

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Columbia	)	
Gas of Ohio, Inc. For Approval of a General	)	Case No. 08-1344-GA-EXM
Exemption of Certain Natural Gas Commodity	)	
Sales Services or Ancillary Services.	)	

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**JOINT STIPULATION AND RECOMMENDATION**

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**INTRODUCTION**

Rule 4901-1-30, Ohio Administrative Code (“OAC”), provides that any two or more parties to a proceeding may enter into a written or oral stipulation concerning the issues presented in any Commission proceeding. Pursuant to Rule 4901-1-10(C), OAC, the Staff of the Commission (“Staff”) is considered a party for the purposes of entering into a stipulation under Rule 4901-1-30, OAC.

Pursuant to Rule 4901-1-30, OAC, Columbia Gas of Ohio, Inc. (“Columbia”); Staff; the Office of the Ohio Consumers’ Counsel (“OCC”); Northwest Ohio Aggregation Coalition (“NOAC”)<sup>1</sup>; Ohio Farm Bureau Federation; Ohio Schools Council; Honda of America Mfg., Inc.; Ohio Energy Group (“OEG”)<sup>2</sup>; Allied Industries; Dominion Retail, Inc.; DTE Energy Trading, Inc.; Ohio Gas Marketers Group<sup>3</sup>; Proliance Energy, LLC; Sempra Energy Trading LLC; Stand Energy Corporation; The Timken Company; Glen Gery Corporation; Ohio Partners for Affordable Energy (“OPAE”); National Energy Marketers Association; and Wal-Mart Stores,

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<sup>1</sup> NOAC’s members include the Board of County Commissioners of Lucas County, the Board of Township Trustees of Lake Township, Wood County, the City of Maumee, the City of Northwood, the City of Oregon, the City of Sylvania, the City of Toledo, and the Village of Holland.

<sup>2</sup> The members of OEG include AK Steel Corporation, Aleris International, ArcelorMittal USA, Brush Wellman, Inc., Chrysler LLC, Ford Motor Company, Griffin Wheel Company, Johns Manville, PPG Industries, Inc., Republic Engineered Products, Inc., Severstal Wheeling, Sunoco, and Worthington Industries.

<sup>3</sup> OGMG’s members include Commerce Energy of Ohio, Inc., Constellation NewEnergy-Gas Division, LLC, Direct Energy Services, LLC, Exelon Energy Company, Hess Corporation, Integrys Energy Services, Inc., Interstate Gas Supply, Inc., SouthStar Energy Services, LLC, and Vectren Retail LLC.

Inc.; (hereinafter “the Parties”) enter into and request the Public Utilities Commission of Ohio (“Commission”) to accept the following Joint Stipulation and Recommendation (also referred to as “the Stipulation” or “Agreement”) in the above-captioned proceeding.

The Parties agree that the proposals set forth in Columbia’s Application, as modified by this Joint Stipulation and Recommendation, provide an appropriate basis for implementing an auction procedure (“Auction”) to secure the gas supply for Columbia’s sales customers that satisfies the objectives and meets the requirements of the Commission’s Opinion and Order in Case Nos. 04-221-GA-GCR, et al.<sup>4,5</sup> The Auction will replace Columbia’s current Gas Cost Recovery (“GCR”) mechanism for providing commodity gas supplies to its sales customers. In accordance with the Application as modified by the Stipulation, Columbia will conduct two Auctions in order to implement two consecutive one-year long Standard Service Offer (“SSO”) periods, starting in April 2010 and April 2011. Through those auctions Columbia will obtain commodity gas supplies from alternative suppliers (“SSO Suppliers”) for both its Percentage of Income Payment Plan (“PIPP”) and SSO requirements. After obtaining gas supplies from the SSO Suppliers through the Auction, Columbia will pass the price of that gas on to its sales customers at a monthly rate called the Standard Service Offer. In accordance with the Stipulation, a third auction will be scheduled for the annual period beginning April 2012. The third auction will be a Standard Choice Offer (“SCO”) auction.<sup>6</sup> The primary difference between the SSO and SCO auctions is that bid winners of the SCO auction (“SCO Suppliers”) will be

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<sup>4</sup> *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained within the Rate Schedules of Columbia Gas of Ohio, Inc., and Related Matters*, Case No. 04-221-GA-GCR, et al., Opinion and Order (January 8, 2008).

<sup>5</sup> The Timken Company’s and Glen Gery Corporation’s support for this Stipulation is limited to only those provisions of Columbia’s Application, as modified by this Stipulation, that address the terms and conditions of Transportation Service.

<sup>6</sup> DTE, OPAE and OCC state that while they support the Stipulation, that support should not be interpreted as support for SCO auctions in general, or in this Stipulation.

assigned to individual customers while in each of the two SSO auctions an undivided percentage of the standard service customers' demand will be allocated to the bid winners.

The Parties agree that the Application, as modified by this Stipulation, promotes the primary objectives of the Auction process, which are (1) to maintain reliable service for all customers; (2) to establish clear and user friendly administrative procedures; (3) to minimize operational complexities; (4) to create certainty and stability for all market participants; (5) to define the roles and responsibilities of all participants; (6) to design and implement an Auction to replace the GCR effective April 1, 2010; (7) to establish and maintain a level playing field between the CHOICE program and the SSO/SCO service; and (8) to determine the structure of, and eligibility requirements for Transportation Service ("TS").

