

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
INVESTIGATION INTO PALMCO POWER  
OH, LLC DBA INDRA ENERGY AND  
PALMCO ENERGY OH, LLC DBA INDRA  
ENERGY'S COMPLIANCE WITH THE OHIO  
ADMINISTRATIVE CODE AND POTENTIAL  
REMEDIAL ACTIONS FOR NON-  
COMPLIANCE.

CASE NO. 19-957-GE-COI

## OPINION AND ORDER

Entered in the Journal on January 29, 2020

### I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation entered into by Staff, PALMco Energy OH, LLC d/b/a Indra Energy, and PALMco Power OH, LLC d/b/a Indra Energy.

### II. PROCEDURAL BACKGROUND

{¶ 2} PALMco Energy OH, LLC d/b/a Indra Energy (PALMco Energy) is a retail natural gas supplier as defined in R.C. 4929.01; is certified to supply competitive retail natural gas service (CRNGS) under R.C. 4929.20; and is subject to the jurisdiction of this Commission pursuant to R.C. 4929.24. Accordingly, PALMco Energy is required to comply with the Commission's minimum CRNGS standards set forth in Ohio Adm.Code Chapter 4901:1-29.

{¶ 3} PALMco Power OH, LLC d/b/a Indra Energy (PALMco Power) is an electric services company as defined in R.C. 4928.01; is certified to provide competitive retail electric service (CRES) under R.C. 4928.08; and is subject to the jurisdiction of this Commission pursuant to R.C. 4928.16. Accordingly, PALMco Power is required to comply with the Commission's minimum CRES standards set forth in Ohio Adm.Code Chapter 4901:1-21.

{¶ 4} R.C. 4929.20 states that no retail natural gas supplier shall provide a CRNGS to a consumer without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing reasonable

financial assurances sufficient to protect customers and natural gas companies from default. Similarly, R.C. 4928.08 states that no electric services company shall provide a CRES to a consumer in this state without first being certified by the Commission regarding its managerial, technical, and financial capability to provide such service and providing a financial guarantee sufficient to protect customers and electric distribution utilities from default.

{¶ 5} On March 8, 2010, the Commission granted PALMco Energy's application for certification as a CRNGS supplier in this state. *In the Matter of the Application of PALMco Energy OH, LLC for Certification as a Competitive Retail Natural Gas Supplier*, Case No. 10-138-GA-CRS. PALMco Energy timely filed renewal applications for certification as a CRNGS provider every two years pursuant to Ohio Adm.Code 4901:1-27-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4929.20. PALMco Energy's most recent renewal application was filed on January 16, 2018; this renewal application also was automatically approved by the Commission pursuant to R.C. 4929.20.

{¶ 6} Additionally, on March 10, 2010, the Commission granted PALMco Power's application for certification as a CRES provider in this state. *In the Matter of the Application of PALMco Power OH, LLC for Certification as a Competitive Retail Electric Service Provider*, Case No. 10-139-EL-CRS. PALMco Power timely filed renewal applications for certification as a CRES provider every two years pursuant to Ohio Adm.Code 4901:1-24-09, and each renewal application was automatically approved by the Commission pursuant to R.C. 4928.08. PALMco Power's most recent renewal application was filed on January 18, 2018; this renewal application also was automatically approved by the Commission pursuant to R.C. 4928.08.

{¶ 7} Both R.C. 4928.08 and 4929.20 allow the Commission to suspend, rescind, or conditionally rescind the certification of any electric services company or retail natural gas supplier issued under these sections if the Commission determines, after reasonable notice and opportunity for hearing, that the electric services company or retail natural gas supplier

has failed to comply with any applicable certification standards or has engaged in anticompetitive or unfair, deceptive, or unconscionable acts or practices in this state. Additionally, R.C. 4928.16 and 4929.24 grant the Commission the authority to bring an action under R.C. 4905.26 and to order any remedy or forfeiture provided under R.C. 4905.54 to 4905.60 and 4905.64, and to order restitution to customers and rescission of customer contracts.

{¶ 8} On April 16, 2019, Staff of the Commission's Service Monitoring and Enforcement Department (Staff) filed a letter in the certification dockets for PALMco Energy and PALMco Power (collectively, PALMco or the Company). Staff stated that it had reviewed customer contacts from December 1, 2018, to April 15, 2019, as well as PALMco's responses, and believed that PALMco had engaged in misleading and deceptive practices to market and enroll customers, as well as violating several requirements of Ohio Adm.Code Chapter 4901:1-21 and 4901:1-29. Staff received 486 customer contacts regarding PALMco's provision of CRES and CRNGS and, of these 486 customer contacts, 373 customer contacts (approximately 76 percent) are related to complaints of high billing, billing inquiries, misleading and deceptive practices, enrollment disputes, and contract inquiries. Further, as reported by Staff, 22 percent of supplier-related investigations open for review and resolution with Staff were complaints against PALMco as of April 15, 2019. Staff alleged that, while PALMco committed to provide customers with "competitive" and "the best" rates, in reality, PALMco charged customers quadruple the "price to compare."<sup>1</sup> Consequently, Staff recommended that the Commission open an investigation against PALMco and also consider suspending, conditionally rescinding, or rescinding PALMco's certificate to provide CRES or CRNGS in this state.

{¶ 9} By Entry dated April 17, 2019, the Commission opened the above-captioned case and issued a procedural schedule for this matter.

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<sup>1</sup> The price to compare is the electric generation or natural gas supply rate provided by a customer's default natural gas or electric service provider. This is a benchmark to evaluate the rates provided by competitive retail electric or natural gas suppliers.

{¶ 10} On April 24, 2019, the Ohio Consumers' Counsel (OCC) filed a motion to intervene in this case.

{¶ 11} Staff issued a written report of its investigation on May 10, 2019. Staff made four, main recommendations and requested the Commission to:

- (1) Suspend or conditionally rescind PALMco's certification,
- (2) Order PALMco to pay a forfeiture of \$1,400,000,
- (3) Order PALMco to provide restitution to customers enrolled during December 1, 2018, to April 15, 2019, by refunding the difference between the electric distribution or natural gas utility's default rate, as applicable, and the rate PALMco actually charged them, and
- (4) Prohibit PALMco from transferring any customer contracts to another entity.

