance with these requirements imposes costs on the CRNGS suppliers that are considered by the supplier to be a cost of doing business and are ultimately considered in creating their products and providing service. In contrast, all of the above services, if provided, are either supplied by the natural gas utility to the SCO at no cost or waived. While the utility incurs costs in keeping records, sending notices, and responding to customer inquiries, those services are part of the utility's base rates paid by shopping customers, as well as SCO customers. (OGMG/RESA at 3, 6.)
- (2) If a CRNGS supplier introduces a new product, it incurs ongoing costs to: identify new customers; create a plan to present the new product; ensure that the systems, people, and processes are in place to execute the plan, enroll customers, and retain enrollment records; gather information from the customer to provide information for electronic data interchange transactions with the host utility; and develop information systems to transmit data in a form acceptable to the host utility. In contrast, an SCO supplier participates in a single-day bidding process to derive a retail price adjustment (RPA) that is

added to a predetermined product structure; thus, there is no product design, development, or innovation. (OGMG/RESA at 3-4.)

- (3) Once enrollment is secured, verified, and uploaded to the utility, the CRNGS supplier must send written confirmation to the customer, also known as a welcome package. If issues arise regarding enrollment, the CRNGS supplier must send a letter to the customer explaining the issues and how to correct the issues. In contrast, in supplying SCO default service, no welcome package is required and, if errors do occur, no notification is sent by the SCO supplier regarding the issues with enrollment. If notification is sent at all, it is sent by the utility, at no cost to the SCO supplier. (OGMG/RESA at 4-5.)
- (4) The utility charges the CRNGS supplier for access to information, such as the customer list, account information, and load profile; sometimes there is a charge to the customer to switch to a competitive supply. The CRNGS supplier must obtain the customer's consent prior to obtaining the information. An SCO supplier is given the information, at no charge, without obtaining customer consent; there is no charge to move from one SCO supplier to another SCO supplier, or to move from a competitive supplier to an SCO supplier. (OGMG/RESA at 5.)
- (5) The default SCO supplier is the exclusive option for new customers who move into a service territory and for customers moving within the same territory without contract portability. Since the SCO supplier has no obligation to provide the customer with a copy of the terms and conditions of service, the customer may not realize that the natural gas service is being provided by a company other than the local utility; thus, the SCO supplier avoids costs. (OGMG/RESA at 6.)

OGMG/RESA argue that, currently, SCO service is inconsistent with R.C. 4929.02(A)(8), which provides that it is the state of Ohio policy to promote effective competition by avoiding subsidies. These commenters assert that the fact that certain requirements exist for retail products, but not for SCO service, favors the SCO over true retail products and distorts the market. According to OGMG/RESA, the subsidized SCO product cannot be fairly compared to the retail product offers on an apples-to-apples basis; thus, encouraging customer apathy, nonengagement, and irrational purchasing decisions based on false price signals. (OGMG/RESA at 5-6.)

OGMG/RESA recommend that, if the SCO is to continue to be available in a competitive market, SCO suppliers must be required to pay an assessment that reflects the value of all avoided costs of SCO service, as compared to the true retail product offers. In addition, they advocate that a switching fee should apply to all switching customers, whether they switch to or from CRNGS or SCO service, and the SCO supplier's current position as an option of first resort for new customers or those that move within the same territory should be eliminated. (OGMG/RESA at 7.)

Similarly, Dominion encourages the Commission to assess whether the existence of a default price thwarts the development of a fully-competitive retail natural gas marketplace. Dominion argues that the existence of a required, default-price offer may affect market outcomes because it represents an option that CRNGS suppliers may not offer on their own. Dominion also urges the Commission to continue to support proposals like Dominion's and Columbia's to exit the merchant function. Further, Dominion notes that the Commission should acknowledge the inherent differences between default pricing options, such as the SSO and SCO, and deregulated CRNGS prices, including the monthly variable rate (MVR) in evaluating Dominion's exit from the merchant function. Dominion asserts that these fundamental differences include that: SSO and SCO suppliers acquire a large number of customers all at once, whereas CRNGS offers are introduced at various times under various market conditions; SSO and SCO suppliers often have an April 1 to March 31 term of service for customers they acquire, whereas CRNGS suppliers offering MVR face greater uncertainty over the period a customer will remain; SSO and SCO suppliers on Dominion's system gain access to its on-system storage and assigned interstate storage service over the entire injection-withdrawal cycle that begins in April, whereas CRNGS suppliers will not fully realize that benefit if they acquire a customer after April; SSO and SCO suppliers on Dominion's system are allocated predetermined groups of customers in certain service areas, which has different costs to serve, whereas CRNGS suppliers generally can serve customers in both areas at the same price; and SSO suppliers predominantly serve Percentage of Income Payment Plan (PIPP) customers, which have different loads and load factors than CRNGS customers. (Dominion at 1-3.)