The Stipulation and modified Application address other areas of service provided by Columbia, including changes to its TS program (e.g., banking and balancing, eligibility, and charges for non-compliance with operational flow orders/operational matching orders), and the Off-System Sales and Capacity Release Incentive Sharing Mechanism ("OSS/CR Program").

The Stipulation also modifies the Application's proposed CHOICE/SSO/SCO Reconciliation Rider ("CSRR"), in order to provide for the recovery of incremental SSO/SCO program costs. This recovery of incremental program costs will be made through the CSRR in addition to the recovery from or pass back to all affected customers of any imbalances between gas costs and recoveries; the flow-through of refunds; and the flow-through of that portion of OSS/CR revenues being shared with customers through the CHOICE Program Sharing Credit.

The Parties' agree that the materials on file with the Commission, which include: Columbia's Application filed on January 30, 2009, including Exhibits I through VI submitted with the Application; supplemental Exhibits VII through X filed on March 26, 2009; Columbia's

prefiled testimony in this proceeding also submitted on March 26, 2009; an amended Exhibit I (Program Outline); and amended Exhibits VIII and IX that will be submitted within thirty (30) days of the filing of this Stipulation (which will depict the appropriate revisions to Columbia's tariffs) and that reflect compromises that resulted from the Parties' settlement discussions; and the testimony submitted by the Parties in support of this Stipulation, provide an adequate evidentiary record to support the adoption of this Stipulation by the Commission.

The Parties understand that this Joint Stipulation and Recommendation is not binding upon the Commission; however, this Agreement represents a cooperative effort by parties representing a broad range of interests to settle all of the issues in Case No. 08-1344-GA-EXM. The Parties agree that, with the modifications that the Stipulation makes to Columbia's Application and to the proposed tariff revisions proposed in the Application, the Application and the proposed tariff revisions, as modified, should be approved. (The final proposed tariff revisions to implement the Stipulation will be filed for Commission review within thirty (30) days of the filing of the Stipulation.)

Therefore, the Parties, by and through their respective counsel, hereby agree and stipulate to the following matters:

#### **2003 AND 2007 STIPULATIONS**

In early 2003, Columbia engaged its Collaborative, composed of Columbia, the Commission's Staff, and other interested parties, in discussions about capacity re-contracting, extension of Columbia's Customer CHOICE program beyond October 2004, and funding for the CHOICE program post-2004. The agreement among certain members of the 2003 Collaborative with respect to these and other issues was embodied in a Stipulation and Recommendation (the "2003 Stipulation") that ultimately, after modifications by the Commission, was adopted by the

Commission. The Commission approved a four-year term for the 2003 Stipulation, beginning November 1, 2004 and extending until November 1, 2008.<sup>7</sup>

In 2006, the Commission initiated a management/performance audit of Columbia's GCR activities for the period November 1, 2002 through October 31, 2005 (the "2004-2005 GCR Audit Case"). The audit period in that proceeding included the first year of operations under the 2003 Stipulation. During that proceeding, the Commission's Staff and several parties raised objections regarding Columbia's implementation of several provisions of the 2003 Stipulation. Subsequently, Columbia, the Staff, and various parties (the "Stakeholder Group") submitted a Joint Stipulation and Recommendation (the "2007 Stipulation"), which the Commission approved on January 23, 2008.<sup>8</sup> The 2007 Stipulation established a Transition Period, from November 1, 2008 through March 31, 2010, intended to provide regulatory stability and predictability for Columbia and all of its Stakeholders while those parties undertook a comprehensive process to reevaluate, redesign as necessary, and implement new market structures for competitive services on Columbia's system. A primary purpose of the Transition Period was to provide for the development and implementation of an Auction/SSO process to replace the traditional GCR mechanism beginning April 1, 2010. The 2007 Stipulation detailed a comprehensive Stakeholder Group process for reviewing key elements of Columbia's operations and services, including the design of the required Auction/SSO program.

The Parties agree that the process that Columbia and the rest of the Stakeholder Group have undertaken since the approval of the 2007 Stipulation, culminating with the Application that Columbia filed in this proceeding, as modified by this Joint Stipulation and

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<sup>7</sup> Case No. 94-987-GA-AIR, et al., Entry on Rehearing (May 5, 2004).

<sup>8</sup> Case No. 04-221-GA-GCR, et al., Opinion and Order (January 23, 2008).

Recommendation, meets the objectives and satisfies the requirements of the 2007 Stipulation and the Commission's order in Case No. 04-221-GA-GCR, et al.

## 2008 APPLICATION

The 2007 Stipulation adopted by the Commission's January 23, 2008 order in Case No 04-221-GA-GCR, et al., required Columbia to file, on or before February 1, 2009, an application to implement a wholesale gas supply auction by no later than April 1, 2010.

On January 30, 2009, in order to implement the required auction, Columbia submitted an Application pursuant to Section 4929.04, Revised Code, for approval of an exemption from the chapters and sections of the Revised Code specified in Section 4929.04 for the provision of commodity sales services. Columbia's Application was also submitted pursuant to Section 4929.11, Revised Code for approval of a Choice/SSO Reconciliation Rider ("CSRR"), in order to recover from or pass back to all affected customers the Unrecovered Gas Cost Balance and Refunds; the flow-through to customers of shared OSS/CR revenues; and recovery of incremental program costs. In addition, the Application also requests, pursuant to Section 4905.13, Revised Code, all applicable accounting authority necessary to implement the CSRR.