{¶ 12} On July 31, 2019, Staff and PALMco filed a joint stipulation and recommendation (Stipulation).

{¶ 13} On September 3, 2019, the attorney examiner granted OCC's motion for intervention, among other things.

{¶ 14} On September 4, 2019, Melissa Scarberry filed testimony in support of the Stipulation on behalf of Staff (Staff Ex. 1). Barbara R. Alexander and Kerry J. Adkins filed testimony in opposition to the Stipulation on behalf of OCC (OCC Ex. 1-2).

{¶ 15} A hearing on this matter was held on September 19 – 20, 2019. The parties submitted initial briefs on December 2, 2019, and reply briefs on December 17, 2019.

### **III. DISCUSSION**

#### ***A. Summary of the Stipulation***

{¶ 16} As previously stated, Staff and PALMco (Signatory Parties) filed a Stipulation signed on July 31, 2019. The Stipulation was intended by the Signatory Parties to resolve all outstanding issues in this proceeding. Below is a summary of the major provisions agreed

to by the Signatory Parties contained in Section III of the Stipulation. However, this summary is not intended to replace or supersede the Stipulation.

{¶ 17} The Signatory Parties agree that PALMco voluntarily re-rated all customers who enrolled between December 1, 2018, and April 15, 2019, and were charged a variable rate, and that the total cost of re-rating these customers was approximately \$385,000. PALMco will provide a list of the re-rated customers to Staff. (Jt. Ex. 1 at 4.)

{¶ 18} The Signatory Parties agree that PALMco has also reviewed and re-rated accounts in response to informal complaints brought to its attention by Staff. As of July 26, 2019, the amounts refunded to resolve such informal complaints is approximately \$55,000. PALMco will continue to review such informal complaints and issue refunds where appropriate, regardless of when enrollment occurred. (Jt. Ex. 1 at 4.)

{¶ 19} PALMco will not enroll any new residential or small commercial customers for the remaining term of its existing certificates (February 14, 2020, for gas; March 8, 2020, for electric). Current customers may renew per terms of current Ohio contracts. PALMco will not renew its Ohio certificates to provide CRES or CRNGS service. (Jt. Ex. 1 at 4.)

{¶ 20} Prior to the expiration of its current certificates, PALMco will exercise good faith efforts to assign all remaining customer contracts to an unaffiliated third-party supplier, in accordance with a bona fide transaction for value. Such assignment will comply with all relevant statutory and rule requirements, including the requirement that the new supplier will be certified to provide CRES and/or CRNGS services at the time of assignment. A copy of any contract, agreement, bill of sale, or other instrument transferring PALMco's customer contracts to a third party will be provided to the Signatory Parties within three business days of execution. The Signatory Parties agree to afford confidential status to such instrument and all information contained therein. (Jt. Ex. 1 at 4-5.)

{¶ 21} PALMco will notify customers of the assignment. PALMco will submit a copy of the customer notice to Staff for review 14 days before sending the notice to customers. This notice will comply with all disclosures required under the Commission's rules and will

also disclose that PALMco will be exiting the Ohio market at the end of its current certification term; that customers are under no obligation to remain with the new supplier; and that customers have the right to: (a) continue receiving service from the new supplier; or (b) terminate their contract at no cost and either return to the standard service offer or enroll with another supplier of their choosing. (Jt. Ex. 1 at 5.)

{¶ 22} The funds realized from any transaction associated with the assignment of customer contracts will be used by PALMco to satisfy the following obligations, in order of priority, as follows:

- a. PALMco will re-rate all gas and electric customers who enrolled between October 1, 2018, and November 30, 2018, and were not previously re-rated. The Signatory Parties estimate that the total cost to re-rate all such customers will be approximately \$800,000. (Jt. Ex. 1 at 5.)
- b. Refunds payable under the paragraph above will be paid within 30 calendar days of the date PALMco receives the funds from the transaction associated with the assignment. PALMco will provide the Signatory Parties a list of customers and amounts refunded within 10 calendar days thereafter. (Jt. Ex. 1 at 6.)
- c. If the funds realized from a transaction exceed the amount of the total refund obligation described above, then 50 percent of the remaining funds shall be paid to the state of Ohio as a forfeiture. The forfeiture is subject to a cap of \$750,000 and is payable within 60 calendar days of the date PALMco receives the funds. (Jt. Ex. 1 at 6.)

{¶ 23} If PALMco is unable to effectuate an assignment of customer contracts as contemplated above within 30 days prior to the expiration of its current certificates, then PALMco's customers shall default to the applicable utility standard or default service offer, effective as of the date following the date of expiration of PALMco's CRES or CRNGS certificate, as applicable (Jt. Ex. 1 at 6.)

{¶ 24} PALMco agrees that it will not transfer or sell any customer contracts to any of PALMco's current owners, officers, or partners. In addition, PALMco's current owners agree not to operate as an owner, officer, director, or partner for another CRES or CRNGS company in Ohio for five years from the signing of the Stipulation. Further, the Signatory Parties understand that, as part of Staff's review in a CRES or CRNGS application filing and in accordance with Ohio Adm.Code 4901:1-24-05 and 4901:1-27-05, Staff considers the managerial capabilities of an applicant and may share its recommendation with the Commission through a filing in the docket. Any future application for competitive provider certification including a former and/or current owner, officer, or partner of PALMco or its affiliate(s) will be considered on a case-by-case basis. (Jt. Ex. 1 at 7.)

### ***B. Consideration of the Stipulation***

{¶ 25} Ohio Adm.Code 4901-1-30 authorizes two or more parties to Commission proceedings to enter into a written stipulation concerning the issues presented in the proceeding. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 26} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g., In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

{¶ 27} The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994). The Supreme Court of Ohio stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission.

