

## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

### **APPLICABILITY**

The following Terms and Conditions apply to Choice Suppliers under Rate 385, Choice Supplier Pooling Service.

### **CUSTOMER ENROLLMENT**

All Choice Supplier transactions such as Customer enrollments, drops, tax exemption changes, and rate code changes, must be in the form of EDI transactions as directed by Company. The Choice Supplier will utilize the file standards as required by Company, which may change from time to time.

#### **Customer Sign-Up and Enrollment Procedures:**

When soliciting and/or enrolling Non-Mercantile Customers, Choice Suppliers must adhere to the Commission's "Minimum Standards for Competitive Retail Natural Gas Service" rules and coordinate customer enrollment with Company in accordance with the procedures set forth in Chapter 4901:1-29 of the OAC.

Regardless of Customer enrollment method used, within three (3) business days after completion of enrollment (unless a later date is agreed to or Customer rescinds), Choice Supplier will provide Company with an electronic file in a format specified by Company, containing a listing of all Customers that Choice Supplier has signed up or desires to drop since its last submission. Among other things, this list shall include each Customer's name, service address and Company account number. Company will evaluate the information provided for accuracy and Customer eligibility, and provide Choice Supplier with a confirmation report within three (3) business days. In the event more than one (1) Choice Supplier includes the same Customer on their enrollment files to begin the same period, Customer will be assigned to Choice Supplier whose acceptable enrollment was first processed by Company.

Once complete and accurate information supporting a Customer joining or leaving Choice Supplier's Pool is received and confirmed by Company, the change will be effective with Customer's next on-cycle meter reading after the rescission period which includes seven (7) business days from the postmarked date Company sends a letter indicating Customer may rescind its Choice Program enrollment with or change of Choice Suppliers. This process can take up to 12 business days. If Customer rescinds its enrollment prior to commencing service with a Choice Supplier, Company shall notify Choice Supplier within two (2) business days of Customer's rescission. Customer will remain with its Choice Supplier until: 1) Customer's name, service address, and account number appear on another Choice Supplier's electronic enrollment file listing; 2) Customer or Choice Supplier notifies Company that Customer has been dropped from the Choice Program or Customer's contract has expired; 3) Customer moves out of their current Premises; or 4) Customer joins the PIPP program (see definition of "Pool" on Sheet 59).

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### **CUSTOMER ENROLLMENT (Continued)**

Company shall issue a written notification to Customer informing Customer of the applicable change. Customers who on their own initiative decide to terminate their relationship with a Choice Supplier will be permitted to do so without Company making any determination regarding whether Customer is contractually permitted to make such move. In that instance, Customer shall transfer to SCO Service unless it selects another Choice Supplier, or to DSS if Customer is ineligible for SCO Service. Company shall not be liable to Choice Supplier or Customer for allowing Customer to transfer to DSS or SCO Service or another Choice Supplier.

If Company rejects a Customer enrollment, Choice Supplier shall notify Customer within three (3) business days from Company's notification of rejection that Customer will not be enrolled or enrollment will be delayed, along with the reason(s) therefore.

Enrollments will be rejected if Customer has a pending enrollment with a different Choice Supplier.

Company shall, prior to a Customer commencing service with a Choice Supplier, mail Customer a confirmation notice stating:

1. Company has received a request to enroll Customer with the named Choice Supplier, and, in the case of an enrollment request from a Customer who is currently served by another Choice Supplier, a statement that Company's records reflect that Customer is currently enrolled with another Choice Supplier along with an admonition that Customer should review the terms and conditions of the incumbent Choice Supplier's Contract for Customer's obligations under said Contract;
2. The date such service is expected to begin;
3. Customer has seven (7) business days from the postmark date on the notice to contact Company telephonically, in writing or via the Internet to rescind the enrollment request or notify Company that the change of Choice Supplier was not requested by Customer; and
4. Company's toll-free telephone number, mailing address and website address.

Choice Supplier's failure to adhere to any Customer enrollment procedures or failure to provide verification of enrollment within the time period specified herein shall be treated in the same manner as other violations of the Choice Supplier Code of Conduct.

### **Choice Eligible Customer Account List:**

Company shall make available to Choice Supplier an electronic list of Customers' accounts eligible for participation in the Choice Program, as defined in Section 4929.22-(B) of the Revised Code. The charges for such Choice Eligible Customer Account list are described in Rate 385.