In order to comply with the requirements of Rule 4901:1-19-04, Ohio Admin. Code, Columbia submitted with the Application on January 30, 2009, the following exhibits:

Application Exhibit I:	Program Outline
Application Exhibit II:	Compliance with § 4929.02, Revised Code
Application Exhibit III:	Competitive Market Behavior, Rule 4901:1-19-04(C)(2), Ohio Admin. Code
Application Exhibit IV:	Description of Exempted Services Requested
Application Exhibit V:	Proposed Separation Plan and Code of Conduct
Application Exhibit VI:	Description of dockets in which special arrangements filed pursuant to §4905.31, Revised Code, which customers may be affected by the Application

Subsequently, on March 26, 2009 Columbia, pursuant to Rule 4901:1-19-04(C)(6) and (7) submitted the following supplemental exhibits in support of its Application:

- Application Exhibit VII: Schedule E-2, current tariff schedules to which changes are proposed
- Application Exhibit VIII: A clean copy of all proposed tariff schedules
- Application Exhibit IX: Schedule E-1, a scored copy of all proposed tariff schedules
- Application Exhibit X: Schedule E-3, which provides the rationale underlying the proposed changes to the tariffs

Columbia also submitted on March 26, 2009, in support of its Application, the prefiled testimony of Thomas J. Brown, Jr., Michael D. Anderson, Heather Bauer, Larry W. Martin, Scott D. Phelps, and J. Michael Ripley. On March 31, 2009, Columbia submitted an exhibit to Mr. Anderson's prefiled direct testimony.

In addition, the Parties will submit an amended Exhibit I (Program Outline) and will file for Commission review within thirty (30) days of the filing of this Stipulation amended Exhibits VIII and IX (which will depict the appropriate revisions to Columbia's tariffs) that reflect compromises that resulted from the Parties' settlement discussions.

The Parties agree that these materials and the record in this proceeding and testimony submitted by the Parties in support of this Stipulation adequately support adoption of this Joint Stipulation and Recommendation and approval of Columbia's Application as modified by this Stipulation.

On May 11, 2009, the Commission's Attorney Examiner issued an Entry that, among other things, scheduled local public hearings to take testimony from the public regarding the Application and directed Columbia to publish notice of those hearings in a newspaper of general circulation in each county in which it provides service. On August 17, 2009 Columbia filed affidavits of publication. The Parties agree that notices of the Application and the local public hearings have been published in compliance with the May 11, 2009 Entry.

## **TERM**

The Parties agree that the Stipulation shall commence upon approval of the Commission and shall have an initial term extending until March 31, 2013. After the expiration of the initial term, the provisions of this Agreement including the then-approved method of supplying commodity for standard service offer and PIPP service shall continue until modified by the Commission.

The OSS/CR Program's revenue sharing mechanism is limited to a three-year term (April 1, 2010 through March 31, 2013). That mechanism does not continue unless agreed to by the OCC and the Staff. Absent an agreement on an extension of the OSS/CR Program's revenue sharing mechanism, the default mechanism is 80% of the revenues to customers and 20% to Columbia. Columbia, Staff, or the OCC may petition the Commission for a change to the default mechanism, whereas the other Parties retain the right to oppose any such changes.

All Parties reserve the right to propose changes to the Agreement to become effective after the end of the initial term.

## **MODIFICATIONS TO THE APPLICATION AND EXHIBITS**

The Parties agree that Columbia's Application, pre-filed testimony and proposed tariff revisions contained in that Application shall be modified in the following manner:

### **Revised Program Outline**

The Parties agree that they will submit an amended Program Outline (Amended Exhibit I to the Application), which will be modified in the manner described below.

The Parties agree that the implementation of the Program Outline may be amended by the signatory parties without subsequent Commission approval so long as the amendments are non substantive such as minor revisions to the calendar dates for meetings or delivery of notices.

#### **Section 4 (SSO Transition Calendar):**

The following dates have been changed in the Application timeline:

The Hearing Date is changed to September 29, 2009 to match the revision requested by Staff's motion.

A date for the Commission Decision is eliminated since that is not a date the parties control.

A meeting of the Signatory Parties and other interested stakeholders to review the auction process no later than April 20, 2010 is added. Additionally, a second meeting to discuss the need for changes for the second auction to be conducted mid-summer 2010 to review and discuss SSO commodity supply operations is scheduled. Both meetings will be open to all stakeholders.

#### **Section 8 (Type and Timing of the Auctions):**

The amended application seeks approval for two Standard Service Offer (SSO) auctions, each for a one-year service obligation. A third auction shall be scheduled for April 2012, also for a one-year service obligation. That auction shall be a Standard Choice Offer auction (SCO). The primary difference between the SSO and the SCO auction is that the bid-winners will be assigned to provide service to individual customers as opposed to an undivided percentage of the standard service demand as is the case in an SSO auction.

Columbia has not expressed a present intent to, nor does this Agreement contemplate that Columbia seeks to, exit the merchant function. In succeeding auctions all customers who are not participating in the CHOICE program or a governmental aggregation group will be part of the next auction. Any customer who is in CHOICE and whose contract ends must either find a new supplier or be placed back in the then current auction program (SSO or SCO service).