{¶ 28} PALMco and Staff urge the Commission to approve the Stipulation in its entirety. On the other hand, OCC argues that the Stipulation fails each prong of the Commission's three-part test and should be rejected. The Commission addresses the parties' specific arguments in the context of the three criteria for evaluating the reasonableness of the Stipulation below.<sup>2</sup>

**1. IS THE STIPULATION THE PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?**

{¶ 29} Staff represents that the Stipulation is a comprehensive compromise of issues raised by parties with diverse interests, all of whom were represented by able counsel and technical experts experienced in regulatory matters before the Commission. Further, Staff believes that OCC was noticed and participated in many settlement emails, discussions, and meetings (Tr. II at 300-314). PALMco agrees with Staff, and highlights the fact that OCC was represented by counsel during the settlement process and was not excluded (OCC Ex.

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<sup>2</sup> While the parties may not have explicitly organized their respective arguments under each prong of the Commission's three-part test for analyzing the reasonableness of a settlement agreement, we have discussed each argument raised within this framework.



2 at 11; Tr. II at 300-314). Because the settlement does not guarantee refunds for all consumers who were harmed by PALMco's deceptive practices, OCC argues that the settlement does not meet the first criterion of the settlement test. Specifically, OCC claims that a lack of consumer protections in the Stipulation casts doubt on the seriousness of the bargaining that occurred among the parties.

{¶ 30} We find that the first part of the three-part test is satisfied here. Staff witness Melissa Scarberry testified that the Stipulation is part of an open process during which all parties were given an opportunity to participate and represents a comprehensive, reasonable compromise of the issues raised by parties with diverse interests (Staff Ex. 1 at 3-4). Further, the evidence demonstrates that all parties, including OCC, were adequately represented by knowledgeable counsel, who have extensive experience practicing before the Commission in utility matters, during the settlement process (Tr. II at 300-314). Additionally, the Commission has previously noted that there is no requirement for a particular party to join a stipulation in order for the first part of the test to be met. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 04-571-GA-AIR, et al., Opinion and Order (Apr. 13, 2005) at 9.

{¶ 31} With respect to OCC's argument that a lack of consumer protections in the Stipulation casts doubt on the seriousness of the parties' bargaining, the Commission finds that this argument is misplaced. OCC appears to argue that, because OCC did not achieve its desired settlement terms through the bargaining process, there was not serious bargaining among the parties. However, parties can bargain seriously without conceding to OCC, or any other party, all of their desired settlement terms. Moreover, it is well-established that no party has a veto over settlement agreements in Commission proceedings. *See, e.g., Dominion Retail, Inc. v. Dayton Power & Light Co.*, Case No. 03-2405-EL-CSS, Opinion and Order (Feb. 2, 2005) at 18, Entry on Rehearing (Mar. 23, 2005) at 7; *In re East Ohio Gas Co.*, Case No. 05-474-GA-ATA, Opinion and Order (May 26, 2006) at 13; *In re East Ohio Gas Co.*, Case No. 05-219-GA-GCR, Entry on Rehearing (Mar. 21, 2007) at 2-4.

**2. DOES THE STIPULATION, AS A PACKAGE, BENEFIT RATEPAYERS AND THE PUBLIC INTEREST?**

{¶ 32} Both PALMco and Staff believe that the Stipulation benefits customers and the public interest because it represents a just and reasonable resolution of all issues in this proceeding. PALMco, in both its initial and reply briefs, indicates that the benefits provided to consumers under the Stipulation exceed the benefits they would receive under the recommendations contained within the Staff Report. To bolster this contention, PALMco directs the Commission's attention to terms in the Stipulation which Staff did not originally recommend in the Staff Report, including refunds to consumers who enrolled in October and November 2018, additional refunds of \$85,000 regardless of a customer's enrollment period, non-renewal of PALMco's certificates, and five-year stay out provision (OCC Ex. 6 at 17-18; Jt. Ex. 1 at 4-7). PALMco also points to the fact that it voluntarily stopped marketing its services and began paying restitution before it signed the Stipulation.

{¶ 33} Moreover, PALMco, in both its initial and reply briefs, urges the Commission to consider the reasonableness of the Stipulation the way courts consider class action settlements. Here, PALMco claims, as in a civil class action, adopting the Stipulation will allow the parties to avoid time-consuming and expensive litigation. While the Staff Report makes several allegations, including that PALMco's administration and pricing of variable rate contracts violates Commission rules against unfair and deceptive conduct, PALMco believes that proving the underlying facts would require a "mini-trial" for each alleged violation, requiring testimony from the sales representative and consumer for each violation. Moreover, consumer bills, the utility's default service price, enrollment documents, and call recordings would all have to be offered, substantiated, and admitted into evidence. PALMco contends that Staff would have the further burden of proving whether the allegations constitute actual violations of Commission rules. Further, even if actual violations were proven, the Commission would have to tie its amount of forfeitures to specific violations; a forfeiture of \$1.4 million would require evidence of at least 140 violations. The Stipulation alleviates the need to resolve the issues of proving facts and

violations, and arriving at an appropriate forfeiture that will withstand further scrutiny. According to PALMco, litigation offers no assurance of the outcomes OCC demands.

{¶ 34} Unconvinced by PALMco and Staff, OCC makes a number of arguments, stating that the Stipulation neither benefits ratepayers nor the public interest. For the purposes of clarity, we discuss each argument within the broader context of refunds, forfeitures, and other arguments.

*a. Refunds*

{¶ 35} OCC argues that the Stipulation does not meet the second criterion of the test because not all PALMco customers receive refunds under the Stipulation. OCC elaborates that PALMco has made or intends to make refunds, contingent on the sale of its customer contracts, to approximately 6,143 customers. But as of August 12, 2019, OCC claims that PALMco had approximately 12,625 electric and natural gas customers, leading OCC to conclude that more than half of PALMco's variable rate customers, 6,482, will not receive refunds. Consequently, OCC requests the Commission to order full refunds to consumers even if PALMco must liquidate assets in order to do so. Remaining on the topic of refunds, OCC also points to OCC witness Kerry Adkins's testimony that the settlement leaves open the very real possibility that thousands of customers harmed by PALMco's actions will not be made whole. OCC posits that PALMco could receive less than \$800,000 for the sale of its Ohio business, leading to possibly thousands of customers who may not receive full refunds.