### **Content of Renewal Notices:**

Choice Suppliers must adhere to the Commission's "Minimum Standards for Competitive Retail Natural Gas Service" rules in accordance with the procedures set forth in Rule 4901:1-29-10 of the OAC when renewing Customer's contract.

## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

### **POOL CUSTOMER BILLING OPTIONS**

Choice Supplier may elect one (1) of the following two (2) billing options for its Pool Customers. Such election shall be applicable to all of Choice Supplier's Pools and Customers. Choice Supplier may change its billing option by providing no less than six (6) months prior written notice to Company, and cannot change it more frequently than once in any six (6) month period.

#### **Option 1 - Rate Ready Company Consolidated Billing:**

Pool Customer shall receive one (1) Bill from Company that indicates the name of Choice Supplier from whom Customer is receiving its gas supply and which includes an amount for Choice Supplier's gas supply charges in accordance with the pricing arrangements agreed upon between Choice Supplier and Customer, in addition to any taxes which Choice Supplier must collect. Choice Supplier shall furnish Company with sufficient Bill contents as required in Rule 4901:1-29-12(B) of the OAC. Company's consolidated Bill may provide the budget amounts, past due balances, and payments applied on a consolidated basis only. A Choice Supplier who elects this billing option will be limited to a reasonable number of pricing arrangements to which a Customer may be assigned by Choice Supplier.

Pool Customer will be responsible for making payment to Company for the entire amount shown on the Bill, including both Company's and Choice Supplier's charges. Once a month, Company shall remit to Choice Supplier, by wire transfer or otherwise, payment for all gas supply billed to Choice Supplier's Customers by Company on Choice Supplier's behalf, including taxes attributable to Choice Supplier's portion of the Bill, less any applicable offsetting amount. Choice Supplier shall be responsible for dispersing to the appropriate taxing authorities any tax that is attributable to Choice Supplier's portion of the Bill.

In the event Customer remits to Company less than the full payment due, the payment received shall first be attributed to Company's past due charges, then to Company's current charges, and the residual amount, if any, shall be attributed to Choice Supplier's portion of the Bill, including the taxes thereon. Customer shall be subject to the Late Payment Charge set out in Sheet No. 30, Miscellaneous Charges, against the entire amount of past due charges on Customer's Bill. Company shall be responsible for collection responsibilities associated with any shortfall from Customer.

### **CHOICE SUPPLIER RATES**

Under the consolidated billing option, Choice Supplier must request new rates by submitting Company's Rate Submittal Form no less than thirty (30) days in advance. Choice Supplier will be limited to twenty-five (25) new rates annually. The Choice Supplier may use any rate structure currently billed by Company's standard billing system. If Choice Supplier desires to offer pricing arrangements that require billing system changes and Company is willing to enhance its system to accommodate the request, both Company and the Choice Supplier will negotiate payment from Choice Supplier for adapting Company's billing system.

New rates will have an effective date of the first day of the month following the thirty (30) day-notice. Choice Supplier will be responsible for updating the rate step of the new rate according to Company's process and timeline for updating existing Choice rates.

## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

### **TAXES**

Choice Suppliers' rates shall exclude all sales taxes. Company will calculate state and local taxes and add the amount to Customer's gas supply charges. Company assumes no responsibility or risk for any incorrect billing of taxes to Customer. Choice Supplier and Customer shall hold Company harmless for any assessments, interest, penalties, or risk of any kind whatsoever, related to any incorrect billing of taxes on behalf of Choice Supplier.

If Customer claims to be tax exempt, Customer has the sole and complete responsibility for the provision to Choice Supplier of all necessary documentation regarding Customer's tax-exempt status. Company assumes no responsibility or risk for any misapplication of tax-exempt status to any Customer. The Choice Supplier or Customer shall hold Company harmless for any assessments, interest, penalties, or risk of any kind whatsoever, related to any misapplication of tax-exempt status to any Customer.

### **UPDATING EXISTING CHOICE SUPPLIER RATES**

Choice Supplier will submit rates in the manner and timeline indicated by Company, which may change from time to time. Company will provide an electronic pre-bill confirmation for each rate change or rate addition. Choice Supplier will review the pre-bill confirmation and acknowledge that the rates are correct or indicate any required changes to Company. All pre-bill confirmations from Choice Supplier must be received by Company by the designated deadline. If Choice Supplier submits an account on the wrong rate or Pool, or fails to provide timely rate information, the Choice Supplier is responsible for making Customer financially whole. Company may, at its sole discretion, make an adjustment for Choice Supplier at an agreed-upon fee. Rate changes submitted beyond the designated deadline will not be accepted and Company will use the then existing rate under such rate option.