In its reply comments, AARP opposes OGMG/RESAs' proposal that default service be eliminated in order to create a competitive market. AARP urges the Commission to reject this proposal and instead focus on the need for more careful and explicit regulation of CRNGS marketing and contract terms in the CRNGS rules. AARP asserts that adopting this proposal will result in higher natural gas prices for residential customers and cites several studies from other states as support. Further, AARP asserts that OGMG/RESAs' proposal should be rejected because the proposal has no basis in Ohio law and there is no reasonable justification or factual support for the proposal. (AARP Reply at 2-6.) Similarly, in their reply comments, the Low-income Advocates argue that the Commission should not take any action to eliminate the SCO, as it would decrease the competitive

options available to customers. The Low-income Advocates further note that they generally support the initial comments that no changes are necessary to further support a CRNGS marketplace, but acknowledge AARP's comments that variable monthly pricing may be problematic because it does not provide rate stability and that it is necessary to effectively regulate CRNGS suppliers' activities. Further, the Low-income Advocates oppose comments by Dominion and OGMG/RESA that a market cannot be truly competitive unless it is entirely based on bilateral contracts, on the basis that eliminating the SCO or aggregation would eliminate options and would not further state policy. In addition, the Low-income Advocates oppose OGMG/RESAs' comments that CRNGS suppliers' costs make it difficult to compete with the SCO. The Low-income Advocates note that no marketer is entitled to success and argue that, if a CRNGS supplier wants to serve customers without the expense of customer acquisition and marketing, it should compete in the auction. (LIA Reply at 3-8.) OCC also opposes OGMG/RESAs' proposal to eliminate the SCO, proposal for an assessment on the SCO supplier, and proposal that customers switching to or from the SCO should pay switching fees, and that the SCO supplier should not be the default supplier. Additionally, OCC opposes OGMG/RESAs' comment that the SCO awards apathy and indifference on the part of customers. OCC points out that, for customers focused on short-term savings, the SCO is often the best choice. (OCC Reply at 3-7, 9-10.) NOPEC also disagrees with OGMG/RESAs' proposal to eliminate the SCO, arguing that this elimination is not required by state policy. NOPEC points out that, to the contrary, R.C. 4929.26 expressly provides for both opt-out governmental aggregation and default service provided by the LDC. (NOPEC Reply at 2-4.)

In its reply comments, IGS notes that market efficiencies, product innovation, and customer engagement are all jeopardized by the continued subsidization of SCO default service. IGS states that a subsidized SCO requires remedial action best addressed in the legislative process to ensure the SCO structure is consistent with state policy promoting effective competition. (IGS Reply at 1.)

OGMG/RESA respond to comments regarding the competitive markets in other states by pointing out that differences in each state reflect geographical differences in weather, system throughput, local area production, interstate transportation costs, etc., and arguing that the Commission should not draw conclusions from the conditions in other states. Further, OGMG/RESA reiterate their position that the SCO structure should be reconsidered in order to create a level playing field between SCO and Choice suppliers. Finally, OGMG/RESA dispute OCC's claims that customers who switched to marketers paid more than they would have had they remained part of the standard offer, arguing that the statistics used by OCC are irrelevant. OGMG/RESA further point out that, from 1997 through 2006, Choice customers saved over GCR customers by more than \$20 million. (OGMG/RESA Reply at 11-16.)