{¶ 36} Staff challenges OCC's assertion that customers harmed by PALMco may not receive a re-rate if the Company does not receive enough money from selling its business in Ohio. Staff argues that OCC is ignoring the fact that PALMco has already, voluntarily, without a Commission order, re-rated over \$400,000 to customers (Staff Ex. 1 at 4-5). Furthermore, Staff disputes OCC witness Adkins's assertion that PALMco's sale of its customer contracts, pursuant to the Stipulation, incentivizes the Company to sell its customer contracts for low values and quickly exit the market. In fact, Staff argues the opposite because it believes PALMco has an incentive to receive top dollar from the sale of

its customer contracts since it can keep 50 percent of the proceeds after it pays for refunds in the amount of \$800,000 and a forfeiture capped at \$750,000.

{¶ 37} PALMco, in its reply brief, challenges OCC's assertion that all of its customers should receive re-rates and refunds, including customers who enrolled with PALMco outside the periods identified in the Stipulation and have not complained to the Commission. PALMco points to the Staff Report, which recommended re-rating of customers during the December 1, 2018 – April 15, 2019 timeframe. PALMco asserts that it has already re-rated every customer who enrolled during this timeframe, whether they complained to the Commission or not, and paid an additional \$85,000 to customers outside the timeframe identified by Staff (OCC Ex. 18 at 32). Further, PALMco rejects OCC's assertion that it should compensate customers who enrolled outside the period identified in the Staff Report and who have not complained to the Commission, as it would mean compensating individuals neither Staff nor PALMco knew about.

*b. Forfeitures*

{¶ 38} OCC claims PALMco could pay little or no forfeiture for harming consumers under the Stipulation because the payment of forfeitures is contingent on the sale of customer contracts. OCC argues that a required forfeiture is necessary to serve the public interest because the Commission should impose punitive measures on marketers who violate the Commission's competitive electric and natural gas rules. OCC notes that other jurisdictions where PALMco has faced similar regulatory proceedings have ordered PALMco to pay both a full restitution and a forfeiture. As such, OCC does not believe that making PALMco's forfeiture contingent upon the sale of its Ohio business is in the public interest and urges the Commission to order PALMco to immediately pay the original \$1.4 million civil forfeiture initially recommended by Commission Staff.

{¶ 39} PALMco questions whether the payment of a \$1.4 million forfeiture would actually benefit consumers. PALMco argues that the Stipulation allows PALMco to deal with the reality of finite resources because PALMco could not afford to stop all marketing during the pendency of this case, expand the scope of refunds, and pay a \$1.4 million

forfeiture. According to PALMco, the Stipulation allows PALMco to sell its book of business and initially devote the proceeds to customers to pay for additional refunds, which PALMco estimates at \$800,000. (Jt. Ex. at 5). Allowing it to keep half of the proceeds in excess of refund obligations and a \$750,000 forfeiture provides it an incentive to maximize the sale value, thereby increasing the probability of a forfeiture being paid. PALMco explains that the Stipulation essentially reallocates money from the state of Ohio to consumers, thereby increasing the amount of benefit received by consumers. The mere issuance of the Staff Report, PALMco reminds the Commission, did not entitle consumers to anything. As mentioned above, PALMco contends that, if this matter was fully litigated, Staff would have to prove each allegation in the Staff Report; prove whether each allegation constitutes an actual violation of Commission rules; and provide evidence of at least 140 violations to arrive at a \$1.4 million forfeiture amount. PALMco stresses again that the Stipulation alleviates the need to resolve the issues of proving facts and violations, and arriving at an appropriate forfeiture, while litigation offers no assurance of a specific outcome.

*c. Other Arguments*

{¶ 40} In addition to the arguments outlined above, OCC identifies several other reasons why the Stipulation is not reasonable. OCC argues that the Stipulation falls short of the Staff Report because it does not immediately suspend or rescind PALMco's certificates to provide CRES and CRNGS service in Ohio. OCC would also prefer that PALMco's principals be permanently barred from conducting business in Ohio. OCC takes issue with PALMco potentially benefiting from its unlawful actions because, if the sale amount of its customer contracts exceeds the initial \$800,000 reserved for restitution to customers enrolled between October 1, 2018, and November 30, 2018, who have not yet received refunds, PALMco would keep one-half of the remaining proceeds, thereby potentially profiting from deceptively acquiring customers. Moreover, OCC argues that the Stipulation does not prevent PALMco from renewing current customer contracts at a higher rate because no price protections were put in place to prevent PALMco from charging excessive rates and doing exactly what led to the Commission-ordered investigation.

{¶ 41} In its reply brief, PALMco briefly responds to a few of these arguments. Pointing to its cessation of marketing during the pendency of this matter and its exit from Ohio during the first quarter of 2020, it states that the effect of the Stipulation is to both suspend and rescind PALMco's certification. Further, while certain PALMco principals are not permanently barred from reapplying for certification, PALMco reminds the Commission that Staff never made such a recommendation.

*d. Conclusion*

{¶ 42} The Commission notes that the Staff Report contained serious allegations regarding PALMco's unconscionable conduct in the competitive retail electric and gas marketplace, which, to the extent such allegations are supported by evidence in the record of this proceeding, warrant serious consequences. Unconscionable behavior can manifest in several ways, including pricing patterns, as Staff has alleged here. Consequently, evaluation of the price of a product, absent qualitative differences in product attribute, provides the Commission significant information for assessing the reasonableness of an entity's behavior. While the Ohio Consumer Sales Practices Act does not apply to this proceeding, nonetheless it is instructive. R.C. 1345.03(B)(2) indicates that, in determining whether an act or practice is unconscionable, consideration should be given to whether the supplier knew at the time of the consumer transaction that the price charged was substantially in excess of the price at which similar property or services were readily obtainable in similar consumer transactions by like consumers. This proceeding should serve as a reminder that the Commission, through its Staff, will monitor the competitive marketplace to identify unconscionable behavior, such as PALMco's, and we will promptly address such behavior, as we have done here.