### **Option 2 - Dual Billing:**

Pool Customer shall receive two (2) bills as follows:

1. Company shall bill and collect for its portion of the Bill that includes charges for Transportation Service and all applicable Riders. Company's Bill shall include Choice Supplier's name and a statement that Choice Supplier is responsible for billing Choice Supplier's charges. In the event that Customer remits to Company less than the amount included on Company's Bill, Customer shall be subject to the same late payment charges and disconnect rules that would be applicable if Customer were receiving SCO Service.
2. Choice Supplier shall be responsible for billing and collecting its part of the bill including any arrearages due from Choice Supplier's own prior billings. To facilitate Choice Supplier's portion of the billing each month, Company will provide Choice Supplier with an electronic notification of the monthly meter readings of all Customers within Choice Supplier's Pool that have been billed by Company. Such billing data will correspond to the meter reading data on which Company based its Bill for Transportation Service. Choice Supplier may terminate gas sales to any Pool Customer for non-payment and remove Customer from its Pool in accordance with the procedures for deleting Customers from a Choice Supplier's Pool.

Choice Supplier shall provide Company with the bill format.

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### **CUSTOMER INQUIRIES AND DISPUTE RESOLUTION**

Choice Suppliers shall investigate Customer complaints (including Customer complaints referred by Company) in accordance with the procedures set forth under Commission Rule 4901:1-29-08 of the OAC.

### **CODE OF CONDUCT**

#### **Choice Supplier Code of Conduct:**

In addition to fulfilling the Terms and Conditions of Company's Choice Supplier Pooling Agreement for Residential and General Transportation, the participating Choice Supplier and Governmental Aggregator shall be certified by the PUCO, as set forth in Rule 4901:1-27 of the OAC, the Commission's rule addressing Certification of Governmental Aggregators and Retail Natural Gas Suppliers.

The Choice Supplier and Governmental Aggregator shall conduct its activities consistent with the Commission's rules governing Competitive Retail Natural Gas Service as set forth in Rules 4901:1-27 through 4901:1-34 of the OAC, which are incorporated herein by reference. Company shall make copies of the applicable Competitive Retail Natural Gas Service rules available upon request. Choice Supplier's failure to comply with Company's Tariff and/or Commission Rule requirements may be deemed to be a material default within the meaning of Commission Rule 4901:1-27-13(F) of the OAC, which may be grounds for Company requesting suspension or termination of the Choice Supplier Pooling Agreement for Residential and General Transportation, pursuant to the Rule.

### **CAPACITY AND OPERATING REQUIREMENTS**

#### **Comparable Firm Capacity Requirement:**

Choice Supplier agrees to secure sufficient firm interstate pipeline capacity, of which a portion may be Company released capacity, with primary delivery points to Company's city gates and firm supply to meet 100% of each month's Peak Design Day Demand of its Pool Customers, less a percentage during the Peak Season reflecting the Pool's entitlement to Company's Peaking Supplies as described below ("Allocation of Peaking Supplies") if applicable. All obligations of Choice Supplier with respect to such capacity and supply shall be the sole responsibility of Choice Supplier.

To verify Choice Supplier's compliance with this Comparable Firm Capacity Requirement, Choice Supplier must submit comparable firm capacity plans to Company no later than October 31<sup>st</sup> of each year. Choice Supplier will provide to Company upon request copies of contracts for upstream pipeline capacity not released by Company and supply contracts showing the firm quantities reserved or purchased and the specific points of delivery. If Choice Supplier is securing firm city gate supplies, Choice Supplier shall provide a copy of such firm supply agreement, and additional documentation as required by Company to confirm compliance of the applicable interstate pipeline capacity. Proof of comparable capacity may be provided to Company for the entire Peak Season or on a monthly basis and is due by the 25th of the preceding month for each month in the Peak Season.