- (b) **What types of educational programs, if any, should be implemented to ensure that retail customers are fully aware of the options open to them for purchasing retail natural gas service?**

Hess believes Ohio customers are some of the most informed and shopping savvy customers in the country. Hess supports any additional educational efforts and requests that such efforts ensure that educational materials fairly present the SCO option. (Hess at 3.) Columbia recommends educational programs be addressed on a company-by-company basis, noting that, in accordance with the stipulation approved in the *Columbia SCO Case*, Columbia and interested stakeholders will be meeting to discuss educational programs. The approved stipulation in the *Columbia SCO Case* also includes a provision for a survey of nonresidential customers that will provide information on what educational programs should be provided to this class of customers. (Columbia at 2.)

OCC recommends that educational programs be comprehensive in their scope and cover all available options including the SCO, Duke's GCR, and marketers' offers, not just the options under various Choice programs. In addition, OCC states that educational programs should be studied for their effectiveness, with one measure being the extent to which consumers save money on their natural gas bills. Moreover, OCC asserts that such programs should achieve more than just an awareness for customers, but should assist customers in understanding the offers available to them. OCC believes the stipulations in the *Columbia SCO Case* and the *Dominion SCO Case* addressed that issue of the necessary education for nonresidential customers. However, OCC is concerned that there are not sufficient resources being dedicated to educate residential customers about standard rate offers and, therefore, the Commission should require natural gas utilities with standard rates to commit adequate resources to residential education. (OCC at 10-11, 14.)

AARP states, and the Low-income Advocates agree, that the Commission's Apples-to-Apples chart, which features the SSO and SCO prices, allows customers to compare options to a market price and make choices among competing suppliers (AARP at 8; LIA at 15). The Low-income Advocates assert that, without that the benchmark SSO or SCO prices on the chart, educational programs can only offer limited information to customers (LIA at 15). AARP and the Low-income Advocates recommend the Apples-to-Apples chart be expanded to: include offers that are available to the general public; provide real-time information; and be more widely available, perhaps by establishing a network through the public libraries (AARP at 8-9; LIA at 15-16). The Low-income Advocates also recommend that community-based nonprofit organizations provide counseling service to customers to assist them in reviewing their options among marketer offers (LIA at 16). Because marketers will benefit through the educational efforts of the Commission, AARP and Low-income Advocates believe marketers, not ratepayers, should be responsible for paying increased fees to support the Commission's educational efforts (AARP at 8-9; LIA at 16).

The Citizens Coalition proposes three educational programs. First, the Citizens Coalition asserts that the Apples-to-Apples internet comparison provided by the Commission should be made more user friendly, allowing the customer to input his/her monthly gas usage and zip code and then the computer program would calculate the offerings for the various marketers and display a bill for the customer to compare. Second, the Citizens Coalition advocates putting price comparisons on customers' bills showing what the customer would have been charged by other marketers for the same amount of gas for that month; since this system will have a cost, the marketers should be required to contribute to pay the cost based on the number of their actual customers. Third, utility advisers, from community organizations, should be established, so that customers could call these advisers and ask questions about their options. Funding for this third program could come from the Commission, foundations, governmental agencies, charitable organizations, and marketers, according to the Citizens Coalition. (Citizens Coalition at 6-8.)

OGMG/RESA submit that educational programs should be developed and implemented that focus on three key topics. First, they should distinguish between commodity and distribution services to help customers understand that: no matter who supplies their natural gas commodity, the utility will continue to maintain the distribution infrastructure and ensure reliability; the SCO is not a utility-default price, but a price provided by CRNGS suppliers; and the bill represents combined charges for both commodity and distribution, therefore, SCO and CRNGS supplier logos should be more prominent on the customer bills. Second, the utilities, the Commission, and consumer groups should encourage customers to shop and reassure them that their service will not be interrupted or negatively impacted by shopping. Third, customers should be provided a better understanding of competitive products and how to shop, as well as more information on CRNGS suppliers. To accomplish this, OGMG/RESA propose that the Commission's Apples-to-Apples chart list the SCO price along side of other retail product offers, rather than as the price-to-compare. Furthermore, customers should be educated on product attributes, including that the SCO is a variable rate that does not offer stability as a fixed-price option, and that CRNGS suppliers offer fixed-price products. (OGMG/RESA at 7-8.) In reply, OCC opposes OGMG/RESAs' suggestion that consumer education efforts focus on encouraging customers to shop, among other things. OCC argues that this proposal should not be adopted because it converts education into marketing. (OCC Reply at 8-9.)

