

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE MOTION TO
MODIFY THE EXEMPTION GRANTED TO THE
EAST OHIO GAS COMPANY D/B/A
DOMINION ENERGY OHIO.

CASE NO. 18-1419-GA-EXM

OPINION AND ORDER

Entered in the Journal on February 26, 2020

I. SUMMARY

{¶ 1} The Commission adopts the joint stipulation and recommendation filed by the parties, resolving all of the issues raised in the motions to modify the commodity sales service exemption granted to The East Ohio Gas Company d/b/a Dominion Energy Ohio.

II. DISCUSSION

A. *Procedural Background*

{¶ 1} The East Ohio Gas Company d/b/a Dominion Energy Ohio (Dominion or the Company) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} 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 all provisions of R.C. Chapters 4905, 4909, and 4935, with certain exceptions; from specified sections of R.C. Chapter 4933; and from any rule or order issued under those chapters or sections, including the obligation under R.C. 4905.22 to provide the commodity sales service or ancillary service, and subject to certain requirements.

{¶ 3} On April 8, 2005, in Case No. 05-474-GA-ATA, Dominion filed an application to restructure its commodity service obligation in order to expand retail choice options for its customers. By Entry dated August 3, 2005, the Commission concluded that, pursuant to R.C. 4929.04, Dominion's application constituted a request for approval of an exemption from the provisions of R.C. Chapter 4905 that govern commodity sales service. On May 26,

2006, the Commission approved Dominion's application, as modified by a stipulation and recommendation, to undertake phase one of the Company's proposal to test alternative, market-based pricing of commodity sales. In phase one, Dominion was authorized to eliminate its existing gas cost recovery (GCR) mechanism and implement a new competitively-bid standard service offer (SSO), whereby the Company would obtain its wholesale supplies of natural gas through an auction process that would establish the SSO price. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 05-474-GA-ATA (2005 Exemption Case), Opinion and Order (May 26, 2006) at 4.

{¶ 4} On December 28, 2007, in Case No. 07-1224-GA-EXM, Dominion filed an application, pursuant to R.C. 4929.04, for approval of a general exemption of certain natural gas commodity sales from specified provisions contained in R.C. Chapters 4905, 4909, 4933, and 4935. On June 18, 2008, the Commission approved the terms of a stipulation and recommendation filed by various parties on April 10, 2008, in response to Dominion's application. The Commission authorized Dominion to implement phase two of its plan to exit the merchant function, in which the Company would implement a standard choice offer (SCO), with suppliers bidding for the right to supply natural gas in tranches to choice-eligible customers at a retail level. Further, the stipulation for phase two provides that choice-eligible customers whose energy choice or opt-out governmental aggregation contract expires without renewal may enroll with an energy choice supplier, participate in an opt-out governmental aggregation program, or elect to be assigned to an energy choice supplier at the price established in the SCO auction. The stipulation further provides that, if these customers do not select one of these options, they are assigned, after their second SSO bill, to an energy choice supplier at the supplier's posted monthly variable rate (MVR) under the terms of the SCO service in Dominion's tariff.¹ *In re The East Ohio Gas Co. d/b/a*

¹ In approving the stipulation, the Commission also reserved its authority to exercise oversight during phase two, as well as the right to reject an auction result and to require Dominion to return to the GCR rate, in the event that the Commission determines that it is no longer in the best interest to continue the SSO or SCO. *2007 Exemption Case* at 20.

Dominion East Ohio, Case No. 07-1224-GA-EXM (2007 Exemption Case), Opinion and Order (June 18, 2008) at 14.

{¶ 5} On February 14, 2012, in Case No. 11-6076-GA-EXM, the Commission, upon the filing of a joint motion to modify the exemption order in the *2007 Exemption Case*, approved a stipulation and recommendation that provided that, effective with the auction to be conducted in the first quarter of 2012, and each auction thereafter, the SSO auction would be combined with the SCO auction, resulting in a single auction that would determine both the SSO and SCO retail price adjustment. *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 11-6076-GA-EXM, Opinion and Order (Feb. 14, 2012) at 3.

{¶ 6} On January 9, 2013, in Case No. 12-1842-GA-EXM, the Commission granted a joint motion to modify the exemption order in the *2007 Exemption Case* and adopted a stipulation and recommendation that authorized Dominion to discontinue the availability of the SCO to choice-eligible non-residential customers. Specifically, the stipulation provides that, effective April 2013, a non-residential customer that has not selected a new competitive retail natural gas service (CRNGS) provider will be served by the next available supplier on a rotating list maintained by Dominion of CRNGS providers registered to provide default service using the supplier's MVR, subject to the limitations set forth in the MVR commodity service portion of the Company's tariff. The stipulation further provides that, if a non-residential customer enters into a new arrangement with a CRNGS provider or participates in an opt-out governmental aggregation program, the terms of the agreement of the selected CRNGS provider or governmental aggregator will replace the MVR service.² *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 12-1842-GA-EXM (2012 Exemption Case), Opinion and Order (Jan. 9, 2013) at 8.

{¶ 7} On March 9, 2018, in the *2012 Exemption Case*, the Ohio Consumers' Counsel (OCC) filed a motion to modify the exemption granted by the Commission on January 9,

² Although the Commission approved the stipulation, the Commission also noted that it is not precluded from reestablishing the SCO or another pricing mechanism, if the Commission determines that Dominion's exit is unjust or unreasonable for any customer class. *2012 Exemption Case* at 16-17.

2013. In the motion, OCC sought to reestablish the SCO as the default service for all choice-eligible residential customers and to eliminate the MVR applicable to certain residential customers who have not selected a supplier, governmental aggregation program, or the SCO. OCC contended that the findings upon which the exemption was granted are no longer valid and that the approved structure is no longer a reasonable approach for pricing natural gas for residential customers. OCC noted that, in some instances, the MVR has been significantly higher than the SCO.

{¶ 8} On March 12, 2018, in the *2012 Exemption Case*, Ohio Partners for Affordable Energy (OPAE) filed a motion requesting that the Commission reestablish the SCO as the default service for both non-residential and residential customers. OPAE also noted that it supported OCC's motion.

{¶ 9} By Entry dated September 13, 2018, the attorney examiner noted that the Commission had issued a final exemption order in the *2012 Exemption Case* and that additional filings in the case after the issuance of the final order had been primarily for the purpose of considering and implementing Dominion's auctions. The attorney examiner, therefore, directed OCC and OPAE to refile, in the above-captioned case, their motions to modify the exemption order in the *2012 Exemption Case*. Further, the attorney examiner stated that a procedural schedule, including an opportunity for responding to OCC's and OPAE's motions, would be established after OCC and OPAE refiled their motions in the new docket.