In light of the fact that the SCO auction is three years away, any party may prior to the SCO auction date petition the Commission to suspend the SCO auction in favor of another SSO auction. In the event that a party files an objection to an SCO auction the parties supporting the SCO auction agree to present evidence intended to demonstrate the anticipated benefits to be derived from an SCO auction.<sup>9,10</sup>

#### **Section 13 (SSO Supplier Agreement):**

The Application should be amended to include a draft Supplier Agreement. The Supplier Agreement should incorporate the best features developed in previous auctions.

<sup>9</sup> DTE, OPAE and OCC state that while they support the Stipulation, that support should not be interpreted as support for SCO auctions in general, or in this Stipulation.

<sup>10</sup> Hess states that while it supports the Stipulation as a whole, it does not support the proposed SCO auction.

**Section 16 (CHOICE/SSO Aggregation Fee):**

This Section of the Program Outline has been eliminated.

**Section 17.6.d (CHOICE/SSO/SCOSupplier Payments):**

If Columbia seeks reimbursement from a CHOICE/SSO/SCO supplier for upstream pipeline penalties and/or costs resulting from the CHOICE/SSO/SCO supplier's failure to comply with Columbia's tariff, Columbia shall have the burden of establishing the CHOICE/SSO/SCO supplier's failure to comply with Columbia's tariff. Additionally, Columbia shall provide such CHOICE/SSO/SCO Suppliers with documentation of how the applicable penalties or costs have been calculated.

**Section 17.6.e (Balancing/Peaking Service fee paid by CHOICE/SSO/SCO Suppliers):**

The CHOICE/SSO/SCO Suppliers shall pay a non-temperature balancing and peaking service fee of thirty-two cents (32¢) per Mcf. This fee shall not change during the Term of the Stipulation.

Annually, there shall be a true up through the CSRR between the actual cost of the retained assets held to provide Balancing/Peaking Service with the revenues received from the Balancing/Peaking Service fee.

**Section 17.6.i (Interest Payments):**

Columbia shall be authorized to apply a late payment fee of 1.5% on the balance due Columbia from the SSO/SCO Supplier(s). Interest shall only apply if after netting all amounts Columbia owes the supplier as well as all amounts the supplier owes Columbia there is still an outstanding balance more than thirty (30) days in arrears.

**Section 19 (Columbia Capacity Allocation Process):**

Columbia will use the peak day calculation (which utilized the 1 in 10 methodology), but was designed to balance all customers under 15,000 Mcf a year.

Columbia's peak day demand proposed in its initial filings of 2.0376 MMDth will be accepted as the peak day amount for the term of the Agreement. The peak day will be fixed for the three (3) years of SSO/SCO auctions. Columbia will retain its existing peak day capacity portfolio with the following modification to Columbia's capacity contracts - 40,000 Dth/day in Columbia Gulf FTS-1 and 39,199 Dth/day of TCO FTS should be left to lapse when the first contract expires in April 2010.

There will be no contract capacity review via the stipulation during the term of the Stipulation period. Planning for 2015 when the large upstream contracts expire shall take place in a timely fashion.

**Section 21 (Storage Capacity Release):**

Only the initial SSO suppliers will be required to purchase the natural gas left in storage. Columbia will sell between 2% and 4% of SSO suppliers' April 1, 2010 assigned TCO Firm Storage Service ("FSS") SCQ on April 1, 2010. Columbia will notify the bidders for the SSO auction of the amount to be left in storage that they must purchase per tranche. The notice will come at least 3 weeks before the auction. The sale of the gas shall be at Inside FERC Appalachia – April 2010 price plus fuel, variable transportation and excise tax (same as Columbia's proposal on price). Any difference between the revenues from these sales and Columbia's actual per-book cost shall be reflected in the CSRR Mechanism pursuant to Section 41.

Any amount in excess of the quantity transferred to SSO suppliers will be sold to market or remain in Columbia's retained TCO FSS. Any difference between the revenues from such sales and Columbia's actual per-book cost shall be reflected in the OSS/CR Program's sharing mechanism calculation pursuant to Section 41.

**Section 22 (Capacity Recall/Reassignment):**

The Parties agree that it is important that the capacity match as closely as possible on a monthly basis each supplier's customer group. Therefore, all assignable storage and transportation capacity shall be allocated and assigned on a monthly basis consistent with changes in the CHOICE/SSO/SCO-supplier-customer groups. The Parties agree that the commodity held by each supplier in storage not be included in any reallocation, that each supplier will make its own arrangements with respect to such commodity supply. In addition, Columbia will meet with SSO/SCO and CHOICE suppliers to discuss on-going problems with the TCO electronic bulletin board ("EBB").

**Sections 22 and 27 (Storage Management):**

The same percentage of Columbia's Storage Contract Quantity ("SCQ") that the 2010 bid winners must buy from Columbia shall be offered in 2011 by the 2010 bid winners to, and accepted by, the 2011 bid winners under the same terms as the gas in storage was bought by the 2010 bid winners from Columbia minus the excise tax. Columbia will not be required to be in the stream of the transfer of the volumes, but may be called upon to help facilitate transfer between parties.