{¶ 43} However, before addressing the specific objections raised by OCC regarding whether the Stipulation is in the public interest, it is critical to establish whether and how many violations of Ohio Adm.Code Chapters 4901:1-21 and 4901:1-29 were actually proven according to the evidence presented in the record of this case. R.C. 4928.16 and 4929.24 authorize the Commission to bring this action under R.C. 4905.26. It is well established that,

in proceedings brought under R.C. 4905.26, the complaining party bears the burden of proof. *Grossman v. Pub. Util. Comm.*, 5 Ohio St. 2d 189, 214 N.E.2d 666 (1966). Thus, in this proceeding, alleged violations must be proven by a preponderance of the evidence in the record of this proceeding. We find that the record in this case, including the Staff Report, contains sufficient evidence to establish a limited number of discrete violations, as alleged by Staff in the Staff Report, of which there were approximately ten actual, proven violations. The Staff Report specifies the rule which was allegedly broken, provides information identifying which complaint the violations reference, and provides a description of the evidence supporting the violation (OCC Ex. 6 at 3-8, 12-14, footnotes 10-18, 23-25). Moreover, PALMco did not dispute the violations set forth in the Staff Report. Thus, the evidence in the record demonstrates, by a preponderance of the evidence, that ten violations occurred, as alleged in the Staff Report.

{¶ 44} Nonetheless, OCC alleges that PALMco committed a pattern of violations of the Commission's rules. Although there were 486 contacts or complaints received by Staff regarding PALMco during the period between December 1, 2018, and April 15, 2019, every contact or complaint does not give rise to an alleged violation of the Commission's rules (Tr. II at 373-374). Moreover, every alleged violation is not a proven violation of the Commission's rules (Tr. II at 374). OCC has not even completed the rudimentary task of describing, based upon the Staff's complaint files, which specific rules were violated, how many counts of each violation allegedly occurred, or what evidence supports each alleged violation. We note that OCC's witness testified that he reviewed a number of complaint files and found "ample evidence" of harm to customers (Tr. II at 339). However, this testimony is vague and insubstantial. The witness does not identify which complaint files he reviewed, which customers he alleges were harmed, how the customers were harmed, or, crucially, which rule he claims was allegedly violated.

{¶ 45} We also note that OCC has submitted into evidence complaint files compiled by Staff for the period of December 1, 2018 through April 15, 2019 (OCC Ex. 7). These files contain numerous hearsay statements; some of the files include multiple levels of hearsay statements (i.e., hearsay statements within hearsay statements). Although these complaint

files have been admitted into evidence in this proceeding, over PALMco's objections, the fact that these statements contain hearsay, or hearsay within hearsay, should go to the weight to be given the evidence by the Commission. Similarly, some of the statements made by PALMco include offers to settle an individual complaint, which should not be relied upon as evidence of a violation. In any event, OCC has failed to specifically identify which statements OCC relies upon, hearsay or otherwise, to demonstrate any violations of the Commission's rules.

{¶ 46} The Commission further notes that PALMco provided numerous recordings of sales calls over the course of the investigation. Several of those sales calls are documented in the Staff Report (OCC Ex. 6 at 6-7). Because PALMco choose not to question or rebut those three specific sales calls, we will rely upon the sales calls identified by the Staff Report. However, beyond the three sales calls identified in the Staff Report, no recordings of sales calls were properly authenticated and admitted into evidence in this proceeding, and we will not consider such recordings, transcripts, or descriptions of those sales calls.

{¶ 47} We are not sympathetic with PALMco in this proceeding. As stated above, the Staff Report contained serious allegations regarding PALMco's conduct, and to the extent such allegations are supported by evidence in the record of this proceeding, such conduct warrants serious consequences to PALMco. However, due process requires notice and an opportunity to be heard. OCC's failure to specifically identify which rules were allegedly violated, how many times each rule was allegedly violated, and what evidence in the complaint files support each alleged violation precludes PALMco from the opportunity to respond to those allegations.

{¶ 48} Addressing OCC's specific arguments, we turn to the issue of refunds first. We note that the Staff Report addresses a specific time period: the period between December 1, 2018 – April 15, 2019, because this was the period during which Staff observed and investigated significant increase in complaints involving PALMco (Tr. I at 42, 124). According to evidence presented at hearing, Condition III(1) of the Stipulation ensures that



customers who were potentially harmed during Staff's specific investigation period are made whole through refunds in the amount of \$385,000 (Tr. I at 109).

{¶ 49} Additionally, during the settlement process, Staff and PALMco were able to negotiate benefits for two other classes of customers not contemplated by the initial Staff Report in order to maximize benefits to customers. Condition III(2) provides restitution to customers who have made informal complaints, and PALMco had already reimbursed up to \$55,000 as of July 26, 2019 and up to \$85,00 by September 17, 2019 to these customers (Jt. Ex. 1 at 4; OCC Ex. 18 at 32). During the hearing, Staff witness Scarberry indicated that there is no time limit on when customers can make informal complaints. Therefore, as an additional benefit guaranteed by the Stipulation, consumers can continue to make such complaints and receive appropriate refunds, regardless of when they enrolled with PALMco (Jt. Ex. 1 at 4; Tr. I at 192-193). Moreover, Ms. Scarberry indicated that Staff negotiated a potential additional \$800,000 to mitigate harms caused to customers who did not make complaints to the Commission and have otherwise not received refunds from PALMco under conditions III(1) and III(2) of the Stipulation (Jt. Ex. 1 at 5-6; Tr. at 45, 127). Though this provision of the Stipulation is contingent upon PALMco selling its customer contracts and allows the Company to keep 50 percent of any proceeds over \$800,000, we find that this condition provides PALMco with an incentive to maximize the value of its current customer contracts. Moreover, it provides potential redress to an additional group of customers not contemplated in the initial Staff Report.