{¶ 10} On September 14, 2018, OPAE refiled, in the above-captioned proceeding, its motion for modification of the exemption order in the *2012 Exemption Case*. OCC amended and refiled its motion on August 16, 2019.

{¶ 11} Motions to intervene in this proceeding were filed on various dates by OCC, OPAE, Dominion, Retail Energy Supply Association (RESA), Dominion Energy Solutions, Inc. (DES), and Interstate Gas Supply, Inc. (IGS), as well as by Direct Energy Services, LLC and Direct Energy Business Marketing, LLC (collectively, Direct Energy). No memoranda

contra were filed. The Commission finds that the motions for intervention are reasonable and should be granted.

{¶ 12} By Entry dated August 16, 2019, the attorney examiner established a procedural schedule for this case, including deadlines for comments and/or memoranda contra OPAE's and OCC's motions, reply comments and/or replies to memoranda contra OPAE's and OCC's motions, and direct testimony. Additionally, the attorney examiner scheduled an evidentiary hearing to commence on November 5, 2019, and directed Dominion to publish notice of the hearing.

{¶ 13} On September 30, 2019, Dominion filed its proofs of publication of notice of the evidentiary hearing.

{¶ 14} At the request of RESA, Direct Energy, IGS, and DES, the procedural schedule was modified by Entry dated October 3, 2019.

{¶ 15} On October 11, 2019, comments and/or memoranda contra OPAE's and OCC's motions were filed by Staff, Dominion, DES, Direct Energy, IGS, RESA, and OCC.

{¶ 16} On October 25, 2019, reply comments and/or replies to memoranda contra OPAE's and OCC's motions were filed by OCC, OPAE, Dominion, DES, IGS, and RESA.

{¶ 17} By Entry dated October 31, 2019, the procedural schedule was further modified at the request of RESA, Direct Energy, IGS, and DES.

{¶ 18} OPAE filed direct testimony on November 1, 2019.

{¶ 19} The evidentiary hearing in this matter was called on November 5, 2019, and continued to December 3, 2019. No members of the public were present to testify at the hearing.

{¶ 20} Timely direct testimony was filed by Staff, OCC, RESA, Direct Energy, and IGS on November 15, 2019.

{¶ 21} On November 25, 2019, the attorney examiner issued an Entry to continue the hearing to December 17, 2019, at the request of the parties.

{¶ 22} The evidentiary hearing reconvened on December 17, 2019. During the hearing, the parties requested additional time for the purpose of continuing to work toward a settlement of the issues raised in this proceeding. The parties agreed to reconvene on January 16, 2020.

{¶ 23} The hearing reconvened on January 16, 2020. The parties reported that they had reached an agreement in principle and that they continued to work toward finalizing the settlement agreement. The parties also committed to file their settlement agreement by February 5, 2020, with the hearing to reconvene on February 7, 2020.

{¶ 24} On February 5, 2020, all of the parties submitted, pursuant to Ohio Adm.Code 4901-1-30, a joint stipulation and recommendation (Stipulation) that is intended to resolve all of the issues related to OPAE's and OCC's motions to modify Dominion's exemption.

{¶ 25} On February 6, 2020, Staff filed the testimony of Barbara Bossart in support of the Stipulation.

{¶ 26} The hearing reconvened on February 7, 2020, at which time the Stipulation (Joint Ex. 1) and the supporting testimony of Staff witness Bossart (Staff Ex. 1) were admitted into the record.

B. Applicable Law

{¶ 27} R.C. 4929.08(A) provides that the Commission has jurisdiction over every natural gas company that has been granted an exemption under R.C. 4929.04 and that, as to any such company, the Commission, upon its own motion or upon the motion of any person adversely affected by such exemption, and after notice and hearing, may abrogate or modify any order granting such an exemption or authority only under both of the following conditions:

- (1) The Commission determines that the findings upon which the order was based are no longer valid and that the abrogation or modification is in the public interest;
- (2) The abrogation or modification is not made more than eight years after the effective date of the order, unless the affected natural gas company consents.

{¶ 28} Ohio Adm.Code 4901:1-19-11 provides that the Commission shall order such procedures as it deems necessary, consistent with Ohio Adm.Code Chapter 4901:1-19, in its consideration of whether to modify an order granting an exemption.

{¶ 29} R.C. 4929.08(B) provides that, after receiving an exemption under R.C. 4929.04, no natural gas company shall implement the exemption in a manner that violates the policy of this state specified in R.C. 4929.02. The statute further provides that, notwithstanding R.C. 4929.08(A), if the Commission determines that a natural gas company granted such an exemption is not in substantial compliance with that policy or that the exemption is affecting detrimentally the integrity or safety of the natural gas company's distribution system or the quality of any of the company's regulated services or goods, the Commission, after a hearing, may abrogate the order granting such an exemption.

{¶ 30} In exercising its authority relative to R.C. Chapter 4929, the Commission is required, pursuant to R.C. 4929.02(B), to follow the state policy set forth in R.C. 4929.02(A), which is to:

- (1) Promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods;
- (2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

- (3) Promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and suppliers;
- (4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;
- (5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;
- (6) Recognize the continuing emergence of competitive natural gas markets through the development and implementation of flexible regulatory treatment;
- (7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under R.C. Chapters 4905 and 4909;
- (8) Promote effective competition in the provision of natural gas services and goods by avoiding subsidies flowing to or from regulated natural gas services and goods;
- (9) Ensure that the risks and rewards of a natural gas company's offering of non-jurisdictional and exempt services and goods do not affect the rates, prices, terms, or conditions of non-exempt, regulated services and goods of a natural gas company and do not affect the financial capability of a natural gas company to comply with the policy of this state specified in this section;

- (10) Facilitate the state's competitiveness in the global economy;
- (11) Facilitate additional choices for the supply of natural gas for residential consumers, including aggregation;
- (12) Promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.