**Section 31 (Annual Volume Reconciliations):**

In addition to the changes suggested by Columbia in its application on this issue Columbia will also offer a second annual cash-out/cash-in reconciliation methodology for CHOICE/SSO/SCO suppliers that choose such a methodology, where the reconciliation calculation would be based on the individual supplier's monthly billed volumes compared to delivered volumes (inclusive of btu conversion, on-system retainage, and other adjustments to reflect the local gas purchase adjustment). The calculation will utilize the monthly price in accordance with the tariff to determine the impact to the

supplier's monthly reconciliation balance which in the aggregate will be cashed in/cashed out annually.

**Section 32 (Customer Eligibility):**

Years 1 and 2 (April 1, 2010 through March 31, 2012) – no change from the current eligibility for transportation service.

Year 3 (April 1, 2012 through March 31, 2013):

CHOICE/SCO Customer Eligibility.

All customer accounts using less than 6,000 Mcf per year.

Human Needs customer accounts using 6,000 Mcf or more per year.

Transportation Service ("TS") Customer Eligibility.

Effective April 1, 2012 Non-residential customer accounts using less than 6,000 Mcf/year must subscribe to 100% Standby Service.

Non-residential Human Needs customer accounts with operable alternative fuel capability that consume 6,000 Mcf or more annually.

Other non-residential customer accounts that consume 6,000 Mcf or more annually.

Asphalt plants and grain dryers with annual usage less than 6,000 Mcf remain eligible for Transportation Service.

Public School Districts that are receiving Transportation Service as of the date of this Stipulation, including any new or existing facility placed into service in any such Public School District during the term of this Stipulation.

If a TS customer account is currently grandfathered and is not paying the PIPP or DSM riders today, that account will continue to be grandfathered and will not pay the PIPP or DSM riders after April 1, 2012 whether it defaults to CHOICE/SCO service or elects to remain on TS.<sup>11</sup>

After the initial SSO auction, Columbia will meet with the Stakeholder Group to discuss issues related to installation of daily metering for TS customers; provided, however, that Public School Districts receiving Transportation Service as of the date of this Stipulation will not be required to install daily metering during the initial term of this Stipulation or thereafter until modified by the Commission.

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<sup>11</sup> Commercial customers that do not pay the DSM Rider are not eligible to participate in Columbia's DSM Program.

**Section 37 (Transportation Service ("TS") Banking and Balancing):**

A TS customer may elect a Banking and Balancing Service bank tolerance equal to 1% to 4%, in 1% increments, of its annual throughput. For purposes of this calculation annual throughput shall consist of the arithmetic average of all usage made during the previous three years.

If a TS customer elects and pays for a 1% to 4% bank tolerance level, that TS customer should be able to move a like amount in or out of the system each month, on an interruptible basis, subject to the parameters applicable to month ending volume banks if negative or in excess of the customer-elected bank tolerance level. Thus the Application should be amended to eliminate Columbia's proposed limitation on monthly bank changes.

Each year, Columbia shall restrict the positive balance for any TS shipper to an amount equal to 50% of the elected tolerance at the conclusion of each November billing month. TS Customers shall be permitted to return to 100% of the elected tolerance thereafter. For purposes of this section the November billing month shall be the period between the meter reading that occurs in October and the meter reading that occurs in November. Thus, for example, a customer whose meter is read on November 15<sup>th</sup> (its November billing cycle) would have to be at 50% of its tolerance. The customer may return to 100% of its tolerance for the meter reading on December 15<sup>th</sup> (its December billing cycle).

**Section 38 (Balancing Service Restrictions ("BSR")):**

The current Operational Flow Order ("OFO") and Operational Matching Order ("OMO") provisions of the current tariff shall be maintained and the BSR provisions of the Application eliminated.

Non-compliance charges shall be the higher of:

- (i) Ten dollars (\$10) times the OFO/OMO Shortfall or OFO/OMO Overage; or
- (ii) 110% of the TCO Daily Index adjusted for SST commodity and shrinkage, times the OFO/OMO Shortfall or OFO/OMO Overage; or
- (iii) The payment of a pro-rata share of all other charges, including gas costs, penalty charges, or cash-outs, incurred by the Company as a result of non-compliance on the date of the OFO/OMO Shortfall or OFO/OMO Overage.

**Section 41 (Off-System Sales and Capacity Release (“OSS/CR”) Program):**

For each SSO/SCO period (i.e., April through the following March) Columbia shall retain net revenues achieved through its OSS/CR Program in accordance with the chart below:

For the first \$2 million of off system sales – Columbia shall retain 100% of the revenue.

For off-system sales from \$2 million to \$20 million – Columbia shall retain 50% of the revenue. The remainder of this revenue shall be included in the CSRR mechanism.

For all off system sales in a year over \$20 million – Columbia shall retain 25% of the revenue. The remainder of this revenue shall be included in the CSRR mechanism.

Columbia’s retention of off-system sales revenues shall be subject to a cap of \$42 million for the three years (April 1, 2010 through March 31, 2013). Columbia may front load the earnings though if the market permits so long as in no year may Columbia retain more than \$20 million.