{¶ 50} Because the Stipulation provides redress for customers within the Staff's investigation period and additional time periods, we find OCC's contention that "thousands" of PALMco's customers will not receive refunds is unsupported by the testimony presented at the hearing. OCC argues that 6,482 PALMco customers will not receive refunds. However, there is not sufficient evidence in the record to prove, by a preponderance of evidence, any underlying violations which would require PALMco to provide refunds to these customers. OCC presented no testimony demonstrating how it arrived at this number and whether it had independently verified that these individuals had made complaints and then failed to receive a refund. In fact, OCC did not conduct any

independent investigation of its own regarding the issue of refunds (Tr. II at 319-320, 343). During the hearing, OCC's witness was unable to name a single customer who would not receive restitution under the Stipulation's conditions (Tr. II at 356-57). Further, OCC failed to provide evidence that PALMco violated Commission rules and overcharged its customers during other months separate from the Staff investigation time period for which it must also pay restitution. OCC states that at least one PALMco customer, Robert Steele, "never received any refunds back from PALMco" and instead received a refund from the Commission (OCC Br. at 18; Tr. II at 257-58). However, it is clear from the context of his testimony that Mr. Steele received his refund from PALMco with the assistance of the Staff. Consequently, we find that the Stipulation adequately protects and compensates all PALMco customers who may have been harmed during Staff's investigation period.

{¶ 51} Turning to OCC's arguments regarding forfeitures, we find that the evidence in the record does not substantiate a \$1.4 million forfeiture as claimed by OCC. OCC does not present any testimony or otherwise explain how it arrived at a forfeiture of \$1.4 million. OCC does not detail how many violations it bases the proposed forfeiture on nor which rules were allegedly violated. OCC does not explain any aggravating or mitigating circumstances that are reflected in its proposed forfeiture. The only basis that OCC presents for the proposed forfeiture is that it was Staff's initial recommendation. However, Staff would have needed to present a witness to explain how Staff determined that \$1.4 million was the appropriate forfeiture. As Staff reached a settlement with PALMco, no Staff witness was presented on this issue. Therefore, we find that there is no evidence in the record to support a civil forfeiture of \$1.4 million.

{¶ 52} Moreover, we find that collecting a larger civil forfeiture, in lieu of maximizing refunds for customers, would not benefit ratepayers and not be in the public interest. Our goal is to ensure PALMco customers expeditiously receive refunds, to minimize potential future harm to these customers, and to make this process as efficient as possible. As explained above, here, the Signatory Parties have negotiated a conditional forfeiture because procuring additional potential refunds to customers is an important benefit. To incentivize PALMco to sell the customer contracts at the highest possible price, the Stipulation allows

PALMco to keep 50 percent of additional funds after earmarking the initial \$800,000 for re-rates and the rest for a forfeiture capped at \$750,000. While forfeitures are important to send a message to the marketplace that violations of the Commission's rules will be penalized, in this particular matter, we must balance that interest with identifying additional opportunities for customers to be appropriately refunded and made whole.

{¶ 53} With regard to the other arguments OCC raises, we find none persuasive. The Stipulation does not immediately rescind PALMco's certificates, but that issue will be moot by February and March 2020. Additionally, the Company ceased marketing during the pendency of this matter and has acquired no new customers, which resulted in an effective suspension of its certificates. PALMco principals are not permanently barred, but once PALMco attempts to re-enter the market, Staff will conduct a review to ensure customers are protected. We also do not characterize as a "benefit" the proceeds PALMco may be able to keep from the customer contracts' sale because this condition was included as part of the Stipulation as a compromise to incentivize PALMco to sell the contracts in a manner that maximizes refunds to customers. We find this argument particularly unpersuasive because OCC also appears to contradictorily suggest that PALMco might attempt to sell these contracts for pennies on the dollar to avoid paying refunds and a forfeiture (OCC Ex. 2 at 13). Finally, with regard to OCC's arguments regarding price protections, if in the future Staff determines PALMco is charging rates in violation of the Commission's rules, we will address those new allegations separately from this case. As such, upon review of the Stipulation, we find that it makes former and current PALMco customers whole by providing benefits that would otherwise not be guaranteed through litigation and provides an orderly exit from the marketplace for PALMco.

{¶ 54} Having addressed OCC's objections, we reiterate that the ultimate issue for our consideration is whether the Stipulation, as presented, is reasonable. The Staff Report contained serious allegations regarding PALMco's conduct in the competitive retail electric and gas marketplace, which, to the extent such allegations are supported by evidence in the record of this proceeding, warrant serious consequences. After extensive negotiations between the parties, the Stipulation was presented to the Commission. Staff represents that

the Stipulation provides redress for all issues identified in the Staff Report (Jt. Ex. 1 at 2; Staff Ex. 1 at 7; Tr. I at 147). As we discussed above, we find that the Stipulation fully addresses the serious violations alleged by Staff and represents a just and reasonable resolution of the proceeding by expeditiously making customers whole. Further, the Stipulation provides benefits to customers who were not originally contemplated by Staff in its Staff Report. These additional benefits include providing refunds to customers who make informal complaints; refunds to customers who enrolled between October 1, 2018, and November 30, 2018; and PALMco's orderly exit from the market during the first quarter of 2020. Moreover, we find that the Stipulation preserves significant resources for all parties and minimizes the uncertainty that PALMco customers would experience if this matter were fully litigated. We determine that the Stipulation provides a resolution of the alleged violations identified in the Staff Report and provides for PALMco to exit the marketplace in an orderly fashion, for a period of five years, thereby mitigating any potential future harm to customers.

{¶ 55} Consequently, for the reasons stated above, we reject OCC's arguments and find that the Stipulation satisfies the second prong of the Commission's three-prong test for settlements.