C. *Summary of the Motions and Comments*

{¶ 31} As noted above, OPAE filed, on September 14, 2018, a motion to modify the exemption granted to Dominion in the January 9, 2013 Opinion and Order in the *2012 Exemption Case*. Specifically, OPAE seeks to reestablish the SCO as the default service for all of Dominion's residential and non-residential customers. In support of its motion, OPAE asserts that the findings in the January 9, 2013 Opinion and Order are no longer valid and that the abrogation of the order is in the public interest. According to OPAE, the MVR as a default service is negatively affecting all Ohioans by allowing the random assignment of customers to a rate that is not set in the competitive market. OPAE argues that the MVR as the default service denies customer access to the SCO, which is set through a competitive auction and has resulted in substantially lower prices than the non-market-based MVR.

{¶ 32} In its motion filed on August 16, 2019, OCC requests that the Commission reestablish the SCO as the default service for all choice-eligible residential customers. OCC further requests that the MVR be eliminated as a program for assigning residential customers to a supplier in circumstances where a customer's prior supplier contract or governmental aggregation has ended and the customer has not selected a new supplier, governmental aggregation, or the SCO. As support for its motion, OCC claims that, consistent with R.C. 4929.08(A)(1), the Commission's findings in the January 9, 2013 Opinion and Order in the *2012 Exemption Case* are no longer valid. In particular, OCC references the Commission's findings that a transition from the SCO to the MVR would foster competition in the retail natural gas market and encourage innovation, while enabling customers to make informed choices through customer education. OCC asserts that many residential

customers have not been properly informed or educated as to available natural gas service offerings. OCC also contends that experience shows that customers can generally be expected to pay lower rates under the SCO. According to OCC, replacement of the MVR with the SCO as the default service should provide residential customers with more competitive rates and serve the broader public goal of achieving a more competitive natural gas market. Additionally, OCC notes that, consistent with R.C. 4929.08(A)(2), its motion has been filed within the eight-year period permitted for modification of the January 9, 2013 Opinion and Order without Dominion's consent.

{¶ 33} In its comments, Staff states that it supports OCC's and OPAE's motions to modify the exemption granted to Dominion in the January 9, 2013 Opinion and Order in the *2012 Exemption Case*. Specifically, Staff supports the request to reestablish the SCO as the default service for residential and non-residential customers. With respect to the statutory requirements for modification of an exemption order, Staff states that R.C. 4929.08(A)(2) is satisfied, as the January 9, 2013 Opinion and Order was issued less than eight years ago. Staff asserts that R.C. 4929.08(A)(1) is also met, because the Commission, in the January 9, 2013 Opinion and Order, based its approval, in part, on the understanding that the order would encourage the development of retail competition and that customers would be protected by the market. Staff states that MVR data provided by Dominion and through call center contacts indicates that many of the rates being charged to MVR customers are unreasonably high; the MVR and/or the elimination of the SCO for non-residential customers is not encouraging customers to engage with the market and, therefore, is not further developing the market; and the MVR causes customer confusion and complaints stemming from high bill amounts and unknown suppliers appearing on the bill. Accordingly, Staff believes that the market is not protecting customers and that the MVR does not meet customer needs, as required under R.C. 4929.02(A)(2). Staff concludes that modification of the January 9, 2013 Opinion and Order, by eliminating the MVR commodity tariff and allowing all customers to retain or return to the SCO, is in the public interest.

{¶ 34} RESA and IGS argue that OPAE's and OCC's motions are untimely, because their requests for modification are beyond the eight-year time period in R.C. 4929.08(A)(2) and there is no indication that Dominion consents to the proposed modification. RESA and IGS maintain that, although OCC and OPAE state that they seek modification of the January 9, 2013 Opinion and Order in the *2012 Exemption Case*, OCC and OPAE actually seek to modify the establishment of the MVR program for both choice-eligible residential and non-residential customers, which was approved by the Commission in the June 18, 2008 Opinion and Order in the *2007 Exemption Case*. RESA and IGS emphasize that the *2012 Exemption Case* pertained to the issue of whether the SCO should be discontinued for non-residential customers. RESA and IGS also contend that neither OCC nor OPAE has demonstrated, under R.C. 4929.08(A), that it is an adversely affected party, that the Commission's previous findings are no longer valid, or that the proposed modification is in the public interest. RESA and IGS assert that, although the SCO may currently be lower than the MVR for some suppliers, there is no guarantee that this will continue in future periods. RESA and IGS add that additional engagement in the competitive market is in the public interest, because increased competition will lead to overall lower natural gas supply costs.

{¶ 35} Like RESA and IGS, DES points out that, because the residential MVR program was approved in the June 18, 2008 Opinion and Order in the *2007 Exemption Case*, it cannot be eliminated or changed without Dominion's consent. Acknowledging that there are some MVR suppliers that have charged exorbitant rates for commodity service, DES asserts that, in lieu of discarding the well-established MVR program, the proper solution is to establish eligibility criteria for supplier participation in the program that will eliminate the bad actors, while continuing to encourage customer engagement in furtherance of the state policy of promoting competition. DES offers several recommendations for modifying the MVR program in this regard, including improvement of the notice that customers receive from Dominion prior to being assigned to an MVR supplier.

{¶ 36} Direct Energy also contends that OCC's and OPAE's arguments regarding default service for Dominion's residential customers are untimely under R.C. 4929.08(A)(2).

Regarding R.C. 4929.08(A)(1), Direct Energy asserts that neither OCC nor OPAE has fully addressed the range of considerations cited by the Commission in support of its orders in the *2007 Exemption Case* and the *2012 Exemption Case*, including the state policy of fostering competition, customer choice, and market innovation to produce customer value. According to Direct Energy, OPAE's and OCC's motions rest on assertions regarding the choices that customers should be making to save money, rather than the state policy favoring independent customer shopping in a fully competitive market that provided the original basis for the Commission's orders.

{¶ 37} Dominion states that the parties should work toward a mutually acceptable resolution of OCC's and OPAE's motions through a collaborative approach, which would eliminate legal questions as to the Commission's authority to modify the residential MVR program without Dominion's consent. Additionally, Dominion notes that the MVR program has served its intended purpose of supporting customer engagement during the transition to a more fully competitive commodity market, by giving customers an incentive to find their own supplier rather than be assigned to one. Dominion states that monthly participation in the residential MVR program has ranged from approximately 2,400 to 3,600 customers out of approximately one million residential customers. Nonetheless, Dominion acknowledges that the MVR program could be improved in order to address the limited problem posed by certain suppliers that have elected to post substantially higher MVR rates, with the evident intent of reaping an inflated margin on rotationally assigned customers, for however long they remain with that supplier. Noting that it is willing to address the adjustment of the MVR program to eliminate possible abuses and to consider additional ways to educate customers, Dominion concludes that OCC and OPAE have not supported the wholesale rejection of the MVR program.