Columbia is prohibited from shifting off-system sales from Ohio to another jurisdiction in order to avoid the sharing mechanism cap. The current definition of Off System Sales and limitations approved by the Commission in the 2007 Stipulation in Case No. 05-221-GA-GCR shall remain in effect, and shall be expanded to include the following: off-system sales are defined as a sale between Columbia Gas of Ohio and a buyer for the sale of unbundled or rebundled gas supply and capacity products, including the sale of a right to such arrangements that create value from the gas supply and capacity assets available to Columbia Gas of Ohio, including but not limited to flowing gas sales, incremental gas sales, physical gas options, exchanges, contract management fees, capacity release transactions, park transactions, loan transactions, exchange transactions, backhaul transactions, swap transactions and any other transaction or agreement of the foregoing types that uses any Interstate or Intrastate pipeline capacity, Interstate or Intrastate storage capacity, Columbia Gas of Ohio distribution lines, any gathering lines, or any peaking services or commodity that was or is planned to be retained for, or paid for, by customers.

Columbia shall maintain records of each and every off-system sale transaction in a form that can be subsequently audited and will accurately reflect all sales and transactions. There will be an annual financial audit of the CSRR that will include off system sales conducted by an outside auditor, paid for by Columbia.

If the Commission rejects an SSO or SCO auction result during any year of the 3-year Stipulation period (April 1, 2010 through March 31, 2013), then off-system sales revenues during that year are to be shared on a basis of 80% to customers and 20% to Columbia.

This off-system sales revenue sharing mechanism is limited to a three year term (April 1, 2010 through March 31, 2013). It does not continue unless agreed to by the OCC and the Staff. Absent an agreement on an extension of the off system sales revenue sharing, the default mechanism is 80% of the revenues to customers and 20% to Columbia. Columbia, Staff or the OCC may petition the Commission for a change to the default mechanism, whereas the other parties retain the right to oppose any such changes.

**Section 42 (CHOICE/SSO/SCO Reconciliation Rider ("CSRR")):**

Columbia shall be permitted to collect via the CSRR from CHOICE/SSO/SCO customers an amount per Mcf designed to recover Columbia's actual incremental SSO/SCO educational expenses, information technology and other implementation costs. The initial rate for this component shall be \$.025 per Mcf for the educational expenses, information technology and other implementation costs. Annually there will be a financial audit and true up.

Columbia has proposed using the CSRR, in part, for recovery of any credits or deficits created when, prior to the switch over to the auction, Columbia clears out Gas Cost Recovery RA, BA and AA accounts. Columbia will calculate its RA, BA, and AA adjustments through the end of the GCR period in such a way that the over/under recovered amount that will be applied to the CSRR is minimized.

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**Revised Tariffs**

The final proposed tariff revisions to implement the Stipulation will be filed for Commission review within thirty (30) days of the filing of the Stipulation.

**SETTLEMENT OF 2008 GCR CASE**

The OCC agrees that it will not oppose the Stipulation filed on July 20, 2009 in the current GCR case (Case No. 08-221-GA-GCR), and that the Commission may decide that case on the existing record without further evidentiary hearings.

**EXEMPTIONS, GCR AUDITS AND LONG TERM FORECAST REPORTS**

With regard to Columbia's commodity sales service, the Parties request that Columbia be granted exemptions as set out in Section 4929.04, Revised Code, including Chapter 4905, Revised Code, (with the exception of Section 4905.10, Revised Code), Chapter 4909, Revised Code, and Chapter 4935, Revised Code (with the exception of Sections 4935.01 and 4935.03, Revised Code), and any rule or order issued under those chapters and sections. Section 4929.04,

Revised Code, requires Columbia to show that it is in substantial compliance with the policy of the State specified in Section 4929.02, Revised Code, and that it is either (1) subject to effective competition with respect to the commodity sales service, or (2) customers of the commodity sales service have reasonably available alternatives. The Parties recommend that the Commission find that adoption of this Stipulation and Recommendation and Columbia's implementation thereof complies with the requirements of Section 4929.04, Revised Code. While this will exempt Columbia from GCR audits and LTFR filing requirements, Columbia will prepare a design day peak forecast, which will be updated annually and provided to the Stakeholder Group for review. In addition, Columbia will continue to submit monthly SG-1 schedules to the Staff and other interested Signatory Parties. The Parties are not waiving their rights and remedies as provided under Sections 4929.04(F) and 4929.04(G), Revised Code.

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#### **EXIT THE MARKET CHIP (BASE CHIP)**

At the end of the initial term of the Stipulation (March 31, 2013), if a pattern of auctions has taken place so that it appears that Columbia will not be returning to the GCR mechanism, then Columbia may apply for, and the signatory Parties will support, recovery of the base chip portion of the transition adjustment from the prior purchase gas adjustment ("PGA") mechanism to the GCR mechanism, which recovery the Parties agree would be in accordance with the Commission's Opinion and Order, at pages 5-11, in Case No. 80-212-GA-GCR (April 14, 1981). However, OCC reserves the right to oppose Columbia's base chip application in conjunction with its opposition of an SCO auction.

#### **PROPOSED ACCOUNTING**

The Parties agree that: (1) effective as of the date of the Commission's order approving this Stipulation, Columbia shall be granted any necessary waivers of the Commission's GCR

rules so that Columbia can calculate its RA, BA and AA adjustments through March 31, 2010 in order to minimize the over/under-recovery amount that will be applied to the CSRR; and (2) effective April 1, 2010 Columbia shall be authorized to modify its accounting for storage gas to provide for the use of a monthly-weighted average cost accounting method.