### **3. DOES THE STIPULATION VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?**

{¶ 56} Staff believes that the Stipulation promotes important regulatory principles and practices and is an appropriate result because it changes PALMco's treatment of its current customers, ensures that those customers will receive restitution, and removes the Company from the Ohio utility marketplace for at least five years from the date of the adoption of the Stipulation. PALMco agrees with Staff. PALMco states that the Stipulation protects consumers by refunding the difference between the rates paid to PALMco and default utility rates without requiring these consumers to endure years of litigation. Additionally, PALMco believes the provisions requiring PALMco to forego recertification and not reapply for five years protect consumers against future alleged violations and also deter other suppliers from engaging in the practices discussed in the Staff Report. Additionally, PALMco notes that sale proceeds of the customer contracts are earmarked for

refunds and a forfeiture. Capping the forfeiture provides an incentive, not a windfall, because PALMco states it must accept whatever proceeds are left over in lieu of potential profit it could earn in the next five years. Finally, PALMco mentions that fairness and consistency are also important regulatory principles and reiterates that settlement agreements between Staff and subjects of enforcement should be honored because the very point of a settlement is to trade uncertainty for certainty. PALMco elaborates that it ceded the right to challenge the allegations contained in the Staff Report in order to arrive at settlement. As such, by not approving the Stipulation in this case, PALMco believes the Commission might risk future enforcement proceedings not being resolved by settlement.

{¶ 57} OCC argues that the Stipulation violates the third criterion for considering settlements because PALMco might profit from the sale of its customer contracts and because the Company may not pay a full forfeiture. According to OCC, the latter violates an important regulatory principle that punitive measures should be imposed for rule violations and to deter others from violating the rules. In its reply brief, Staff argues that no important regulatory principles or practices would be violated if the Stipulation were adopted, even if PALMco profits from the sale of its customer contracts or pays a partial forfeiture. In making this point, Staff points to OCC's lack of citation to law, rules, or case precedent in support of its arguments.

{¶ 58} We disagree with OCC that the Stipulation violates important regulatory principles and practices simply because PALMco may receive proceeds from the sale of its customer contracts and will pay a reduced forfeiture capped at \$750,000. As Staff notes, OCC does not point to any statute or case law in support of this contention. We believe that adopting the Stipulation will allow PALMco customers, both former and current, to trade uncertainty during litigation and have tangible benefits in the form of refunds and PALMco's exit from the market for five years in the first quarter of 2020. We note that the Stipulation aims to protect a wider swathe of customers than initially contemplated in the Staff Report by including customers who have made or will make informal complaints to PALMco and those who enrolled between October 1, 2018, and November 30, 2018.

Consequently, we find that OCC has failed to demonstrate that the Stipulation does not satisfy the third prong of our three-part test.

**C. *Other Matters***

**1. STIPULATION MODIFICATIONS SUGGESTED BY OCC**

{¶ 59} In case the Commission does not reject the settlement, OCC presents several modifications to the Stipulation and urges the Commission to adopt them. According to OCC, these modifications will protect consumers and further the public interest. First, OCC believes that all consumers harmed by PALMco should be fully compensated for the difference between their rate and the utility's default rate. Second, OCC recommends an exit fee setting a minimum amount payable by PALMco, regardless of the amount of proceeds realized from the sale of its customer contracts. The fee would cover any shortfalls between a full refund for customers plus some level of forfeiture and the proceeds from the sale of customer contracts. Third, OCC suggests inclusion of a comprehensive and independent verification process to ensure that all refunds represented as completed in the Stipulation have indeed been completed. Fourth, OCC wants customers to be informed about the circumstances surrounding PALMco's exit from Ohio in the notice being sent to them about the exit. Fifth, OCC states that current customers should be provided price protection by not allowing PALMco to charge a rate higher than the utility's default rate for natural gas and electric service. Finally, OCC recommends that the Commission prohibit PALMco from selling its customer contracts to any entity that is associated with past PALMco owners, officers, or partners during the investigatory time period covered in the Staff Report.

{¶ 60} PALMco disagrees with OCC's suggestions. According to PALMco, the Commission can either approve or reject the Stipulation because the hearing in this matter was only regarding the reasonableness of the Stipulation. However, PALMco asserts that, if the Commission rejects or modifies the Stipulation, then PALMco should be afforded an opportunity to litigate the allegations raised in the Staff Report because it previously waived its right to do so, provided that the Stipulation was adopted without material modification.

{¶ 61} Contrary to PALMco's assertion, we initially note that the Commission is fully entitled to modify the Stipulation if it deems necessary. However, as we explain below, we reject the modifications proposed by OCC as none are warranted. OCC's contention that all consumers should receive refunds is not supported by the record, as noted above (Tr. II at 319-320, 343, 356-57). Similarly, we decline to impose an exit fee on PALMco to cover any alleged customer compensation shortfalls because OCC provided insufficient evidence to demonstrate that additional customers should receive refunds beyond those customers contemplated in the Stipulation. OCC also did not establish that any refund identified as completed by PALMco was actually not completed and, in light of this, we find an additional Staff verification process unnecessary. Next, with regard to OCC's argument regarding the customer notice, we find that the Stipulation sets forth sufficient criteria to provide PALMco customers with enough information to make a reasonable choice regarding their provision of electric and gas service. Further, the Stipulation directs Staff to review the customer notice, which will ensure customers receive adequate information (Jt. Ex. 1 at 5). Turning to OCC's suggestion for price protections in the Stipulation, we reiterate that any future violations of the Commission's rules will be addressed within the context of other proceedings when initiated by Staff. Finally, we decline to adopt OCC's recommendation to prohibit PALMco from selling its customer contracts to any entity associated with past PALMco owners, officers, or partners, as OCC has not demonstrated such individuals were complicit in any alleged wrongdoing. In conclusion, we find the Stipulation in this matter reasonable and find that no modifications are necessary in order to protect PALMco customers.

## **2. PRIOR RULING REGARDING SUBPOENAS**

{¶ 62} OCC requests that the Commission overturn the attorney examiner's September 19, 2019 ruling granting PALMco's motion to quash OCC's subpoenas for PALMco president and chief executive officer Robert Palmese and PALMco employees Keenia Joseph and Alan Bashe to appear and provide testimony at the hearing. OCC reiterates that Ohio Adm.Code 4901-1-25 allows OCC to subpoena these individuals. Further, OCC argues that PALMco has consented to jurisdiction under R.C. 4928.09 and

4929.21. Additionally, under Ohio Adm.Code 4901:1-29-03, OCC states that PALMco is required to maintain an employee and an office open for business in Ohio. By maintaining this office, OCC argues that PALMco has subjected itself to Ohio jurisdiction and consented to being subpoenaed here. OCC also interprets R.C. 4928.09(B) and 4929.21(B) to mean that the Commission can subpoena a marketer's out-of-state witness. Finally, OCC urges the Commission to interpret the statutory language for electric and natural gas marketers similar to R.C. 3909.05, which governs out-of-state insurance companies, and find that PALMco, in consenting to jurisdiction, has also consented to providing out-of-state witnesses to appear before a hearing at the Commission.