{¶ 38} In its reply, OPAE contends that it seeks to modify the January 9, 2013 Opinion and Order in the *2012 Exemption Case* and, therefore, its motion is timely and well within the eight-year timeframe in R.C. 4929.08(A)(2). Further, OPAE notes that the evidentiary hearing in this matter will afford the opportunity for OPAE to demonstrate that its members

have been adversely affected by the January 9, 2013 Opinion and Order and that a modification is in the public interest. Similarly, OCC replies that the January 9, 2013 Opinion and Order in the *2012 Exemption Case* included a determination as to when Dominion or the parties to that case could seek the Company's full withdrawal as a supplier to residential customers, which was a new element added to the residential program. OCC argues that the January 9, 2013 Opinion and Order is, therefore, the appropriate starting point for the eight-year timeframe in R.C. 4929.08(A)(2). In response to arguments regarding the requirements in R.C. 4929.08(A)(1), OCC notes that R.C. 4929.08(A) provides that the Commission will make its determination regarding the validity of its previous findings only after notice and hearing. According to OCC, the necessary showing should be made in other phases of this proceeding. Regardless, OCC asserts that it has demonstrated that the Commission's findings are no longer valid, particularly its finding that consumers would be protected by the market and through education, and has also shown that the elimination of the MVR program for residential customers is in the public interest. OCC adds that, even if the Commission determines that OCC's motion is untimely under R.C. 4929.08(A), it should abrogate the MVR program under R.C. 4929.08(B), because the program is not in substantial compliance with the state policy in R.C. 4929.02 that protects consumers.

{¶ 39} In their joint reply comments, RESA and IGS argue that the purpose of the MVR program is to incentivize customers to choose a supplier and that the program was not created or designed to provide the lowest price to customers. RESA and IGS also contend that the low number of customers participating in the MVR program, as well as the fact that customers are constantly moving on and off the program, shows that the program is working as designed, with the majority of customers assigned to an MVR rate making a choice in less than one year. RESA and IGS emphasize that the SCO is not a rate against which suppliers should compete and that a return to the SCO would violate the state policy in R.C. 4929.02(A)(7) requiring effective competition and transactions between willing buyers and sellers. Noting that there does not appear to have been any systematic effort to educate MVR customers, RESA and IGS assert that there should be a focus on better

education of consumers and implementing appropriate safeguards that would prevent price complaints. RESA and IGS conclude that such steps would address the limited problem caused by a few suppliers and further encourage the initial goals of the MVR as a transitional program. Similarly, DES reiterates, in its reply comments, that steps can be taken to prohibit MVR suppliers from charging exorbitant rates and that the Commission should not derail Dominion's orderly plan for transitioning to a fully competitive market, which began long ago in the *2005 Exemption Case*.

{¶ 40} In its reply comments, Dominion notes that it is willing to support a resolution in which the MVR program is eliminated for residential customers and modified for non-residential customers, in order to support continued market development and provide appropriate consumer protections. Dominion asserts that any modification should have a reasonable basis that generally reflects natural gas commodity market conditions and competitive prices within its commodity market; a methodology that can be readily explained and summarized to customers, in order to assure them that there is a reasonable basis for the price that they pay; and a process that the Company can readily administer within its existing system and process. Dominion adds that, if additional customer education is needed, it should be undertaken through a collaborative approach involving all of the parties and that the Commission should consider the means by which those efforts are funded.

D. Summary of the Stipulation

{¶ 41} The Stipulation signed by OCC, OP&E, Staff, RESA, Direct Energy, IGS, DES, and Dominion (collectively, Signatory Parties) was submitted on the record at the hearing held on February 7, 2020. The Stipulation is intended by the Signatory Parties to resolve all of the issues in this proceeding. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

- (1) The Signatory Parties agree that Dominion's SCO Commodity Service tariff shall be the default commodity service for the Company's choice-eligible residential customers (residential

customers) who have not selected and enrolled with an energy choice supplier or do not participate in a governmental aggregation program, including, but not limited to, new residential customers³ after up to two consecutive billing periods on the SSO and those residential customers returning to the SSO for up to two consecutive billing periods after termination of their energy choice contract or participation in a governmental aggregation program. The Signatory Parties agree that, not later than 60 days after a Commission order approving the Stipulation without material modification, Dominion shall transfer to the SCO the residential customers currently assigned to an MVR supplier. If the transfer of such customers is not implemented in conjunction with the SCO/SSO auction process, Dominion's transfer of the MVR-assigned residential customers to the SCO shall be in accordance with the current SCO assignment mechanism utilized by the Company for assigning new residential customers to the SCO. (Joint Ex. 1 at 4.)

- (2) The Signatory Parties agree that Dominion's SCO shall be the default commodity service for the Company's choice-eligible non-residential customers whose annual consumption is less than or equal to 200 thousand cubic feet (Mcf)⁴ (small non-residential customers) and who have not selected and enrolled with an energy choice supplier or do not participate in a

³ New residential customers include customers establishing service with Dominion for the first time; relocating within Dominion's service territory and whose energy choice or government aggregation is not portable; and restoring service more than ten days after being disconnected for non-payment (Joint Ex. 1 at 4).

⁴ Annual consumption shall be based on the customer's usage in the prior calendar year or, if a calendar year of historical consumption information is not available for that customer, through an alternative mechanism (Joint Ex. 1 at 4).

governmental aggregation program, including those non-residential customers returning to the SSO for up to two consecutive billing periods after termination of their energy choice contract or participation in a governmental aggregation program. Dominion's transfer to SCO service of small non-residential customers currently assigned to an MVR supplier shall commence not later than 120 days after a Commission order approving the Stipulation without material modification. The Signatory Parties agree that Dominion's transfer of the MVR-assigned small non-residential customers to the SCO shall be in accordance with the current SCO assignment mechanism utilized by the Company for assigning new customers to the SCO. New small non-residential customers will receive at least one SSO bill and may select and enroll with an energy choice supplier or participate in a governmental aggregation program. If they do not do so, such customers will, after their second SSO bill, be assigned to a participating SCO energy choice supplier at a price established in the retail SCO auction under the standard terms and conditions of SCO Commodity Service included in Dominion's tariff. Customers that continue to qualify annually as small non-residential customers shall continue to default to the SCO Commodity Service unless they select and enroll with an energy choice supplier or participate in a governmental aggregation.⁵ (Joint Ex. 1 at 4-5.)