## **FUEL FUND**

Over three winter heating seasons (2010-2011 through the 2012-2013 winter heating seasons), Columbia shall provide \$1,800,000 to establish and administer a customer assistance fund for: (1) bill payment assistance when funds from HEAP and/or E-HEAP are not available for Columbia customers whose incomes are at or below 200% of the federal poverty guidelines and who are facing service termination and; (2) bill payment assistance for non-PIPP Columbia customers whose household incomes are at or below 200% of the federal poverty guidelines.

The anticipated yearly split of these funds will be \$600,000 during each of the three winter heating seasons. In the event these customer assistance funds are not fully disbursed as designated above, then any such unused customer assistance funds shall carryover into the next winter heating season with all such customer assistance funds, if used, to be distributed no later than December 31, 2013. Prior to the 2010-2011, 2011-2012 and the 2012-2013 winter heating seasons, OCC, Staff, and the Ohio Association of Community Action Agencies (OACAA) shall meet to discuss the status of the fuel fund distribution and eligibility criteria. The eligibility criteria may be modified if OCC, Staff, and Columbia unanimously agree that a modification is necessary in order to assure the fuel funds are fully distributed. OACAA, OCC and Staff shall work together to develop specific eligibility criteria, designate and coordinate the agencies that will be distributing these funds, and to ensure the bill payment program is being effectively utilized. OACAA, OCC, Staff and Columbia shall work together to develop public education

programs to inform eligible customers about the availability of the bill payment assistance program. OACAA shall document each disbursement of funds. Columbia shall work with OACCA, OCC and Staff to provide reporting on the status of the expenditure of funds. These disbursements during the 2010-2011 through 2012-2013 winter heating seasons will be funded by Columbia's shareholders and represent a reduction to Columbia's future revenues, to which Columbia has agreed in order to facilitate the settlement of this case. These disbursements are not a pass back of prior earnings and are not associated with any prior activity, but are an agreed upon reduction of future revenues.

#### **FORCE MAJEURE**

All Parties reserve the right to reconvene the settling Parties to discuss the need to revise the Stipulation to address unforeseen regulatory, legal or statutory developments such as changes in applicable federal or state tax provisions or other significant changes.

#### **NON-SEVERABILITY OF STIPULATION PROVISIONS**

This Joint Stipulation and Recommendation, if adopted by the Commission, will resolve all issues arising from the pending Application in Case No. 08-1344-GA-EXM. The settlement agreement embodied in this Joint Stipulation and Recommendation was reached only after extensive negotiations between and among the Parties in the context of a collaborative stakeholder process, and reflects a bargained compromise involving a balancing of competing interests. Although the Joint Stipulation and Recommendation does not necessarily reflect the position any of the Parties would have taken if all of the issues addressed herein had been fully litigated, the Parties believe that, as a package, the Joint Stipulation and Recommendation strikes a reasonable balance among the various interests represented by the Parties, does not violate any important regulatory principle, and is in the public interest. This Joint Stipulation and

Recommendation shall not be relied upon as precedent for or against any Party or the Commission itself in any subsequent proceeding, except as may be necessary to enforce the terms of the Joint Stipulation and Recommendation.

Because the Joint Stipulation and Recommendation is an integrated settlement, it is expressly conditioned upon the Commission adopting same in its entirety without material modification. Rejection of all or any part of the Joint Stipulation and Recommendation by the Commission shall be deemed to be a material modification for purposes of this provision. If the Commission materially modifies all or any part of this Joint Stipulation and Recommendation, and such modifications are not acceptable to all the Parties, the Parties agree to convene immediately to work in good faith to attempt to formulate an alternative proposal that satisfies the intent of the Joint Stipulation and Recommendation, or represents a reasonable equivalent thereto, to be submitted to the Commission for its consideration through a joint application for rehearing filed by all the Parties.<sup>12</sup> If the Parties do not reach unanimous agreement with respect to such an alternative proposal, no alternative proposal shall be submitted, and any Party may, within thirty (30) days of the Commission's order, file an application for rehearing supporting the adoption of the Joint Stipulation and Recommendation as filed. No Party shall oppose an application for rehearing filed by any other Party pursuant to this provision. Upon the Commission's issuance of an entry on rehearing that does not adopt this Joint Stipulation and Recommendation in its entirety without material modification, or the alternative proposal, if one is submitted, a Party may terminate and withdraw from the Joint Stipulation and Recommendation by filing a notice with the Commission within thirty (30) days of the

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<sup>12</sup> The Commission Staff is not considered a signatory Party for the purposes of requirements regarding rehearing applications.

Commission's entry on rehearing. No Party shall oppose the termination of the Joint Stipulation and Recommendation by any other party.

Upon notice of termination and withdrawal by any Party in accordance with the above procedure, this Joint Stipulation and Recommendation shall immediately and automatically become null and void. In such event, this proceeding shall go forward at the procedural point at which the Stipulation was filed, and the parties will be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to brief all issues which shall be decided based upon the record and briefs, as if this Stipulation had never been executed.