Vectren states that ongoing consumer education by both regulators and utility companies is vital. Vectren recommends that regulators and utility companies also take customer surveys to gauge customer interest in a restructured commodity market, as well as overall awareness of their ability to choose. Finally, Vectren notes that the utilities hold the most channels of communication with customers and should be proactive in their

education, including articulation of direct support of the Choice program. (Vectren at 1-2.) Dominion comments that the Commission should not adopt a one-size-fits-all approach to customer education, but should instead base programs on market research conducted to assess customer needs and preferences. Further, Dominion submits that, depending on the magnitude of the programs employed, the Commission should consider the need to recover the associated costs. (Dominion at 4-5.)

The Low-income Advocates note their agreement with AARP's support for the Apples-to-Apples chart, and further note their agreement with several commenters that CRNGS suppliers should shoulder the costs for customer education, on the basis that they are the beneficiaries of customer education. Further, the Low-income Advocates agree with that there should be surveys to determine what information customers need; however, the Low-income Advocates contend that, in addition to comprehensive analysis, there should be funding for community-based organizations to provide customers with assistance in understanding and reviewing their options. (LIA Reply at 8-10.)

On reply, Dominion discusses OCC's comments that customer education should include identification for customers of which offers, if any, could save them money over the SCO rate or the GCR rate. Dominion comments that customer education should lay out the facts, including pricing, but not only pricing, regarding available options in order to allow customers to draw their own conclusions. Further, Dominion comments that OCC's recommendations to provide pricing information via bill inserts or special mailings are impractical, given that pricing is dynamic and should be posted on a website, such as Dominion's DominionGasChoice.com web site, which incorporates the Commission's Apples-to-Apples data on a real-time basis. Additionally, Dominion responds to several commenters' recommendations that customer education should include "not choosing" as an option by asserting that education should not sway customers not to choose any particular option or supplier. Next, Dominion responds to the Citizens Coalition's comment that price comparisons should be provided to the customer on a monthly gas bill in order to compare the price the customer pays the marketer with other possible options. Dominion opposes this proposal on the basis that customers' bills already contain a large amount of required information, there are hundreds of different prices available from CRNGS suppliers, and customers may select a fixed-price offer with the knowledge that variable prices could fall below the fixed rate. Dominion next replies to comments recommending customer surveys for gauging customer understanding, stating that such surveys could be used on a periodic basis to gain information as a part of a customer education program; however, Dominion asserts that it is unnecessary to use such surveys to gauge customer interest in a restructured commodity market as recommended by Vectren, as Dominion believes this is a question that should be entrusted to the Commission. Finally, Dominion asserts that LDCs should not be required to include SCO supplier and CRNGS supplier logos on customer bills as recommended by OGMG/RESA. Dominion asserts that this recommendation would add clutter to bills, would be

burdensome, and that LDC billing systems would need to implement considerable programming and bill print modifications in order to carry out the recommendation. (Dominion Reply at 4-6.)

- (c) **Does the SCO provide a competitive level playing field for SCO providers and CRNGS providers? For example, how, if at all, do the following processes differ for SCO and CRNGS providers: data collection; contract administration; customer enrollment; and customer service?**

Columbia states that it developed its Choice, government aggregation, and SCO programs with the intent of maintaining a level playing field and, whenever possible, all participants are treated equally with respect to capacity assignment, demand curves, payment to suppliers, and other areas of the market. Columbia acknowledges that the operations of specific CRNGS providers differ from provider to provider. While the development of the Choice, government aggregation, and SCO programs has enabled consumers to elect the appropriate commodity service that fits their needs, the differences in these programs require different cost structures for both providers and consumers. However, Columbia believes that any artificial attempt to modify the cost structures should be made with the customers' interest in mind. (Columbia at 3.)

AARP asserts, and the Low-income Advocates agree that, based on the CRNGS activity in Ohio, as reflected in the offers on the Apples-to-Apples chart, CRNGS providers are fully capable of creating and marketing offers that are alternatives to the SCO. The Low-income Advocates note that the Apples-to-Apples charts reflect the following, as far as the number of marketers that are offering prices below the SCO: four in Columbia's territory; seven in Dominion's territory; and five in Vectren's territory. According to the Low-income Advocates, while using the SCO provides some market advantages, there is no evidence that the resulting market does not function properly or that the SCO operates as a market barrier. (AARP at 10; LIA at 18.)