- (3) The Signatory Parties agree that Dominion shall provide a notice to residential and small non-residential customers currently in

⁵ As the statutory representative of residential customers, OCC does not represent non-residential customers and, thus, does not take a position with regard to paragraphs 2 and 4 through 11, but agrees not to oppose these paragraphs for purposes of the settlement (Joint Ex. 1 at 5).

the MVR program that they are being transferred to the SCO; have commodity service options; and may contact the Commission, OCC (for residential customers), or the Company for information about the transfer. Notices shall be provided by Dominion beginning no later than 31 days after an order approving the Stipulation without material modification and completed thereafter as soon as reasonably practicable and prior to the customer's transfer to the SCO. Such notice to residential and non-residential customers shall be provided to Signatory Parties for review and input before transmittal to customers. (Joint Ex. 1 at 5-6.)

- (4) The Signatory Parties agree that the current Monthly Variable Rate Commodity Service tariff shall be replaced with the Monthly Retail Rate (MRR) Commodity Service tariff (MRR program), which shall only be applicable to non-residential consumers whose annual consumption is greater than 200 Mcf (Joint Ex. 1 at 6).
- (5) The Signatory Parties agree that the MRR program shall be the default commodity service for all non-residential consumers whose annual consumption is greater than 200 Mcf and less than or equal to 500 Mcf⁶ (medium non-residential customers). Medium non-residential customers shall also have the option of receiving natural gas supply through the SCO, participating in an applicable governmental aggregation program, or selecting and enrolling with an energy choice supplier. A medium non-residential customer that currently receives natural gas

⁶ Annual consumption shall be based on the customer's usage in the prior calendar year or, if a calendar year of historical consumption information is not available for that customer, through an alternative mechanism (Joint Ex. 1 at 6).

commodity service under the MVR program shall continue to receive natural gas commodity service through the MRR program until the customer elects to receive natural gas commodity service through the SCO, participate in an applicable governmental aggregation program, or select and enroll with an energy choice supplier. New medium non-residential customers and medium non-residential customers returning to the SSO after termination of their energy choice contract or participation in a governmental aggregation program will receive at least one SSO bill, after which they may elect to receive natural gas supply through the SCO, participate in an applicable governmental aggregation program, or select and enroll with an energy choice supplier. If they do not make one of the foregoing elections, such customers will, after their second SSO bill, be assigned to a supplier participating in the MRR program. This paragraph shall be effective upon certification by Dominion that it has completed the necessary system changes for the assignment of medium non-residential customers. (Joint Ex. 1 at 6-7.)

- (6) The Signatory Parties agree that the MRR program shall be the default service for non-residential customers whose estimated annual consumption is greater than 500 Mcf⁷ (large non-residential customers). Large non-residential customers shall not be eligible to receive natural gas commodity service under the SCO; such customers shall also have the option of participating in an applicable governmental aggregation

⁷ Annual consumption shall be based on the customer's usage in the prior calendar year or, if a calendar year of historical consumption information is not available for that customer, through an alternative mechanism (Joint Ex. 1 at 7).

program (if eligible) or selecting and enrolling with an energy choice supplier. New large non-residential customers and large non-residential customers returning to the SSO after the termination of their energy choice contract or participation in a governmental aggregation program will receive at least one SSO bill, after which they may elect to participate in an applicable governmental aggregation program or to select and enroll with an energy choice supplier. If they do not make one of the foregoing elections, such customers will, after their second SSO bill, be assigned to a supplier participating in the MRR program. This paragraph shall be effective upon certification by Dominion that it has completed the necessary system changes for the assignment of medium non-residential customers. (Joint Ex. 1 at 7-8.)

- (7) The Signatory Parties agree that an energy choice supplier must meet the qualifications set forth in paragraph 8 of the Stipulation to participate in the MRR program for medium and large non-residential customers (Joint Ex. 1 at 8).
- (8) The Signatory Parties agree that Dominion shall file new tariffs or modify existing tariffs to provide for Monthly Retail Rate Commodity Service, which shall include the following terms:
 - (a) Beginning one year from the date of an order approving the Stipulation without material modification, all energy choice suppliers serving customers under the MRR program (MRR Suppliers) must have at least 100 non-MRR, non-SCO energy choice customers under contract for competitive retail natural gas service or must be serving at least 10,000

Mcf of non-MRR, non-SCO energy choice annual load (Joint Ex. 1 at 8).

- (b) An MRR Supplier having assigned customers must serve its assigned customers each month until at least the end of the following March billing cycle subject to disqualification as described in division (d) of this paragraph (Joint Ex. 1 at 8).
- (c) The MRR Supplier must post on the Commission's Energy Choice Ohio website⁸ or its then-current equivalent a monthly variable rate offer each month during the period of its participation in the MRR program (Joint Ex. 1 at 8).
- (d) Without limitation to other remedies that may be warranted as a result of non-MRR tariff violations, an MRR Supplier that fails to serve its existing customers at a price at or below the applicable monthly median price as established under paragraph 9 of the Stipulation or notifies Dominion of its intent to no longer serve under the MRR program prior to the March billing cycle shall be disqualified from participating in the MRR program. The disqualification period shall begin with the month that the MRR Supplier notifies Dominion that it will not provide natural gas commodity service to its existing MRR program customers at a price at or below the monthly median price and continue through the next

⁸ This website is currently located at <http://www.energychoice.ohio.gov/ApplesToApples.aspx> (Joint Ex. 1 at 8).

March billing cycle and then an additional 12-month period.⁹ (Joint Ex. 1 at 8-9.)

- (e) MRR Suppliers with a posted monthly variable rate equal to or below the monthly median MRR price shall be eligible to be assigned and provide supply to those assigned customers at the lower of the Supplier's lowest posted monthly variable rate price or the MRR price in the next service month as determined by Dominion's billing cycles (Joint Ex. 1 at 9).
 - (f) To avoid disqualification, an MRR Supplier that is not assigned customers for a service month because it did not offer a price equal to or below the monthly median MRR price must charge its previously assigned customers a rate that is no more than the monthly median MRR price (Joint Ex. 1 at 9).
- (9) The Signatory Parties agree that the monthly median MRR price, to be determined each month from the lowest submitted monthly variable rate from each qualifying MRR Supplier, shall be disclosed on the Commission's Apples to Apples website. The median monthly MRR price shall be calculated per the example attached as Exhibit A to the Stipulation, which is provided for example purposes only. In the event the median monthly MRR price is based on an even number of Suppliers, the average of the middle two prices shall constitute the median. Dominion shall provide each MRR Supplier's lowest posted

⁹ For example, if an MRR Supplier was disqualified beginning in December 2021, the disqualification would continue through the March 2023 billing cycle (Joint Ex. 1 at 9).

monthly variable rate along with the median MRR price to all MRR Suppliers and Staff each month. (Joint Ex. 1 at 9.)