If Company identifies a firm capacity deficiency, such deficiency shall be resolved to Company's satisfaction by one (1) or a combination of the following, at Choice Supplier's discretion: 1) immediate acquisition by Choice Supplier of additional firm pipeline capacity, 2) delayed enrollment of new Pool Customers, 3) return/transfer of existing Pool Customers to SCO Service, or 4) transfer of Pool Customers to one (1) or more Choice Suppliers. If Company identifies a firm supply deficiency, such deficiency shall be resolved to Company's satisfaction by one (1) or a combination of the following, at Choice Supplier's discretion: 1) immediate acquisition by Choice Supplier of additional firm supply, 2) delayed enrollment of new Pool Customers, 3) transfer of existing Pool Customers to SCO Service, or 4) transfer of Pool Customers to one (1) or more Choice Suppliers.

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### **Mandatory Assignment of Pipeline Capacity:**

Company will release its pipeline transportation and storage capacity to Choice Supplier based upon a percentage (to be confirmed annually) of the Peak Design Day Demand of Choice Supplier's Pool. Company may release contracts for one (1) or more months. Some capacity contracts may be released only to SCO Suppliers. Choice Supplier may elect to have a Choice Supplier's Designee take release of Choice Supplier's allocation of pipeline transportation and storage capacity. Choice Supplier's Designee must be a signatory party to a Tri-Party Capacity Release Agreement as set forth below. Choice Supplier or Choice Supplier's Designee shall take release of specific interstate pipeline firm transportation and storage capacity for a term, agreed to by Company, subject to Company's right of capacity recall contained elsewhere in these Terms and Conditions.

Terms and conditions of the capacity release will be specified in pipeline capacity release forms, including length of term, price, and recall requirements, subject to FERC requirements for capacity release. Choice Supplier or Choice Supplier's Designee may not change any primary points of receipt or delivery associated with released pipeline transportation contracts during the term of the capacity release. In addition, for specific parcels of capacity identified by Company, Choice Supplier or Choice Supplier's Designee may not utilize any delivery point other than those primary and secondary points identified by Company unless the capacity is released at the pipeline's full tariff rate or unless an alternate capacity billing arrangement is agreed to by Choice Supplier and Company. The released capacity is subject to recall at any time if Choice Supplier or Choice Supplier's Designee does not perform in accordance with the Agreement or fails to comply with the Choice Supplier Code of Conduct and other provisions set forth in these Terms and Conditions.

Choice Supplier or Choice Supplier's Designee may re-release any capacity assigned to it hereunder, except Columbia Firm Storage Service ("FSS") and Storage Service Transportation ("SST") storage capacity, provided that: 1) Choice Supplier or Choice Supplier's Designee will continue to be responsible for payment of all pipeline charges associated with the released capacity; 2) any re-release of such capacity remains subject to the restrictions identified in Company's Tariff; and the capacity is not needed to satisfy the Choice Supplier's Pool's DDQ on such day(s). Choice Supplier or Choice Supplier's Designee may use other firm pipeline capacity to supply its DDQ and re-release portions of its assigned pipeline capacity, subject to the previously mentioned restrictions.

### **Tri-Party Capacity Release Agreement:**

A Tri-Party Capacity Release Agreement must be executed by Choice Supplier, Choice Supplier's Designee and Company before the assignment of pipeline transportation and/or storage capacity and all other terms and conditions contained in such Tri-Party Capacity Release Agreement are effective. Choice Supplier's Designee shall be subject to Company's approval. Company retains discretion to reject a proposed Choice Supplier Designee based on a creditworthiness evaluation or other issues that take into consideration the reliability of performance of all obligations, including financial obligations. Choice Supplier's Designee must comply with all capacity release requirements and re-release limitations, either per this Tariff for Gas Service or per Company operating procedures. Choice Supplier shall remain responsible for both its and its Choice Supplier's Designee's compliance with the requirements of Company's Choice Program.

### **Reassignment of Capacity:**

Transportation and storage capacity released to Choice Suppliers will follow Customers to their new Choice or SCO Suppliers upon migration to and from Choice Service with reassignment of capacity to Choice and SCO Suppliers based on their Peak Design Day Demands. Company reserves the right to adjust capacity release quantities intra- month in the event large migrations occur. Reassignment of capacity may occur for terms in excess of one (1) month.

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Filed pursuant to the Opinion and Order dated August 28, 2019 in Case No.18-0298-GA-AIR of The Public Utilities Commission of Ohio.

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### **Operational System Balancing:**

Company's Columbia storage will be released to each Choice Supplier on a proportionate basis. The holders of Company-released Columbia storage capacity will collectively provide system balancing through Predetermined Allocations ("PDA") set with Columbia.