AARP states that the SCO is a vital consumer protection and its purpose is to provide a competitive offer for any customer not otherwise served by a CRNGS provider. The SCO is based on competitive auctions and acts as a benchmark for customers to compare with offers by CRNGS providers. AARP notes that CRNGS providers are free to offer a lower price or a different type of service and, to the extent customers agree with those alternative offers, CRNGS providers benefit. If the CRNGS providers fail to provide a service that customers find valuable, the problem is not with the SCO, but with the competitive market offers. (AARP at 9-10.)

According to Buckeye and OGMG/RESA, the SCO does not provide a level playing field for SCO providers and CRNGS providers. Buckeye states that CRNGS providers are consistently forced to provide offers at a higher rate than the SCO rate, because the SCO

rate does not contain enough allocated costs. Buckeye explains that the allocation costs, including costs to local utilities spent on the SCO, the auction expenses, and customer service time, are not placed on top of the SCO adder. While Buckeye did not opine on what the adder should be, it believes that zero adder creates an unlevel playing field. OGMG/RESA assert that the current structure of the SCO creates a default form of service that gives SCO suppliers an unfair competitive advantage over non-SCO suppliers by allowing SCO suppliers to operate under a different, less restrictive, set of standards; thus, frustrating competitive development and customer involvement. According to OGMG/RESA, in a truly competitive environment, all suppliers operate under the same set of rules, and suppliers differentiate their brand, products, and services by business strategies and efficiencies that attract and retain customers. OGMG/RESA assert that lack of customer engagement causes inconsistent purchasing decisions, impedes market development, and discourages innovation of new products and services, as well as market entry by new providers. (Buckeye at 1; OGMG/RESA at 8-9.)

OGMG/RESA note that data collection, contract administration, customer enrollment, customer service process, and applicable switching fees differ between SCO and CRNGS providers, and create an unfair cost structure favoring the SCO. Moreover, without contract portability, the SCO is positioned as the option of first resort for new customers and customers moving within the service territory. As stated previously, SCO suppliers are given customer account numbers without the customers' consent and the utility bundles customers into large tranches, gathers all the necessary customer information, and provides the package to the SCO supplier. Conversely, the CRNGS supplier must obtain customer information and consent for enrollment from the customer and must pay the utility for customer-related information that is inferior to that provided free to the SCO suppliers. OGMG/RESA point out that the requirements in Ohio Adm.Code 4901:1-29-04, requiring records be kept for two years, and Ohio Adm.Code 4901:1-29-06, regarding customer enrollment and the provision requiring the CRNGS provider give a copy of the terms and conditions to the customer, do not apply to SCO suppliers. While OGMG/RESA believe these rules are important, they illustrate how SCO suppliers avoid certain costs. OGMG/RESA also note that the SCO is often portrayed as the price-to-compare, which gives customers the misimpression that it is the price to beat for comparison purposes with other products. (OGMG/RESA at 9-11.)

OCC contends, and the Citizens' Coalition agrees, that the SCO provides a level playing field for SCO and CRNGS providers (OCC at 15; Citizens Coalition at 8). OCC believes this question invites proposals to increase the price of the SCO, which OCC believes would be an artificial inflation of the market price of the SCO that customers pay and such increases would diminish the effectiveness of a model that has saved customers money. While there may be some costs associated with the SCO auction that some gas marketers must pay, OCC argues that the costs are minimal and insignificant. Further, OCC submits that the list of costs should be more expansive and include the significant

costs incurred to make Choice rates available to customers, including the costs of enhancing the utilities' billing systems to allow CRNGS providers to offer more varied rate options and other non-gas service offerings, and the costs of the program that provides for utilities to purchase 100 percent of the marketers' receivables. (OCC at 14-16.)

Hess advises that the focus should be on whether the SCO facilitates an environment that provides fair prices and competitive choices to all customers. Hess recognizes that there may be costs incurred by the utilities to administer the SCO that are not currently incorporated in the SCO price. Therefore, Hess supports any Commission inquiry requiring the utilities to delineate their actual SCO-related costs that are not in the SCO price, so that the Commission could evaluate the propriety of these costs in an adjudicatory setting, while allowing interested persons to comment. However, Hess is concerned with efforts to artificially inflate the SCO price in the name of leveling the playing field between SCO and CRNGS suppliers. (Hess at 4.) Dominion opposes Hess's recommendation that the Commission initiate an investigation into requiring the SCO utilities to delineate all of their actual SCO-related costs that are not incorporated into the SCO price. Dominion argues that Hess has not justified this costly recommendation and that these costs are and will continue to be reviewed as part of rate cases. (Dominion Reply at 7.)