- (10) The Signatory Parties agree that the tariff described in paragraph 8 shall require Dominion to reassign, once every 12 months, each MRR customer who has been assigned to the same MRR Supplier for the 12 prior consecutive months. The identification of customers shall take place annually, and reassignment shall be effective with the April billing cycle. Any MRR Supplier can be eligible to receive an assignment of these customers. The Signatory Parties acknowledge and accept that, through this stipulated random reassignment process, it is possible that an MRR customer could be reassigned to the same MRR Supplier. (Joint Ex. 1 at 9-10.)
- (11) The Signatory Parties agree that, at least one billing cycle before an assignment or a reassignment, Dominion shall provide notice, which may be completed by bill insert, bill message, or other reasonable method, to the non-residential customer who is subject to random assignment to an MRR Supplier through the MRR program that the customer will be randomly assigned or reassigned to an MRR Supplier if the customer does not choose to receive natural gas commodity supply service through the SCO (subject to customer eligibility), an energy choice supplier, or a governmental aggregation program (Joint Ex. 1 at 10).
- (12) The Signatory Parties agree that, within 60 days after an order approving the Stipulation without material modification or other time period mutually agreed upon by the Signatory Parties, Staff shall convene a collaborative meeting of interested stakeholders to discuss the development of a consumer

education program designed to help choice-eligible customers, including customers who are participating in the MRR program, compare options for natural gas service and understand how those options can affect the information on their natural gas bills in Dominion's service territory. Focus groups and surveys shall be conducted to assess why customers who were in the former MVR program for over 12 months did not affirmatively make a supply choice. The content and approach of any focus groups and surveys will be developed through the collaborative group, which will have access to the results of any focus groups and surveys. Collaborative group members, including Signatory Parties, may seek a resolution from the Commission regarding customer education issues, including notices to customers. (Joint Ex. 1 at 10-11.)

- (13) The Signatory Parties agree that Dominion shall use existing education funds to provide: (a) notices to customers that are to be assigned or reassigned as a result of the implementation of the Stipulation and (b) consumer education and other activities as described in paragraph 12. Additional funding for customer notices, consumer education, and the activities described in paragraph 12 shall be funded through a new fee. Beginning December 1, 2021, and subject to Commission approval of any necessary changes in its tariff, Dominion shall assess the fee in the amount of \$0.01/Mcf to all suppliers participating in Dominion's energy choice program, all suppliers of governmental aggregations in the Company's service territory, suppliers participating in the MRR program, and suppliers awarded tranches through the SCO or SSO auctions. The fee will continue to be assessed to suppliers for all such volumes billed

prior to the first billing cycle on December 1, 2025. Dominion shall hold the collected fees in a segregated account. The collection and use of the fees shall be subject to Commission audit. At least once per year, Dominion shall provide Staff and the Signatory Parties an accounting of the amounts received from the fee charged under this provision and a brief report describing its consumer education funding expenditures. Dominion shall make reasonable efforts to expend funding collected under this paragraph as it becomes available for use, subject to all of the following conditions: (x) that Dominion determines there is adequate support from the collaborative for such expenditures; (y) that Dominion shall be under no obligation to make such expenditures to the extent their intended use is being contested by any collaborative member; and (z) for the avoidance of doubt, that Dominion shall be under no obligation to make such expenditures in excess of available funding. (Joint Ex. 1 at 11-12.)

- (14) The Signatory Parties agree that, not later than three years after an order approving the Stipulation without material modification, the Signatory Parties shall meet to discuss the results of the changes implemented by the Stipulation and whether any further enhancements or changes should be made to the MRR program (Joint Ex. 1 at 12).
- (15) The Signatory Parties agree that, after an order approving the Stipulation without material modification, Dominion shall provide the Signatory Parties with readily available, aggregated non-supplier-specific switching statistics and data regarding the various commodity service options, including usage and

customer count information, in a format similar to that set out in Exhibit B to the Stipulation (Joint Ex. 1 at 12).

- (16) The Signatory Parties agree that Dominion shall retain aggregated non-supplier-specific rate, usage, and customer count information consistent with the data and information previously provided to the signatory parties of the settlement agreement adopted in the *2012 Exemption Case*. The information retained by Dominion under this paragraph shall not be available or used in any proceeding except one that relates to a modification of the MRR program or Dominion's exit from the merchant function (including any material modification of the process, terms, and conditions applicable to, or any limitation or modification of the availability of, SCO and/or SSO commodity service). However, the restriction on the use of information pursuant to this paragraph shall not prohibit a Signatory Party from making requests in future proceedings to seek information that has independent relevance in such future proceeding. To the extent there is a dispute concerning whether information previously provided to the Signatory Parties is independently relevant in a future proceeding, such dispute shall be addressed in the future proceeding. Dominion will work with Staff to determine what information needs to be provided, and to provide such information, to Staff. Dominion shall designate any such information provided to Staff that may be confidential or proprietary as such, and Staff shall take appropriate actions to protect information that is so marked. (Joint Ex. 1 at 12-13.)
- (17) The Signatory Parties agree that they shall not individually or jointly request Commission approval for Dominion to exit the

merchant function or to modify the MRR program structure for any of the Company's consumers prior to July 1, 2023. The Signatory Parties reserve their rights to challenge any application or request filed with the Commission by a Signatory Party or non-signatory party seeking approval for Dominion to exit the merchant function or to modify the structure of the MRR program. (Joint Ex. 1 at 13.)