PDAs will be established with Columbia at the beginning of each month proportional to the percentage of Columbia storage capacity released to Suppliers. Each day Choice Supplier will be allocated a portion of the daily system imbalance based on its PDA percentage. Choice Supplier will be charged by Columbia for any overrun or penalties associated with exceeding its individual storage volume limits. If Company, as meter operator, incurs Columbia penalties, such penalties will be assessed to each Choice Supplier that contributed to the penalty proportional to their contribution to the violation.

Choice Suppliers will agree to provide Company access to their daily Columbia Inventory and nomination information. Choice Supplier shall submit monthly agency agreements to Columbia providing such access in the manner required by Company and Columbia. Choice Suppliers must follow Company-established minimum and maximum limits for daily storage injections and withdrawals, and minimum storage inventory requirements to ensure sufficient storage inventory and capacity to balance Company's system each day. At no time shall Choice Supplier's Company-released Columbia storage inventory volume be less than the minimum specified by Company.

### **Provider of Last Resort ("POLR") Service:**

Choice Supplier shall temporarily provide supply from Company-released Columbia storage capacity to cover system load requirements in the event of a Choice or SCO Supplier default or OFO event.

Defaulting Choice or SCO Suppliers are required to reimburse affected parties for any incremental costs incurred to provide POLR Service. Any incremental costs not recovered from defaulting Suppliers will be included for recovery in the ETC Rider.

Company will act as POLR Coordinator, identifying the need for POLR service and notifying SCO and Choice Suppliers.

Company will take the following short-term action with regard to obtaining POLR supply:

- (1) Choice and SCO Suppliers collectively will provide supply to meet POLR needs, using their individual Columbia storage inventories. The withdrawn storage inventory will be subsequently replaced.
- (2) If Company determines that the daily quantity of gas needed may affect the reliability of the system, an OFO will be issued, to ensure Pool Operators are not under delivering versus their respective usages during the POLR period.
- (3) Next, as soon as practicable, all transportation and storage capacity released to any defaulting SCO Supplier or Choice Supplier will be recalled by Company who will use it to meet the immediate needs of the defaulting Supplier's customers. Company will claim the defaulting Supplier's storage inventory as needed to meet the defaulting Supplier's customer loads.

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## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

**Provider of Last Resort (“POLR”) Service (Continued):**

- (4) Company will fill any remaining shortfall through acquiring additional temporary capacity and supply or city gate deliveries or by coordinating the delivery of city gate delivered volumes with non-defaulting Choice and SCO Suppliers. Non-defaulting Choice and SCO Suppliers shall be compensated by Company for volumes delivered at the price agreed upon for the applicable transaction. Defaulting Choice Suppliers will reimburse Company for all costs associated with the default.
- (5) Company will coordinate the provision of POLR service for the remainder of the billing month in which a Supplier default occurs, and the subsequent month, or until an alternate solution is effectuated.

In the event of defaulting Choice or SCO Supplier removal, Company will take the following action:

- (1) If a Choice Supplier is removed, Company will offer non-defaulting Choice Suppliers the option of assuming the Customers of the removed Choice Supplier. Customers of the removed Choice Supplier shall be charged the SCO Rider rate until such time as Customer enters into a contract with a new Choice Supplier. If Customer elects to discontinue Choice service or is dropped by the new Choice Supplier, said Customer will transfer to DSS or SCO service, as applicable. If no non-defaulting Choice Supplier assumes the removed Choice Supplier's Customer(s), such Customer(s) will transfer to SCO service.
- (2) If an SCO Supplier is removed or Choice Suppliers do not assume the Customers of a removed Choice Supplier:
  - (a) The remaining SCO Suppliers' loads will be increased to cover the defaulted load on a pro rata basis. Such incremental load will be limited to 50% of initial Tranches awarded.
  - (b) For the portion of increased load quantity greater than 50% of initial Load Tranches awarded to remaining SCO Suppliers. Company shall solicit non-defaulting SCO Suppliers to serve the defaulted load through the end of the current SCO Phase at the SCO price established in the auction governing the current SCO Phase.
  - (c) If assignment to SCO Suppliers under part (a) and voluntary solicitation under part (b) does not accommodate assignment of the entire load of the removed SCO Supplier, Company shall solicit non-defaulting Choice Suppliers to serve the defaulted load through the end of the current SCO Phase at the SCO price established in the auction governing the current SCO Phase unless Customer enters into a contract with a Choice Supplier.
  - (d) If after taking the above actions unserved SCO load remains, the remaining unserved load will be assigned to a new SCO Supplier based on an accelerated auction process.
  - (e) The removed SCO Supplier will be responsible for all costs associated with (a) through (d) as described herein.

