

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the)
Ohio Gas Company for Approval of)
the Special Arrangement for Firm) Case No. 16-1535-GA-AEC
Gas Transportation Service with)
Schmidt Brothers, Inc.)

**MOTION OF THE OHIO GAS COMPANY
SEEKING ORDER TO AMEND APPLICATION**

Frank P. Darr (Reg. No. 0025469)
Trial Attorney
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
Fifth Third Center
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
willing to accept service by e-mail

September 15, 2016

Attorneys for Ohio Gas Company

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the)
Ohio Gas Company for Approval of)
the Special Arrangement for Firm) Case No. 16-1535-GA-AEC
Gas Transportation Service with)
Schmidt Brothers, Inc.)

**MOTION OF THE OHIO GAS COMPANY
SEEKING ORDER TO AMEND APPLICATION**

Under Rule 4901-1-06, Ohio Administrative Code (“O.A.C.”), the Ohio Gas Company (“Ohio Gas”) moves to amend its Application and to substitute the attached revised Special Arrangement in place of the one filed with the Application. The reasons for seeking this amendment are set out in the attached Memorandum in Support.

Respectfully submitted,

/s/ Frank P. Darr

Frank P. Darr (Reg. No. 0025469)
Trial Attorney
Matthew R. Pritchard (Reg. No. 0088070)
McNEES WALLACE & NURICK LLC
Fifth Third Center
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
willing to accept service by e-mail

Attorneys for Ohio Gas Company

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the)
Ohio Gas Company for Approval of)
the Special Arrangement for Firm) Case No. 16-1535-GA-AEC
Gas Transportation Service with)
Schmidt Brothers, Inc.)

MEMORANDUM IN SUPPORT

Under Rule 4901-1-06, the Public Utilities Commission of Ohio (“Commission”) or attorney examiner may authorize an amendment of an application on a motion of a party for good cause shown. This Motion seeks an amendment of the application to incorporate a revised Special Arrangement. The Amended Application and revised Special Arrangement are attached as Exhibit 1 to this Motion.

The motion is necessitated by a recommendation by the Staff of the Commission for modifications of the Application for Approval of a Special Arrangement filed July 6, 2016. After the Application was filed, Staff recommended modifications to the Special Arrangement. Those recommendations were acceptable to Ohio Gas and Schmidt Brothers, Inc., and they have executed a revised Special Arrangement. Accordingly, Ohio Gas seeks to amend its Application and substitute the attached revised Special Arrangement in place of the one filed with the Application.

Based on the circumstances discussed above, Ohio Gas has demonstrated good cause for the amendment of its Application, and the Commission should issue an order permitting the amendment as provided by Rule 4901-1-06, O.A.C.

Respectfully submitted,

/s/ Frank P. Darr

Frank P. Darr (Reg. No. 0025469)

Trial Attorney

Matthew R. Pritchard (Reg. No. 0088070)

MCNEES WALLACE & NURICK LLC

Fifth Third Center

21 East State Street, 17TH Floor

Columbus, OH 43215

Telephone: (614) 469-8000

Telecopier: (614) 469-4653

fdarr@mwncmh.com

(willing to accept service by e-mail)

mpritchard@mwncmh.com

willing to accept service by e-mail

Attorneys for Ohio Gas Company

CERTIFICATE OF SERVICE

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion of the Ohio Gas Company Seeking Order to Amend Application and Memorandum in Support, Amended Application and revised Special Arrangement* was sent by, or on behalf of, the undersigned counsel for Ohio Gas Company to the following parties of record this 15th day of September 2016, *via* electronic transmission.

/s/ Frank P. Darr
Frank P. Darr

William L. Wright
Chief, Public Utilities Section
Office of Attorney General
30 East Broad Street, 16th Floor
Columbus, OH 43215
william.wright@ohioattorneygeneral.gov

**COUNSEL FOR THE STAFF OF THE PUBLIC
UTILITIES COMMISSION OF OHIO**

EXHIBIT 1

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the)
Ohio Gas Company for Approval of)
the Special Arrangement for Firm) Case No. 16-1535-GA-AEC
Gas Transportation Service with)
Schmidt Brothers, Inc.)

AMENDED APPLICATION AND STATEMENT

Frank P. Darr (Reg. No. 0025469)
Trial Attorney
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
Fifth Third Center
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
willing to accept service by e-mail

September 15, 2016

Attorneys for Ohio Gas Company

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by the)
Ohio Gas Company for Approval of)
the Special Arrangement for Firm) Case No. 16-1535-GA-AEC
Gas Transportation Service with)
Schmidt Brothers, Inc.)