- (18) The Signatory Parties agree that, notwithstanding anything to the contrary in paragraph 17 of the Stipulation, Dominion may request a limited modification to the energy choice or MRR programs to the extent necessary to (a) address issues concerning operation of the distribution system or program administration or (b) implement new or changed state or federal laws or regulations affecting its operations or the energy choice or MRR programs. The Signatory Parties reserve all rights to support or oppose any such request by Dominion. (Joint Ex. 1 at 13.)
- (19) The Signatory Parties agree that, subject to the conditions set forth in this paragraph, Dominion's signature on the Stipulation constitutes its consent under R.C. 4929.08(A)(2) to any modification of any prior exemption order that is necessary to approve or implement the Stipulation. This consent is expressly conditioned on the Commission's approval of the Stipulation without material modification. For purposes of this paragraph, Dominion has the right, in its sole discretion, to determine whether the Commission's approval of the Stipulation contains a material modification. If Dominion chooses to revoke or withdraw its consent, it may do so under any and all of the

circumstances in which withdrawal is permitted, and it shall do so in accordance with the procedures for withdrawal set forth in the “Additional Terms and Conditions” of the Stipulation. For the avoidance of doubt, revocation or withdrawal of consent under this paragraph shall not operate to bar or limit Dominion from consenting to any future modification proposed or requested under R.C. 4929.08. (Joint Ex. 1 at 13-14.)

E. Consideration of the Stipulation

{¶ 42} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. 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.

{¶ 43} 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:

- (a) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

- (b) Does the settlement, as a package, benefit ratepayers and the public interest?
- (c) Does the settlement package violate any important regulatory principle or practice?

{¶ 44} 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), citing *Consumers' Counsel* at 126. 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.

{¶ 45} The Signatory Parties opine that the Stipulation is the product of serious bargaining among knowledgeable and capable parties with diverse interests to resolve the issues in this case (Joint Ex. 1 at 1-2). In support of the Stipulation, Staff witness Bossart states that the Stipulation is the product of an open process in which all parties were given an opportunity to participate and were represented by able counsel experienced in matters before the Commission. Furthermore, Ms. Bossart avers that the Stipulation represents a compromise of the issues raised by the parties with diverse interests and that the Stipulation represents a reasonable result. (Staff Ex. 1 at 3.) Upon review, we find that the first prong of the test is met.

{¶ 46} In regard to the second prong, the Signatory Parties aver that the Stipulation, as a package, benefits customers and the public interest (Joint Ex. 1 at 2). In support of this representation, Ms. Bossart discusses the current MVR program, which she states has been subject to a wide range of posted prices, some of which have been considerably above the competitive retail natural gas offers available to customers. Ms. Bossart also notes that the MVR program has been the subject of customer confusion and complaints. Ms. Bossart points out that the Stipulation adopts certain changes to address issues with the MVR program that benefit the public interest and represent a reasonable resolution of the issues

in this proceeding. Specifically, Ms. Bossart states that, under the Stipulation, the MVR program will be replaced by the MRR program tariff. However, Ms. Bossart notes that all customers are placed on the SSO for one to two billing cycles when starting new service or transitioning from one type of service to another. (Staff Ex. 1 at 4.)

{¶ 47} With regard to the Stipulation's first modification, Ms. Bossart avers that Dominion's SCO Commodity Service tariff will be the default commodity service for Dominion's choice-eligible residential customers, as well as for the Company's choice-eligible non-residential customers with annual consumption less than or equal to 200 Mcf, once their CRNGS or governmental aggregation contract has terminated or when initiating service as new customers (Staff Ex. 1 at 4-5). Additionally, Ms. Bossart explains that Dominion will transfer all of the residential customers currently assigned to an MVR supplier no later than 60 days after a Commission order approving the Stipulation without material modification. According to Ms. Bossart, Dominion's transfer of small non-residential customers currently assigned to an MVR supplier to SCO service shall commence not later than 120 days after a Commission order approving the Stipulation without material modification. With respect to non-residential customers with annual usage between 201 Mcf and 500 Mcf, Ms. Bossart represents that those customers will default to the MRR but will have the option to select a CRNGS supplier, join a governmental aggregation if eligible, or select the SCO. Furthermore, Ms. Bossart avers that the MRR program includes new requirements for suppliers who choose to participate in the MRR program, as well as new requirements for MRR suppliers to post a monthly variable rate on the Commission's Apples to Apples chart and to provide service at or below the median monthly variable rate of the participating MRR suppliers (MRR price). (Staff Ex. 1 at 5.)

{¶ 48} Additionally, Ms. Bossart avers that the monthly median MRR price will be determined by the median price of the lowest posted monthly variable rates of each qualifying MRR supplier. Ms. Bossart further explains that the MRR price charged to customers will be the lower of the MRR monthly median price or the MRR supplier's lowest posted monthly variable rate, while participating MRR suppliers that are unwilling to serve

customers at or below the MRR price will be disqualified, as well as be subject to a stay-out period for those that request to leave the program early after having committed to serve customers at that price. As a final matter, Ms. Bossart represents that the Stipulation addresses funding for an education program designed to help choice-eligible customers, including those who are participating in the MRR program, compare options for natural gas service and understand how those options can affect the information on their natural gas bills in Dominion's service territory. Ms. Bossart also notes that the Stipulation requires focus groups and surveys to be conducted regarding the former MVR program, and the formation of a stakeholder collaborative to develop the education programs. (Staff Ex. 1 at 6.) The Commission agrees that the Stipulation benefits customers and the public interest and, therefore, finds that the Stipulation also satisfies the second prong of the test.

{¶ 49} Lastly, in regard to the third prong, the Signatory Parties aver that the Stipulation is supported by adequate data and information and violates no regulatory principle or precedent (Joint Ex. 1 at 1). Ms. Bossart purports that, under R.C. 4929.08(A), the Commission may abrogate or modify an order granting a natural gas company an exemption under R.C. 4909.04, if the two statutory conditions are met. Ms. Bossart reiterates that the current MVR program is subject to a wide range of posted prices, some of which have been considerably above the competitive retail natural gas offers available to customers, and has been the subject of customer confusion and complaints. To address the issues and concerns with Dominion's current MVR program, Ms. Bossart states that the Stipulation proposes changes that include the establishment of the SCO as the default commodity service for residential customers and non-residential customers with annual consumption less than or equal to 200 Mcf, additional pricing requirements for the MRR program, and a new customer education fund and collaborative – all of which are in the public interest. In addition, Ms. Bossart contends that the parties recognize that Dominion's agreement to the Stipulation eliminates any question as to whether R.C. 4929.08(A)(2) has been met. (Staff Ex. 1 at 6-7.) The Commission finds that there is no evidence that the Stipulation violates any important regulatory principle or practice and, therefore, the Stipulation meets the third criterion.