Company may require additional collateral from SCO and Choice Suppliers that have elected to serve any portion of the defaulted load prior to assignment of the incremental load.

Choice Eligible Customer(s) of the removed Choice or SCO Supplier may elect to enroll with a non-defaulting Choice Supplier at any time during the process.

## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

### **Company Demand Forecast:**

Company shall forecast each Pool's Expected Demand based upon Company's design day and forecasted weather and the historic usage characteristics of the Pool's Customers. The Expected Demand, and corresponding DDQ shall be based on a single market area. However, Company may create separate forecasts and DDQs and require separate Pools for specific market areas.

### **Daily Scheduling of Directed Delivery Quantities:**

By 9:00 a.m. Central Clock Time ("CCT"), Company will post on its GTS, Choice Supplier's DDQ by Pool for the gas day beginning 9:00 a.m. CCT the following day. Such DDQ shall be the sum of: 1) the Expected Demand of Choice Supplier's Pool for that gas day calculated using the Pool's demand equation and forecasted weather; 2) Unaccounted for Gas quantities based on Company's Unaccounted for Gas Percentage; and 3) any necessary adjustments for interstate pipeline and/or Company operating constraints, system knowledge and experience, and/or prior imbalances associated with the periodic volume reconciliations. The DDQ will be stated in city gate Dths.

At the time of posting the DDQ, Company shall indicate the minimum, maximum or exact volume that shall be delivered by Choice Supplier on each interstate pipeline or to each Company city gate to achieve the DDQ. Company shall maintain City Gate Allocation tables that outline the range of minimum and maximum delivery percentages required by city gates and/or service areas on Company's system. These percentages shall be recalculated and communicated to Choice Suppliers periodically.

### **Nomination Provision:**

Choice Suppliers are required to nominate scheduled storage injections and withdrawals to the pipelines and to Company for all Company-released storage capacity. Company will post daily minimum and maximum Columbia storage injection and withdrawal limits, and monthly minimum storage inventory levels. Scheduled injection nomination rights during the Winter Season and scheduled withdrawal nomination rights during the Summer Season are subject to approval in advance by Company.

By 1:00 p.m. CCT each day, and in any intra-day nominations thereafter, Choice Supplier shall nominate to Company via Company's GTS the quantity of gas that it has scheduled for delivery at Company's city gate(s) for its Pool(s) for the following gas day. Choice Supplier agrees to adhere to the nominating guidelines set out in the FERC approved tariff of the applicable interstate pipeline and comply with any Company operating and/or interstate pipeline restrictions communicated by Company or pipeline.

Company may accept nominations submitted after the deadlines specified above within its reasonable discretion. Intra-day nominations must be approved in advance by Company. Until Choice Supplier submits the required nomination, Choice Supplier's nomination of daily quantities shall be zero. Unless otherwise permitted by Company in writing, the nomination period shall not exceed thirty-one (31) days.

Company may at its discretion perform a No-Notice nomination to Choice Supplier's Company-released Columbia storage for the prior day's flow if the Choice Supplier has not (1) delivered adequate supplies to meet their DDQ or (2) met its Columbia minimum City Gate Allocations delivery percentage requirement.

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**Nomination Provision** (Continued):

Choice Supplier shall be responsible for verifying and, if necessary, correcting its Daily Pipeline Nomination so that it matches Choice Supplier's confirmed pipeline deliveries and is compliant with the City Gate Allocations percentage requirements.

**System Beneficial Deliveries:**

Company may request Choice Supplier(s) to voluntarily 1) vary its daily delivery from the nominated delivery quantities; 2) deliver to a different pipeline and/or city gate; and/or 3) make other changes to gas deliveries to ensure system integrity or mitigate the risk of pipeline penalties being assessed. If voluntary delivery changes are not adequate to rectify the situation, Company shall change its city-gate allocation delivery requirements applicable to all Pool Operators. Failure to comply will result in Pool Operators being assessed the City-Gate Allocation Non-Compliance Charge. Requirements under this provision are distinct from OFO requirements.

**Procedure for Gas Emergency Calls:**

Choice Suppliers are required to adhere to Company's Gas Emergency Call Handling Procedure as it may be amended from time to time.