{¶ 63} While it is not unreasonable for PALMco to produce out-of-state witnesses for a hearing, PALMco, in its reply brief, clarifies that there is an established process for securing such witnesses, which OCC failed to follow. PALMco explains that the CRES and CRNGS statutes require it to consent to the jurisdiction of Ohio courts and the Commission. However, PALMco distinguishes that the entity, PALMco, is separate and distinct from its employees, whom OCC attempted to subpoena. PALMco believes that statutes requiring an out-of-state corporation to waive service if it desires to conduct business in Ohio do not provide a party the ability to haul individual employees of that corporation into the state for trial testimony. *Burgess v. Prudential Ins. Co. of Am.*, No. C-870225, 1988 WL 68686, at \*5 (1st Dist. Ct. App. June 29, 1988). Consequently, PALMco argues that service on a statutory agent does not equate to service upon individual employees. *A.O. Smith Corp. v. Perfection Corp.*, 2004-Ohio-4041, ¶ 16 (10th Dist.) 2004 WL 1728615. Instead, PALMco believes that OCC should have issued a subpoena to PALMco directing it to produce witnesses to testify about specific topics on behalf of the entity and then it would have designated such witnesses. However, OCC failed to follow this process and instead attempted to subpoena individual employees through PALMco's registered agent, which was improper. Further, PALMco claims that OCC cannot demonstrate any prejudice because it was actually able to secure the testimony of two of the three witnesses, Mr. Palmese and Ms. Joseph, it improperly subpoenaed.



{¶ 64} Upon review, we find that the attorney examiner made a reasonable and appropriate ruling on September 19, 2019, and consequently affirm the ruling. During the hearing, the attorney examiner quashed the subpoenas because this is a Commission-ordered investigation as opposed to a rate or tariff proceeding initiated by a public utility, and the attorney examiner ruled that the subpoenas, which were specifically issued for individuals associated with PALMco, were not valid to haul out-of-state witnesses into Ohio to testify against their will (Tr. I at 99-100). However, to provide OCC adequate opportunity to present its case, the attorney examiner allowed OCC to depose Mr. Palmese and file the deposition in the docket in lieu of Mr. Palmese's testimony (Tr. I at 100). OCC did file Mr. Palmese's deposition in this docket on October 29, 2019, and cited Mr. Palmese's testimony in its brief. OCC also deposed Ms. Joseph (OCC Ex. 18). In its brief, OCC fails to demonstrate how deposing Mr. Palmese and Ms. Joseph before the hearing was prejudicial and points to no consequent harm or disadvantage it suffered. Furthermore, the three subpoenas in question were addressed to PALMco's statutory agent and presumably served upon that person. We clarify that our ruling today does not indicate that parties are not able to subpoena witnesses employed by out-of-state companies. However, as PALMco notes, OCC, in this case, should have requested the Company to designate witnesses who could testify regarding specific topics on behalf of the entity. OCC could have also attempted to obtain personal service on the individuals it wished to question at the hearing instead of serving PALMco's statutory agent in Ohio. Because OCC failed to avail itself of either option, and in the absence of any clear violation of law or policy, we affirm the attorney examiner's previous ruling.

### 3. ADMINISTRATIVE NOTICE

{¶ 65} On December 17, 2019, OCC filed a motion to take administrative notice. In the motion, OCC requests the Commission to take administrative notice of Staff's letter recommending the initiation of a second Commission-ordered investigation of PALMco, which was filed on December 16, 2019, under Case No. 19-2153-GE-COI. According to OCC, Staff's investigation involves complaints similar to those that prompted the investigation in this case, which the Commission received after the settlement was filed in this case. OCC

only requests that the Commission take administrative notice that the second investigation has been initiated, which OCC claims is not prejudicial to PALMco or Commission Staff. According to OCC, taking such administrative notice will provide the Commission with additional insight as to whether the settlement in this case benefits consumers and the public interest. PALMco did not file a response to this motion.

{¶ 66} We decline to take administrative notice of this new proceeding. The Supreme Court of Ohio has held that administrative notice is permissible where parties have prior knowledge of the facts in question, have been afforded an opportunity to rebut the facts administratively noticed, and will suffer no prejudice from the tribunal taking administrative notice. *Allen v. Pub. Util. Comm.*, 40 Ohio St.3d 184, 187, N.E.2d 1307, 1311 (1988). Our opinion that the Stipulation in this matter is reasonable is based on the underlying facts, issues, and legal arguments made in this case. Staff initiated Case No. 19-2153-GE-COI after the hearing in this proceeding concluded and the parties were not previously aware of the facts in question and were not afforded an opportunity to rebut the facts alleged in this separate proceeding. Consequently, it would be prejudicial to the parties to take administrative notice of this unrelated case and it would be appropriate to address Staff's allegations in Case No. 19-2153-GE-COI within the confines of that case.

#### IV. ORDER

{¶ 67} It is, therefore,

{¶ 68} ORDERED, That the Stipulation between Staff and PALMco be approved, as further described in this Opinion and Order. It is, further,

{¶ 69} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

COMMISSIONERS:

*Approving:*

Sam Randazzo, Chairman

M. Beth Trombold

Lawrence K. Friedeman

Dennis P. Deters

GAP/AS/mef

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**Case No(s). 19-0957-GE-COI**

Summary: Opinion & Order that the Commission adopts the joint stipulation and recommendation entered into by Staff, PALMco Energy OH, LLC d/b/a Indra Energy, and PALMco Power OH, LLC d/b/a Indra Energy. electronically filed by Docketing Staff on behalf of Docketing