F. Conclusion

{¶ 50} The Commission has considered OCC's and OP&E's motions to modify Dominion's exemption and the comments and memoranda in response, as well as the Stipulation and Staff witness Bossart's testimony. Upon review, we find that Dominion's exemption should be modified pursuant to R.C. 4929.08(A) and that the motions should be granted to the extent set forth herein. As noted above, an exemption order may only be modified if the conditions in R.C. 4929.08(A)(1) and (A)(2) are satisfied. We first address R.C. 4929.08(A)(1), which requires the Commission to determine that the findings upon which the exemption order was based are no longer valid and that modification is in the public interest. In this case, the Commission recognizes that the parties' comments and pleadings reflect differing opinions as to whether the Commission's analysis under R.C. 4929.08(A)(1) should focus on the continuing validity of the findings in the January 9, 2013 Opinion and Order in the *2012 Exemption Case* or the findings in the June 18, 2008 Opinion and Order in the *2007 Exemption Case*. The Commission finds that there is no need to decide this question, because certain findings upon which both of these orders were based are no longer valid. In the *2007 Exemption Case*, the Commission determined that, under the stipulation in that case, "the public welfare will be protected." *2007 Exemption Case*, Opinion and Order (June 18, 2008) at 18. The Commission's approval of the stipulation was also based, in part, on Dominion's representations that "there will be customer education concerning the impact of phase 2 on customers * * * to ensure that customers understand their options." *2007 Exemption Case* at 19, 20. Similarly, in the *2012 Exemption Case*, the Commission determined that "customers will be protected by the market," while also basing its approval of the stipulation in that case, in part, on the belief that a "comprehensive customer education program" would be implemented to enable customers "to make informed decisions when SCO service is discontinued." *2012 Exemption Case*, Opinion and Order (Jan. 9, 2013) at 15. As Staff witness Bossart testified in the present case, the current MVR program "is subject to a wide range of posted prices, some of which have been considerably above the competitive retail natural gas offers available to customers" and "has been the subject of customer confusion and complaints" (Staff Ex. 1 at 7). The Signatory

Parties expressed the same view in the Stipulation (Joint Ex. 1 at 3). Consistent with the Stipulation and Ms. Bossart's testimony, we find that the Commission's prior expectations regarding the adequacy of consumer protection and education have not been met. As evidenced by the unanimous agreement of the diverse group of parties in this case, modification of the current MVR program is necessary to accomplish these fundamental objectives.

{¶ 51} In addition, as addressed above, we find that the Stipulation's proposed modification of Dominion's exemption is in the public interest, in accordance with R.C. 4929.08(A)(1). We find that the Stipulation's provisions, which include enhanced supplier eligibility criteria, pricing requirements, and customer education, will further the public interest objectives set forth in R.C. 4929.02(A). Specifically, we find that the Stipulation, among other things, will promote the availability to consumers of reasonably priced natural gas services and goods; promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs; promote diversity of natural gas supplies and suppliers, by giving consumers effective choices over the selection of those supplies and supplier; encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods; and facilitate additional choices for the supply of natural gas for residential consumers, including aggregation. R.C. 4929.02(A)(1), (A)(2), (A)(3), (A)(4), (A)(11).

{¶ 52} Finally, R.C. 4929.08(A)(2) specifies that modification of an exemption order must not be made more than eight years after the effective date of the order, unless the affected natural gas company consents. Here, Dominion's consent in the Stipulation to the modification proposed therein, which we adopt without further alteration, negates any need for our consideration of the relevance of the eight-year period in this case (Joint Ex. 1 at 13).

{¶ 53} Having found that Dominion's exemption should be modified pursuant to R.C. 4929.08(A), the Commission also finds that the Stipulation, which all of the parties to this proceeding have joined, provides a reasonable resolution as to how the exemption

should be modified. As the Stipulation reflects a unanimous agreement resolving all of the issues and is supported by the evidence of record (Staff Ex. 1), we place substantial weight on its terms. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 126, 592 N.E.2d 1370 (1992). Accordingly, we find that the Stipulation is reasonable, is in the public interest, and should be adopted in its entirety.

{¶ 54} As a final matter, as we have emphasized in prior exemption cases, the Commission is not precluded from reestablishing the SCO or another pricing mechanism for any customer class, if warranted under the circumstances, and consistent with R.C. 4929.08 or any other statutory authority granted to the Commission.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 55} Dominion is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the Commission's jurisdiction.

{¶ 56} On September 14, 2018, and August 16, 2019, OPAE and OCC, respectively, filed, pursuant to R.C. 4929.08(A), motions seeking modification of the January 9, 2013 Opinion and Order in the 2012 *Exemption Case*.

{¶ 57} By Entry dated August 16, 2019, a procedural schedule was set for this matter and Dominion was directed to publish notice of the evidentiary hearing.

{¶ 58} Dominion filed proof of publication on September 30, 2019.

{¶ 59} Motions for intervention in this proceeding were filed on various dates by OCC, OPAE, Dominion, RESA, DES, IGS, and Direct Energy.

{¶ 60} The evidentiary hearing in this matter was called on November 5, 2019, and continued. The evidentiary hearing reconvened on December 17, 2019, and January 16, 2020, for brief updates on the status of the parties' settlement discussions.

{¶ 61} The Stipulation, which was signed by all of the parties, was filed on February 5, 2020.

{¶ 62} On February 7, 2020, the evidentiary hearing again reconvened and the Stipulation of the parties was entered into the record, along with the supporting testimony of Staff witness Bossart.

{¶ 63} OCC's and OPAE's motions for modification should be granted, consistent with this Opinion and Order.

{¶ 64} The Stipulation submitted by the Signatory Parties complies with R.C. 4929.08(A) and Ohio Adm.Code 4901:1-19-11, meets the criteria used by the Commission to evaluate stipulations, is reasonable and in the public interest, and should be adopted in its entirety.

IV. ORDER

{¶ 65} It is, therefore,

{¶ 66} ORDERED, That OCC's and OPAE's motions for modification be granted to the extent set forth herein. It is, further,

{¶ 67} ORDERED, That the Stipulation filed by the parties be adopted and approved. It is, further,

{¶ 68} ORDERED, That the motions for intervention filed by OCC, OPAE, Dominion, RESA, DES, IGS, and Direct Energy be granted. It is, further,

{¶ 69} ORDERED, That nothing in this Opinion and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

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

COMMISSIONERS:

Approving:

Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

SJP/LLA/kck

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Case No(s). 18-1419-GA-EXM

Summary: Opinion & Order that the Commission adopts the joint stipulation and recommendation filed by the parties, resolving all of the issues raised in the motions to modify the commodity sales service exemption granted to The East Ohio Gas Company d/b/a Dominion Energy Ohio electronically filed by Docketing Staff on behalf of Docketing