Despite the differences between the SCO and CRNGS products, Hess urges the Commission to refrain from developing proxy costs into the SCO price that reflect categories of costs borne by CRNGS suppliers that are not borne by the SCO suppliers. Incorporation of proxy costs would have disastrous effects on the Ohio retail market, needlessly increase costs for SCO customers, inject uncertainty into the market, and send the signal that the Commission will take steps to undermine the SCO program, regardless of its success. As a result, SCO bidders will have no incentive to continue making long-term investments and the SCO prices will increase without the proper long-term incentive. (Hess at 4-5.) The Low-income Advocates agree with Hess that the Commission should refrain from developing proxy costs into the SCO price that reflect categories of costs borne by CRNGS suppliers that are not borne by SCO suppliers. The Low-income Advocates assert that this practice of attempting to level the playing field by taxing one method of competitive pricing would be antithetical to Ohio's statutory framework. (LIA Reply at 11-12.)

Dominion submits that the SCO does not provide an entirely level playing field due to the inherent differences between how the SCO rate is established and how CRNGS offers are presented. More specifically, Dominion points out that the NYMEX adder is established in the auction for an entire year, which is essentially driven by the market conditions existing for a few hours the morning of the auction. Those market conditions then dictate the basis differentials, storage spreads, and other CRNGS cost components that affect supplier bidding in the auction process. Dominion concludes that, even though

the NYMEX component of the SCO price changes monthly, it may not adequately reflect variation in the underlying cost of supply incurred by CRNGS suppliers. (Dominion at 6.)

In its reply comments, OGMG/RESA reiterate differences between Choice and SCO service that they argue distort the market and add that the structure of the SCO allows SCO suppliers to avoid compliance with all of the consumer protections that are part of consumer interaction. Further, OGMG/RESA disagree with comments that retail customer may choose the SCO, arguing that evidence shows very few customers affirmatively select an SCO. (OGMG/RESA Reply at 4-5.)

**(d) Are there barriers to market entry associated with the SCO and, if so, how are those barriers affecting the growth of Ohio's competitive market?**

The Low-income Advocates admit that there are minimal barriers to market entry associated with the SCO. However, they point out that the Ohio SCO process is a leading national model that addresses market barriers to entry. The Low-income Advocates note that the growth of Ohio's competitive market highlights the ability of retail providers to offer different products and pricing schemes that are outside of the purview of the regulated utilities' role. (LIA at 19.)

AARP, OCC, and the Citizens Coalition do not believe there are barriers to market entry associated with the SCO (AARP at 10; OCC at 16; Citizens Coalition at 9). AARP states that the purposes and values of the SCO outweigh any perceived barriers, none of which have been documented in this case (AARP at 10). OCC points to the following Choice participation rates, as of March 2013, to support its contention that the market is robust: Dominion 72.3 percent; Duke 46.5 percent; Vectren 43.3 percent; and Columbia 38.4 percent. However, OCC states that the significance of market share, as it relates to the competitiveness of the Choice market, should be considered by the Commission, noting that its review of the current Choice programs indicates that: for Columbia and Dominion, the four largest marketers have 83.2 percent and 72.66 percent, respectively, of the total Choice market share; and for Vectren, the two largest marketers have 89.6 percent of the total Choice customer market share. OCC submits that these statistics confirm that the barrier to entry is low and that gas marketers are active in all Choice markets, whether competing against the SCO in the territories of Dominion, Columbia, and Vectren, or against the GCR in Duke's territory. (OCC at 16-18).