AMENDED APPLICATION AND STATEMENT

Now comes the Ohio Gas Company (“Ohio Gas”), and files with the Public Utilities Commission of Ohio (“Commission”) for its approval pursuant to Section 4905.31, Revised Code, a Special Arrangement (attached hereto as Appendix A) with Schmidt Brothers, Inc. (“Schmidt”).

In support of this Amended Application, Ohio Gas states that:

- 1) Ohio Gas is a public utility and a natural gas company as defined in Sections 4905.02 and 4905.03(A)(6), Revised Code.
- 2) As a public utility and natural gas company, Ohio Gas is subject to the Commission’s jurisdiction pursuant to Section 4905.05, Revised Code.
- 3) On September 14, 2016, Ohio Gas and Schmidt entered into a Special Arrangement for Firm Gas Transportation Service to facilities owned and operated by Schmidt. This Amended Application seeks approval of that arrangement for firm gas transportation service, pursuant to which Ohio Gas will take delivery of natural gas secured by Schmidt for redelivery to Schmidt’s facility.

4) Approval of the Special Arrangement will allow Ohio Gas to provide redelivery service to Schmidt on a firm basis, enabling Schmidt to secure reliable long-term redelivery service at an acceptable cost.

5) The provision of redelivery service by Ohio Gas to Schmidt shall not impair or reduce the quality of service to other Ohio Gas customers.

Through the Special Arrangement, Ohio Gas and Schmidt have agreed to provisions regarding the termination of this Special Arrangement. Ohio Gas and Schmidt both desire the Commission's approval to make the Special Arrangement's termination provisions operable without obtaining any Commission approval that may be required prior to ending this Special Arrangement.

WHEREFORE, Ohio Gas respectfully requests the Commission to approve the Special Arrangement for Firm Gas Transportation Service between Ohio Gas and Schmidt.

Respectfully submitted,

/s/ Frank P. Darr

Frank P. Darr (Reg. No. 0025469)
Trial Attorney
Matthew R. Pritchard (Reg. No. 0088070)
MCNEES WALLACE & NURICK LLC
Fifth Third Center
21 East State Street, 17TH Floor
Columbus, OH 43215
Telephone: (614) 469-8000
Telecopier: (614) 469-4653
fdarr@mwncmh.com
(willing to accept service by e-mail)
mpritchard@mwncmh.com
willing to accept service by e-mail

Attorneys for Ohio Gas Company

APPENDIX A

**SPECIAL ARRANGEMENT FOR
FIRM GAS TRANSPORTATION SERVICE**

This Agreement, made and entered into as of the 14 day of September, 2010, by and between Ohio Gas Company (hereinafter referred to as "Company"), 200 West High Street, Bryan, Ohio, and Schmidt Brothers, Inc. (hereinafter referred to as "End User").

WITNESSETH:

WHEREAS, End User has made arrangements to secure its own supply of natural gas and desires to have Company use its facilities and equipment to transport said supply on a firm basis;

WHEREAS, End User has an average daily consumption of natural gas of 50 Mcf or more;

WHEREAS, Company is willing to receive and transport said natural gas to End User's facilities on a firm basis in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and covenants and agreements herein set forth, the parties mutually agree as follows:

ARTICLE I - DEFINITIONS

As used in this Agreement, the following terms shall have the meanings indicated below:

- A. The term "gas" shall mean the gas which is provided to End User's plant and made available to Company under this Special Arrangement.
- B. The term "month" shall mean calendar month.
- C. The term "Mcf" shall mean one thousand (1,000) cubic feet gas with the unit of volume for measurement purposes being based upon one (1) cubic gas at a pressure of fourteen and six-tenths (14.6) pounds per square inch absolute with corrections for super compressibility and at a temperature of sixty (60) degrees Fahrenheit.
- D. The term "Delivery Point" shall mean the location at which Company shall first receive End User's gas supply.
- E. The term "Redelivery Point" shall mean the location where gas is metered at End User's premises for billing purposes.