**Allocation of Peaking Supplies:**

During the months of December through February, Company may reserve a portion of its Peaking Supplies for Choice Supplier Pools if deemed necessary, based on the product of each Pool's then- applicable Peak Design Day Demand and the percentage of Company's total design day needs forecasted to be met by Peaking Supplies that month. The portion reserved shall be applied as a reduction to the Peak Design Day Demand that Choice Supplier must meet pursuant to its Comparable Firm Capacity Requirement.

On any day when the Pool's Expected Demand reaches the volume of Choice Supplier's Comparable Firm Capacity Requirement, Company may supply the Pool's gas needs in excess of the Choice Supplier's Comparable Firm Capacity Requirements with Peaking Supplies.

Choice Supplier will be assessed a proportionate share, as determined by Company, of the costs of Peaking Supplies obtained by Company and used for peak shaving for hourly load shaving and any other uses of Peaking Supplies determined to be necessary for system operation in Company's discretion.

Choice Supplier shall pay such peaking-demand charge based on its proportionate share of assigned Peaking Supply as billed by Company during the Peak Season. Such unit-demand charge shall be equal to the total capacity costs and other fixed costs associated with Company supplied peaking resources.

By October 1 of each year, and when there is a material change in Company's peaking capacity, Company shall indicate the Choice Supplier Pool's Peak Design Day Demand if any, that will be met with Company's Peaking Supplies allocated by Company to such Pool, if any.

**Measurement of Customer Usage Volumes:**

Company shall be responsible for all usage measurement at the Delivery Point to Customer's facilities. Monthly volumes billed to Pool Customers shall be considered actual volumes consumed, whether the meter reading is actual or estimated.

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### **Quality of Gas Delivered by Choice Supplier:**

Choice Supplier warrants that all gas delivered by or on behalf of Choice Supplier for its Pool Customers shall meet the quality, pressure, heating value and other quality specifications of the applicable FERC Gas Tariff of the interstate gas pipeline delivering said gas to Company.

### **Title and Warranty:**

Choice Supplier warrants that it will, at the time and place of delivery, have good right and title to all volumes of gas delivered on its behalf, free and clear of all liens, encumbrances, and claims whatsoever, and that it will indemnify and hold Company harmless for all suits, actions, debts, accounts, damages, costs, losses, or expenses (including reasonable attorney fees) arising from or out of the adverse claims of any or all persons relating to or arising from said gas.

### **MONTHLY VOLUME RECONCILIATION**

1. Choice Suppliers' deliveries will be reconciled to their requirements on a monthly basis.
2. For each month during the SCO Period, Company will compare each Choice Supplier's Deliveries to its Pool's Requirements, and Allocated Requirements to determine the Supplier's monthly Reconciliation Volumes.
  - a. Choice Supplier's Deliveries will be the sum of Choice Supplier's confirmed deliveries to the city gate and its no-notice storage activity, and its allocated share of Peaking Supplies.
  - b. Choice Supplier's Pool Requirements will be determined by adjusting Choice Supplier's Pool's actual billed usage for annual Standard Btu Value and the Unaccounted for Gas Percentage identified in Company's Tariff.
  - c. Choice Supplier's Allocated Requirements will include Choice Supplier's portion of Large Transportation Service Pool Operators' Imbalance volumes, Company's Line Pack changes, and Company's Operational Balancing Agreement ("OBA") volume changes.
3. The reconciliation Cashout price for each month will be the IFERC Gas Market Report First-of-the-month price for Columbia Gas Transmission Corp, Appalachia plus applicable variable costs including fuel retention and pipeline variable charges.
4. The sum of the monthly reconciliation Cashout amounts, plus any applicable taxes, will be the monthly Cashout credit or charge. The monthly Cashout credit or charge will be recovered or passed back in the Exit Transition Cost ("ETC") Rider.
5. Such reconciliations will be performed in the second month following the end of the last month of flow.
6. Company may elect to adjust the Choice Supplier's reconciliation imbalance and/or receivables for up to twelve (12) months after the original billing date for any Choice Customers' bills at issue, for accounting or billing errors, billing disputes, or any other necessary or appropriate adjustments.
7. The Choice Supplier's Monthly Volume Reconciliation Cashout charges and credits will remain subject to revision based on any corrections to underlying data and any issues identified in the annual ETC Audits.