Likewise, Columbia is not aware of barriers to SCO market entry, other than the fact that participants must have certain level of understanding to participate in the market; however, this does not seem to have an effect on the growth of Ohio's competitive natural gas retail market given the number of suppliers and customers that participate in Columbia's choice program. Columbia points out that, for the auction periods of 2010 through 2013 there have been: between 11 and 18 registered bidders in each auction;

between 10 and 15 bidders that participated in each auction; between 5 and 7 winning bidders in each auction; and between 18 and 26 active Choice suppliers at the time of each auction. (Columbia at 3-4.) Vectren states that it has not experienced any circumstances indicating the existence of a barrier to market entry due to the SCO. In fact, Vectren points out that: the number of retail suppliers serving Choice eligible customers on Vectren's system has increased; the number of Choice eligible customers enrolled in Vectren's Choice program has increased; and the number of suppliers participating in Vectren's SCO auction has increased. (Vectren at 3.)

Dominion comments that, although there are some barriers to entry for SCO suppliers, they do not appear to have affected the growth of Ohio's competitive market. More specifically, Dominion states that two types of barriers impact SCO suppliers including (1) those related to the nature of SCO, and (2) those related to increased collateral requirements. Nevertheless, Dominion asserts that its Energy Choice program has thrived and has among the highest percentage of participants and largest number of suppliers in the country. (Dominion at 7-8.)

Hess states that, at this time, the only barriers to the market are the necessary ones, e.g., the rigorous credit requirements for SCO bidders to protect SCO customers from an SCO supplier default. According to Hess, given the hyper-competitiveness of the current SCO programs, as evidenced through the steadily declining auction results, there are no barriers affecting the growth of the market; therefore, Hess does not believe any changes should be made. (Hess at 5.)

OGMG/RESA assert that there are at least two barriers to market entry associated with the SCO. First, potential suppliers may be discouraged from entering the Ohio market because of the current market design that favors the SCO default service over CRNGS. Second, because the SCO is characterized by the price-to-compare, CRNGS suppliers are discouraged from developing more innovative products that are not necessarily priced on a per-unit basis, and customers are discouraged from considering products with different attributes because it is difficult to understand how the products compare to the SCO. (OGMG/RESA at 11-12.)

In its reply comments, the Low-income Advocates agree with Hess that the only barriers to the market are necessary barriers. Further, the Low-income Advocates cite the data provided by the LDCs indicating that more companies are applying for and being certified as CRNGS suppliers for the notion that any market barriers do not seem to be keeping new marketers from entering or driving out current marketers. (LIA Reply at 12.) Similarly, OCC cites to the data provided by the LDCs in support of its argument that the market is highly competitive. Additionally, OCC disputes OGMG/RESAs' identified barriers to competitive entry due to the SCO, noting that the advantages of providing SCO



service are balanced by risks and obligations that Choice providers do not face. (OCC Reply at 11-12.)

**(e) Is the SCO functioning as a competitive market price?**

Columbia believes the SCO is functioning effectively as a competitive market price. In support, Columbia points to the fact that: customer participation rates in Columbia's SCO and SSO programs have approximated 60 percent over the period since their inception; there is ongoing strong interest and participation by retail natural gas suppliers in the auction process; and the competitive bidding process continues to drive down Columbia's RPA. Columbia points out that the RPA has decreased from \$1.93 to \$1.29 since the RPA was initiated in April 2010.<sup>1</sup> Columbia notes that it has only held two auctions as a result of the stipulation approved in the *Columbia SCO Case* and it has plans to conduct SCO auctions for at least four more years. Therefore, Columbia advocates that, before making any additional changes to support a competitive retail natural gas market, the Commission should let the current stipulation run its course and collect additional years of data that can be analyzed. (Columbia at 4-5.) Hess agrees with Columbia, citing the RPA decline. Further, Hess contends that the SCO program is a proven, reliable, and cost-effective tool to transition the merchant function responsibilities from utilities to competitive suppliers. (Hess at 6.) Vectren also agrees that the SCO price is reflective of the competitive market price of delivering gas supply, and notes that the RPA in Vectren's SCO program compensates SCO suppliers for the following: interstate pipeline demand and variable costs; system balancing responsibilities; unaccounted for gas volumes; actual variations from the average British thermal unit values used in price and daily delivery volume determinations; volume variations resulting from proration of SCO prices among calendar months; and other costs and risk relating to the provision of SCO service (Vectren at 4).