- F. The term "Nomination" shall mean the quantity of gas which End User will have delivered to the Delivery Point for redelivery by Company for the relevant period. It is understood that the ultimate Nomination each month must take into account Company's allowance for unaccounted-for gas ("UFG") and any similar reductions made by other transporters.
- G. The term "Imbalance" shall mean the daily difference between the quantity received by Company at the Delivery Point and the quantity consumed by End User as measured at the Redelivery Point. It is understood that quantity received by Company at the Delivery Point must exceed the quantity measured at the Redelivery Point by the amount of the adjustment required by Article VIII. An imbalance exists when actual receipts adjusted for unaccounted-for gas are either greater or less than actual deliveries. The term "day " or "daily" shall have the same meaning as established by the supplier that makes End User's gas available to Company at the Delivery Point.
- H. The term "Commission" shall mean the Public Utilities Commission of Ohio.
- I. The term "firm" shall indicate the quality of service provided under the terms and conditions of this Agreement with Company providing service absent a force majeure condition. Company shall allocate and reserve pipeline capacity of Company's facilities on behalf of Customer for redelivery of Customer's supply for consumption by Customer. Human needs and public welfare customer as defined by the Public Utilities Commission of Ohio will have the highest priority of service followed by firm and interruptible.
- J. The term "Index" shall be the monthly value determined based on the published price for the Texas, Oklahoma Region as reported in the table "Prices of Spot Gas Delivered to Panhandle Eastern Pipe Line Company" ("PEPLC") published in the first issue of "Inside F.E.R.C.'s Gas Market Report" for the month in which deliveries are made. In the event this publication ceases to exist as a convenient reference, the value shall be determined based on accepted industry practice as applied to the determination of prices for first of the month spot purchases from the same region and delivered to PEPLC parties otherwise agree, in writing, upon another publication.
- K. The term "Decatherm" shall be the Company's billing unit measured by its thermal value. A Decatherm or Dth is ten (10) therms. It shall be proper for Company to rely upon the heating value measurements or assumptions provided to Company by upstream suppliers for purposes of Company's determination of the heating value of gas received by End User. Company shall not be required to install any equipment to measure heating value at the End User's premises for the purpose of converting volumetric measurements into Dth.

ARTICLE II- TERM

The term of this Agreement shall commence on September 1, 2016 and shall continue for a preliminary term of one (1) year continuing thereafter from month to month subject to cancellation (subsequent to the preliminary term) by either party on thirty (30) days' written notice provided, however, that if deliveries of End User's gas do not commence within ninety (90) days of the beginning of the term of this Agreement, Company, at its sole option, may terminate the Agreement on ten (10) days' notice.

ARTICLE III - NOMINATIONS

On or before the fifteenth (15th) day of each month, End User shall specify and provide to Company in writing, by telephone or as the parties may otherwise agree, the daily quantity of natural gas End User requires for use at its premises during the next following month. For example, the Nomination for February's gas volumes must be provided to Company by no later than January 15. End User understands that a failure to provide Nominations by the due date specified herein will relieve Company from any obligation to communicate Nominations to suppliers or to transporters and shall relieve Company of any obligation to deliver gas to End User for the period which would have been covered by the Nomination.

ARTICLE IV - CAPACITY

- A. Subject to the terms and conditions of this Agreement, Company shall receive for End User's account; gas obtained by or for End User and delivered each day to Company at the Delivery Point and redeliver each day to End User said gas subject to a reduction to recognize the allowance for unaccounted-for gas as specified herein. It is understood that Company has no obligation to provide End User with gas which is part of Company's system supply available to satisfy full service customer requirements under this Agreement or otherwise and End User hereby releases Company from any claim or action arising as a result of or in connection with a failure in End User's gas supply.
- B. End User's gas shall not be deemed part of Company's system supply.
- C. It is understood that Company's obligation to redeliver End User's gas supply shall not exceed 360 Mcf/Dth per day.
- D. It is understood that Company's obligation to redeliver End User's gas supply shall not exceed 11,160 Mcf/Dth per month.

ARTICLE V - IMBALANCE

- A. End User's daily gas utilization at the Redelivery Point shall equal the daily amount of gas End User provides to Company at the Delivery Point (subject to adjustment for the allowance for unaccounted-for gas) plus or minus five percent (5%). For each Dth of positive or negative Imbalance in excess of five percent (5 %) each day (hereinafter referred to as "Excess Imbalance"), End User shall pay to Company an Imbalance fee as specified below.
- B. If a negative Excess Imbalance exists, End User shall be obligated to pay to Company a sum (in addition to all other charges specified herein) equal to the total amount of the negative Imbalance multiplied by the rates and charges in Company's General Service Tariff on file and approved by the Commission including the applicable charge for the cost of purchased gas. The first block in said Tariff shall be used for such purpose. This additional charge does not entitle End User to rely upon Company to secure a supply of gas or provide "back up" or supplemental gas service but merely represents a means of eliminating the Imbalance condition to the extent Company has gas available to it to do so without imposing additional cost on system supply customers.
- C. If a positive Excess Imbalance (actual daily receipts adjusted for unaccounted-for gas more than five percent (5%) greater than actual daily deliveries) is not eliminated in the month following its

creation exists, End User hereby authorizes Company to purchase the Excess Imbalance according to the following schedule:

<u>Percentage Imbalance Level</u>	<u>Sales Price</u>
0 – 5	(No Sale)
> 5 – 10	.9 x Index
> 10 – 20	.7 x Index
> 20	.5 x Index

ARTICLE VI - RATES AND CHARGES

In addition to all other charges specified herein, End User shall compensate Company for the firm redelivery service contemplated herein on the basis of the Schedule set forth in Appendix A attached hereto and incorporated herein by reference. All applicable charges in Appendix A shall be used to determine End User's bill.

The rates and charges set forth on the Schedule in Appendix A are based upon gross receipts tax rate of four and seventy-five one hundredths percent (4.75%). In the event a higher gross receipts tax rate shall be imposed upon Company during the term of (or upon revenues received by Company pursuant to) this Agreement and the event such tax is applied to any portion of the revenue Company receives in its capacity as an agent, said rates shall be adjusted upward to reflect the additional tax obligation of Company. This provision shall survive the termination of this Agreement to permit Company to recover any tax expense it may incur as a result of this transaction.

ARTICLE VII - UNACCOUNTED-FOR GAS

End User's monthly meter readings employed for billing purposes shall be adjusted upward so as to include an allowance for unaccounted-for gas ("UFG"). The effect of this adjustment is to reflect the fact that Company will accept, for redelivery, an amount of End User's gas which is in excess of the amount metered at the Redelivery Point. Said adjustment shall operate, in effect, to increase the monthly meter reading by the percentage specified in Appendix A and, to the extent reasonably possible, End User's gas supply shall be the source from which Company's adjustment shall be made.

ARTICLE VIII - GENERAL TERMS AND CONDITIONS

- A. This Agreement is subject to all Federal, State of Ohio and local laws and to the orders, rules and regulations of any Federal, State or local agencies having jurisdiction thereof.
- B. In the event that either party hereto is rendered unable, wholly or in part, by force majeure, to carry out its obligations under this Agreement, other than the obligation to make payments of amounts due hereunder, it is agreed that upon notice of such force majeure in writing or by telephone to the other party as soon as reasonably possible after the occurrence of the cause relied on, the obligation of the party giving such notice, insofar as they are affected by such force majeure, shall be suspended during the continuation of any inability so caused, but for no longer period, and such cause shall be remedied by such party with all reasonable dispatch. Telephone notices given under the provision of this paragraph shall be confirmed in

writing as soon as reasonably possible, and all notices hereunder shall specifically state the time and date when the force majeure became effective. This Agreement shall not be terminated by reason of any such force majeure, but shall remain in full force and effect for the entire term specified herein. The term "force majeure" as used herein shall mean any natural catastrophe, fire, explosion, accident or other casualty, law or governmental regulation or order (including, without limitation, any such law, regulation or order curtails or interrupts, directly or indirectly, End User's right to receive the gas supplied hereunder), strike or other labor dispute and any consequences thereof and other causes beyond the reasonable control of either of the parties hereto, and shall also include any change in any order of the Commission alters or affects the End User's right to take or retain the gas supplied hereunder.

- C. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
- D. The effectiveness of this Agreement shall be conditioned upon receipt of approval by the Commission. Company shall be responsible for preparing and making any filing necessary to secure such approval and End User shall provide such assistance as may be reasonably required to prepare and make such filings.
- E. This Agreement constitutes the entire Agreement between the parties hereto with respect to the matters set forth herein.
- F. Except as otherwise provided herein, any notice, request, demand, statement or bill provided for in this Agreement, or any notice which either party may desire to give to the other, shall be in writing and shall be duly delivered when mailed, by either registered or ordinary mail, to the post office address of either of the parties hereto, as the case may be, as follows:

END USER: Schmidt Brothers, Inc.
2425 S. Fulton-Lucas Rd.
Swanton, OH 43558
(419) 826-3671

COMPANY: Ohio Gas Company
P.O. Box 528
Bryan, OH 43506
(419) 636-1117

- G. End User and Company have agreed to provisions regarding the termination of this Agreement and desire that such provisions be operable without obtaining any regulatory approval which may be required prior to ending this Agreement.
- H. This Agreement operates to supersede any prior agreements between the parties governing the sale, transportation or redelivery of natural gas.
- I. The gas made available to Company by End User for redelivery shall be of quality equal to or better than the quality specifications contained in the tariffs or contracts governing Company's purchase of natural gas from its interstate pipeline suppliers. It is understood Company shall have no

obligation to redeliver End User's gas in the event it is not of a quality which is acceptable to Company.