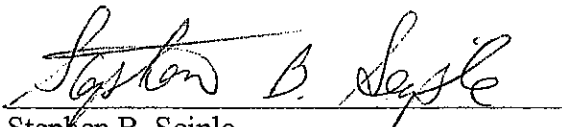
The Parties have agreed to the above-described process to be followed in the event the Commission materially modifies the terms of this Joint Stipulation and Recommendation in recognition of the unique circumstances involved. A Party's agreement to this process for purposes of this Joint Stipulation and Recommendation shall not be interpreted as binding such Party to support a similar process in any future proceeding, and the Commission's approval of this Joint Stipulation and Recommendation shall not be interpreted or otherwise relied upon as authority for utilizing this process as a template for stipulations in future proceedings.

#### **RECOMMENDATION**


The Parties agree that the foregoing Joint Stipulation and Recommendation is in the best interests of all parties, urge the Commission to adopt the Stipulation, and approve the Application as modified by the Stipulation. The Parties agree that the Commission should approve Columbia's request for an exemption pursuant to Section 4929.04, Revised Code, authorize Columbia to implement an auction procedure so that effective April 1, 2010 Columbia may secure its commodity sales supply in accordance with the Commission's Order in Case No.

04-221-GA-GCR, et al.; grant Columbia such accounting authorizations as are necessary to implement this Agreement; and relieve Columbia from the statutory and rule requirements for GCR management performance and financial audits and Long Term Forecast filing requirements.

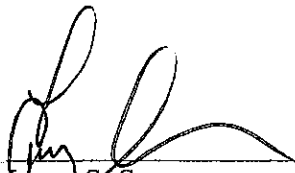
AGREED THIS 7th DAY OF OCTOBER, 2009.



Stephen B. Seiple  
Daniel R. Conway  
On behalf of Columbia Gas of Ohio, Inc.



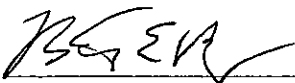
Anne L. Hammerstein  
Sarah J. Parrot  
Assistant Attorneys General,  
Public Utilities Section  
On behalf of the Staff of the Public Utilities  
Commission of Ohio



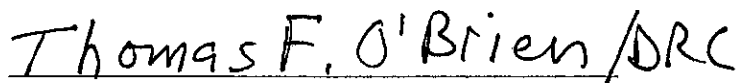
Larry S. Sauer  
Assistant Consumers' Counsel  
On behalf of The Office of the Ohio  
Consumers' Counsel



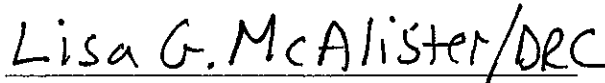
M. Howard Petricoff  
On behalf of the Ohio Gas Marketers Group



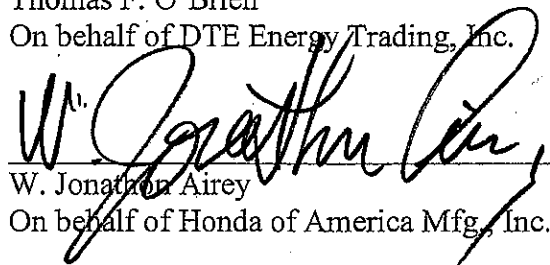
Barth E. Royer  
On behalf of Dominion Retail, Inc.



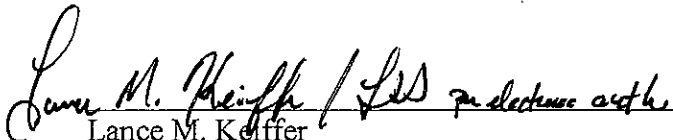
Thomas F. O'Brien /DRC  
Thomas F. O'Brien  
On behalf of DTE Energy Trading, Inc.



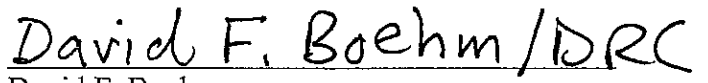
Lisa G. McAlister /DRC  
Lisa G. McAlister  
On behalf of The Timken Company and Glen  
Gery Corporation



W. Jonathan Airey  
On behalf of Honda of America Mfg., Inc.



Lance M. Keiffer /LSA *in electronic format*  
Lucas County Assistant Prosecuting Attorney  
On behalf of the Northwest Ohio Aggregation  
Coalition



David F. Boehm /DRC  
David F. Boehm  
On behalf of the Ohio Energy Group and  
Allied Industries

Larry Gearhardt / DRC

Larry Gearhardt, Chief Legal Counsel  
On behalf of The Ohio Farm Bureau  
Federation

E. Brett Breitschwerdt

Glenn S. Krassen  
E. Brett Breitschwerdt  
On behalf of The Ohio Schools Council

John M. Dosker / DRC

John M. Dosker  
On behalf of Stand Energy Corporation

Steven M. Sherman by M. H. Petricoff by  
written authority

Steven M. Sherman  
On behalf of Proliance Energy, LLC

M. Howard Petricoff  
On behalf of Sempra Energy Trading, LLC

Colleen L. Mooney  
David C. Rinebolt  
Colleen L. Mooney  
On behalf of Ohio Partners for Affordable  
Energy

David M. Perlman  
On behalf of J.P. Morgan Ventures Energy  
Corp.

Craig G. Goodman by M. H. Petricoff  
written authority  
Craig G. Goodman  
On behalf of the National Energy Marketers  
Association and Wal-Mart Stores, Inc.

Michael D. Dortch  
On behalf of NJR Energy Services Company