AARP submits, and the Low-income Advocates and OCC agree, that the SCO is functioning as a competitive variable market price (AARP at 10; LIA at 19; OCC at 18.) AARP and the Low-income Advocates note that the SCO plays the same role in the retail market that the NYMEX plays in the wholesale market. AARP and the Low-income Advocates point out that the SCO is a market-based price that passes through wholesale market prices with an adder that is approved by the Commission as part of the auction process. They agree that the SCO auctions promote diversity of suppliers by allowing a CRNGS provider to obtain a relatively large number of customers without having to absorb customer acquisition costs. Moreover, AARP and the Low-income Advocates assert that the auction process provides a societal benefit by providing a price benchmark that benefits everyone, providing market transparency to both customers and regulators, according to AARP. AARP believes the SCO serves as an important market-based check

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<sup>1</sup> The \$1.93 price includes the balancing charge; however, the \$1.29 reflects the pricing modification reflecting that suppliers are no longer responsible for the balancing charge.

on predatory pricing or collusion. The Low-income Advocates claim there is no better approach to competitive pricing than a direct link to the market commodity pricing plus an auctioned adder. (AARP at 10-11; LIA at 19-20.)

Buckeye maintains that, because CRNGS providers are consistently forced to provide offers at a higher rate than the SCO, the SCO is not functioning as a competitive market price (Buckeye at 1). OGMG/RESA agree with Buckeye, noting the inequities and subsidies currently afforded the SCO. OGMG/RESA argue that characterizing the SCO as the price to beat further distorts the market and discourages new entrants and innovative product development. (OGMG/RESA at 12.) Buckeye points out that the Commission's Apples-to-Apples chart shows offers that are consistently higher than the SCO rate. (Buckeye at 1.)

OGMG/RESA recommend that, if the SCO service is continued, the structure of the SCO should be changed to create consistency in the market and true comparability of cost, namely: SCO suppliers should pay an assessment that reflects the inherent financial value of all avoided costs; any switching fees should apply to all customers; the SCO's current position as the option of first resort should be eliminated; and the logos for SCO and CRNGS suppliers should be more prominently placed on customer bills (OGMG/RESA at 12). In reply, NOPEC strongly disagrees with OGMG/RESAs' recommendations that: SCO suppliers pay an assessment that reflects the avoided costs of service vis-à-vis CRNGS service; customers pay a switching fee when switching between SCO suppliers; and new customers be permitted to enroll immediately with a CRNGS supplier. NOPEC argues that imputing CRNGS costs into the SCO would distort the SCO price and violate R.C. 4929.02(A)(7); further, immediate enrollment of new customers with a CRNGS supplier would deny them the opportunity to join a governmental aggregation. (NOPEC Reply at 4-5.)

Dominion asserts that the SCO mechanism is more competitive and market-based than a mechanism such as the GCR, but is still a substantially regulated pricing mechanism. As such, Dominion comments, it may introduce distortions that prevent the development of a fully-competitive market. (Dominion at 8.)

On reply, the Low-income Advocates disagree with OGMG/RESA that the SCO's current position of first resort should be eliminated, arguing that, if a CRNGS supplier wants to be assigned new customers or customers that move to a new service territory, they should bid into the SCO auction. Further, the Low-income Advocates oppose Dominion's comment that the SCO is a substantially regulated pricing mechanism, pointing out that the NYMEX and the auction are competitive. (LIA Reply at 13-14.) OCC also opposes OGMG/RESAs' comments and argues that, in light of the competitiveness of the marketplace and benefits for customers, OGMG/RESAs' recommendations to change the operation of the market should be rejected. OCC argues that adopting OGMG/RESAs'

recommendation to eliminate the SCO would result in fewer options and could result in higher prices. (OCC Reply at 13-14.)

In its reply comments, OGMG/RESA note the list provided by Vectren of items that an SCO supplier must address when considering its bid in the annual SCO auction. OGMG/RESA argue that Choice suppliers must also consider all of these things on the list, as well as additional items that do not exist for an SCO supplier including: product design; obtaining customer lists; designing, producing, and distributing customer information materials; developing enrollment collateral; ensuring all products and materials comply with applicable law and rules; executing marketing campaigns; developing information systems; gathering and processing enrollment information; preparing and sending customer notifications; and maintaining call center and information technology resources. OGMG/RESA conclude that SCO default service, in its current form, inappropriately avoids costs and is misleading when used as a price-to-compare. (OGMG/RESA Reply at 8-10.)