- J. In view of End User obtaining its own supply of natural gas, by direct or indirect means, End User understands that Company may no longer consider End User's gas requirements in arranging for the system gas supply which Company purchases and End User hereby releases Company from any obligation Company may have to provide service to End User as a supply customer.
- K. Company shall bill End User on a monthly basis and all bills shall be due and payable within fifteen (15) days of the date the bill is postmarked. Any bill not paid by the date shall be increased by five percent (5%) of the amount not timely paid each month.
- L. End User shall be responsible for the cost of metering equipment required to provide daily information at the Delivery Point as well as the telephone or other communication system charges that will permit Company to remotely access such daily information.
- M. End User shall purchase balancing service in the event of any negative or positive Excess Imbalance.
- N. Nothing in this Agreement shall preclude Company, at its sole election, from terminating this Agreement in the event End User fails to cause its gas supply provided to Company at the Delivery Point to match the gas supply consumed at the Redelivery Point. The imbalance charges specified herein shall not be construed as Company's exclusive remedy in the event End User fails to fulfill its balancing obligations.

ARTICLE IX - WAIVER

No waiver by either party of one or more defaults by the other in the performance of any provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults, whether of a like or of a different character.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate originals as of the day and year first above written.

SCHMIDT BROTHERS, INC.

OHIO GAS COMPANY

By: William Schmidt VP
VP Schmidt Bros Inc.

By: Robert S. Eyre
Robert S. Eyre
Vice President

By: Michael Schmidt Treasurer

Dated: 9/14/10

APPENDIX A

SCHEDULE OF RATES AND CHARGES

CUSTOMER CHARGE	\$500.00 per month at the Redelivery Point per month
------------------------	--

TRANSPORTATION CHARGE

For the first 250 Dth per month	No additional charge
For the next 250 Dth per month	\$1.75 per Dth per month
For the next 1,500 Dth per month	\$1.40 per Dth per month
For the next 8,000 Dth per month	\$1.00 per Dth per month
For all Dth in excess of 10,000 Dth per month	\$0.65 per Dth per month

RECORD KEEPING CHARGES

In addition to all charges above, End User shall pay to Company an amount of \$.02 per Dth per month through customer's meter.

REGULATORY FEES

In addition to all charges above, End User shall reimburse Company for or shall, at Company's request, advance the amount of any fee or charge imposed or collected by any regulatory authority in conjunction with or as a result of Company's effort to provide transportation or delivery service to End User.

UFG ADJUSTMENT

Pursuant to Article VII, the UFG adjustment amount shall be one percent (1%).

APPENDIX A

(continued)

BALANCING SERVICE

Balancing service may be elected by the End User and shall be a required service when End User causes a positive or negative Excess Imbalance to exist. Balancing service does not relieve End User of the responsibility to avoid an imbalance condition. Balancing service is a "best efforts" service which involves Company's use of storage capacity and capabilities to hold excess daily deliveries of End User's gas for use, on a best efforts basis, by End User to meet balancing requirements.

Best Efforts Balancing Service

<u>Annual Throughput</u>	<u>Rate/Mcf Throughput</u>
0 to 100,000 Mcf	\$.08 per Mcf
100,001 to 200,000 Mcf	\$.05 per Mcf
200,001 to 300,000 Mcf	\$.03 per Mcf
300,001 Mcf and over	\$.01 per Mcf

IMBALANCE CHARGES, PENALTIES

In addition to all other rates and charges specified herein, End User shall reimburse Company for all costs incurred by Company as a result of variations between the amount of gas consumed by End User and the amount of End User's gas delivered to Company at the Delivery Point.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/15/2016 3:01:42 PM

in

Case No(s). 16-1535-GA-AEC

Summary: Motion Ohio Gas Company's Motion Seeking Order to Amend Application electronically filed by Ms. Vicki L. Leach-Payne on behalf of Darr, Frank P. Mr.