## **CHOICE SUPPLIER POOLING SERVICE TERMS AND CONDITIONS**

### **CONSEQUENCES OF CHOICE SUPPLIER'S FAILURE TO PERFORM OR COMPLY**

If a Choice Supplier fails to deliver gas in accordance with the requirements of the Choice Supplier Pooling Agreement, or otherwise fails to comply with the provisions of Rate 385 and these Terms and Conditions, including those specified in the Choice Supplier Code of Conduct section, Company shall have the discretion to initiate the process to suspend temporarily or terminate such Choice Supplier's further Choice Program participation for the applicable Pool.

- **Non-Mercantile Pool:** In the event Company seeks to suspend or terminate a Choice Supplier from the provision of service to any Non-Mercantile Pool under the Choice Program, Company shall follow the process and timeline set out in Rule 4901:1-27-13(F), OAC. Among other things, this establishes the process by which Company must seek authorization from the Commission to terminate or suspend a Choice Supplier from providing service to a Non-Mercantile Pool in the event of a default.
- **Mercantile Pool:** In the event Company intends to suspend or terminate a Choice Supplier from the Choice Program, Company shall first notify the Choice Supplier of the alleged violations that merit suspension or termination. Such notice shall be in writing, contain reasonable detail and shall be sent to Choice Supplier at the fax number listed in the Choice Supplier Pooling Agreement five (5) days prior to the suspension or termination. If, within five (5) days after the service of the previously mentioned notice, Choice Supplier remedies or removes the cause or causes stated in the notice, the Choice Supplier Pooling Agreement and such Mercantile Pool will continue in full force and effect. If Choice Supplier does not remedy or remove the cause or causes within five (5) days, then at the option of Company, the Choice Supplier Pooling Agreement relative to all Mercantile Pools may terminate at the expiration of said five (5) day period.

If Choice Supplier is suspended or expelled from the Choice Program relative to a specific Pool, Customers in such Pool shall be assigned to an SCO and/or Choice Supplier pursuant to Company's Provider of Last Resort provisions as described within these Terms and Conditions. Any termination or cancellation of the Choice Supplier Pooling Agreement relative to some or all of Choice Supplier's Pools and pursuant to any provision of this section shall be without waiver of any remedy, whether at law or in equity, to which the party not in default otherwise may be entitled for breach of the Agreement.

### **CHOICE SUPPLIER WITHDRAWAL OR TERMINATION**

If Choice Supplier in total or for a specific Pool is restricted from further participation in the Choice Program or elects to withdraw from the Choice Program, Company shall have the right to recall all pipeline capacity then assigned to Choice Supplier by Company associated with the specific Pool(s) in accordance with the terms of the release agreement. Payment of any amounts payable to Choice Supplier by Company will be held by Company until all volumes are reconciled and any charges owed to Company are paid in full.

## **CHOICE SUPPLIER POOLING SERVICE** **TERMS AND CONDITIONS**

### **WAIVER OF CHARGES**

In its reasonable discretion, on a case-by-case basis, Company may waive all or part of any Charge assessable to Choice Supplier pursuant to Rate Schedule 385 and these Terms and Conditions, when such Charges result from situations which occur beyond the reasonable control of Choice Supplier. The waiver of such otherwise assessable Charge shall be exercised on a non-discriminatory basis. Requests for waivers must be submitted in writing to Company and be signed by an authorized representative of Choice Supplier. Company will retain records of waiver requests received and their dispositions. Non-Compliance Charges may be waived or amended on a case-by-case basis.

### **FORCE MAJEURE**

If either Choice Supplier or Company is unable to fulfill its obligations under the Choice Supplier Pooling Agreement, Rate 385, or these Terms and Conditions due to an event or circumstance which is beyond the control of such party and which prevents such performance, such party shall be excused from and will not be liable for damages related to non-performance during the continuation of such impossibility of performance. None of the following shall be considered a force majeure condition: 1) changes in market conditions that affect the acquisition or transportation of natural gas, 2) failure of Choice Supplier to deliver or Pool Customers to consume scheduled gas volumes, or 3) force majeure or other interruptions called by either gas producers or interstate pipelines.

The party claiming force majeure will use due diligence to remove the cause, or mitigate the impact, of the force majeure condition and resume delivery or consumption of gas previously suspended. Gas withheld from Choice Supplier or Pool Customers during a force majeure condition will be delivered upon the end of such condition as soon as practicable based on, among other things, Company's operating constraints.