

**COLUMBIA GAS OF KENTUCKY  
SERVICE AGREEMENT FOR SMALL VOLUME AGGREGATION  
SERVICE RATE SCHEDULE**

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, between Columbia Gas of Kentucky, Inc., a Kentucky corporation, 290 W. Nationwide Blvd., Columbus, Ohio 43215, hereinafter “Company”, and \_\_\_\_\_, corporation located at \_\_\_\_\_, hereinafter “Agent.”

WHEREAS, Agent has secured firm supplies of natural gas which it intends to supply and sell to natural gas customers located on the Company’s system, all within the parameters established by the Company for its Small Volume Gas Transportation Service program as set forth in rate schedule Small Volume Aggregation Service (“SVAS”).

WHEREAS, Company is willing and able, pursuant to the terms of this Agreement, to accept gas delivered into its citygate receipt points by Agent and to redeliver such gas supplies to Agent’s aggregation of customers, all of whom have elected transportation service from the Company under its tariff Rate Schedule SVGTS.

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement, Company agrees to permit an aggregation of customers and Agent hereby agrees to aggregate in accordance with the following terms and conditions for all aggregations served under this Agreement:

**ARTICLE I  
Definitions**

For purposes of interpreting this Agreement, the following definitions shall apply:

1. Aggregation Service. Aggregation Service is a service provided by the Company that allows Agent to deliver to the Company, on an aggregated basis, those natural gas supplies that are needed to satisfy the requirements of the transportation customer(s) that comprise the membership of the Agent’s “aggregation pool,” all in accordance with rules that the Company has established regarding delivery requirements, billing and payments, supplier performance requirements, and other similar requirements for participation as an agent in the Company’s Small Volume Gas Transportation Service tariff.
2. The Aggregation. The aggregation referred to herein shall mean an aggregation pool that Agent establishes under this Agreement.
3. Customer(s). Customer(s) means a recipient of transportation service provided by the Company under its Rate Schedule SVGTS, which secures its supply of gas from Agent. To be a Customer, the Company must have an obligation to supply the individual or entity under its general public utility obligation to serve, under a special contract, or under KRS § 278.475; and the Company must have an economical means of transporting gas to said individual or entity.

## **ARTICLE II**

### **Term**

The term of this Agreement shall commence on the first day of the month after execution hereof and, subject to Agent's continued compliance with the requirements outlined herein for participation in this Program, shall continue in effect thereafter for a primary term of twelve (12) months. Thereafter, this Agreement shall continue from month-to-month, unless terminated by either party, upon at least sixty (60) days advance written notice, or unless terminated pursuant to the provisions of Articles III, VI, and VIII of this Agreement. However, in no case shall any aggregation hereunder included in this Agreement be terminated during a winter month (November through March), unless such winter period termination date is mutually agreed upon by both the Company and Agent, or except pursuant to the provisions of Articles III, VI, and VIII of this Agreement. Agent shall be required to incorporate sufficient flexibility into its agreements with its end-user customers that it serves, so that the operation of this provision will not contravene end-user customer's rights under those agreements. In the event this Agreement, in its entirety, is terminated in accordance with the procedures contained herein, and Agent no longer supplies natural gas to those customers hereunder aggregated, Agent's customers shall be given the option of either electing an alternate Agent, or returning to the Company's system supply. As stated in Article VIII, if this Agreement is terminated due to Agent's bankruptcy or non-delivery of supplies, then Agent's customers shall be immediately returned to Company's system supply.

## **ARTICLE III**

### **Requirements for Program Participation**

The standards for participation in the Program shall be the creditworthiness standards specified on Sheet Nos. 37a and 37b of the Company's tariff. Accordingly, in order to participate as an agent in the Company's program, Agent shall, upon request, provide the Company, on a confidential basis, with balance sheet and other financial statements, and with appropriate trade and banking references. Agent also agrees to allow the Company to conduct a credit investigation as to Agent's credit-worthiness and will pay a \$50 processing fee to the Company to cover the cost of a credit evaluation. Further, if the Company determines that it is necessary, Agent agrees to maintain a cash deposit, an irrevocable letter of credit at a Company-approved bank of the Agent's choosing, or such other financial instrument, as the Company may require during the term of this Agreement in order to assure Agent's performance of its obligations under this Agreement. In order to assure that the value of such financial security instruments remains proportional to Agent's potential liability under this Agreement, the required dollar amounts of such instruments shall be adjusted at the sole discretion of the Company, as customers are added to, or deleted from, Agent's aggregation pool. Agent agrees that, in the event it defaults on its obligations under this Agreement, Company shall have the right to use such cash deposit or the proceeds from irrevocable letter of credit, or other financial instrument to satisfy Agent's obligations under this Agreement. Such proceeds shall be used to secure additional gas supplies, including payment of the costs of the gas supplies themselves, the costs of capacity, transportation, storage, gathering and other related costs incurred in bringing those gas supplies into the Company's system. The proceeds from such instruments shall also be used to satisfy any outstanding claims that the Company may have against Agent, including, but not limited to, interstate pipeline capacity charges, imbalance charges, cash-out charges, pipeline penalty charges, reservation charges, and any other amounts owed to the Company or amounts for which the Company is or will be responsible related to Agent's participation in this Program.

In the event Agent elects, or is forced, to terminate its participation in this Program in accordance with the provisions of this Agreement, it shall continue its obligations to maintain its financial security instrument until it has satisfied all of its outstanding claims of the Company.

In addition to the above financial requirements, the Agent shall comply with all applicable provisions of Company's tariff, including the Code of Conduct as set forth on Sheet Nos. 37 and 37a of Company's tariff. Said tariff provisions are incorporated herein by reference. Agent acknowledges that in its capacity as an agent in this Program, it has a continuing responsibility to conduct its business in a legal and ethical manner.

As a condition of this Agreement and Agent's participation in the Program, Agent authorizes Company to verify with interstate pipelines Agent's primary delivery point entitlements and deliveries of natural gas supplies as described in Company's tariff Rate Schedule SVAS.

Company will maintain a list of Agents who have met the Program financial and performance requirements. This list will be made available to customers upon request.

#### **ARTICLE IV Full Requirements Service**

In exchange for the opportunity to participate in this aggregation service, Agent agrees to supply its aggregation customers' full service requirements for natural gas on both a daily and monthly basis. If, on any day, a Marketer delivers gas supply that is either greater or less than its Daily Delivery Requirement the Marketer will be charged a fee equal to 30% of the price reported in Platts Gas Daily in the Daily Price Survey titled "Prices of Spot Gas Delivered to Pipelines", under the column heading "Midpoint" for "Columbia Gas, Appalachia," adjusted for Columbia Gas Transmission Corporation's FTS Retainage, and commodity charges for the day in question, multiplied by the difference in Dth, plus a charge for all other costs incurred by Columbia that result from the Marketer's failure to deliver gas as required, including a proportionate share of any pipeline penalties and/or costs resulting from efforts to increase or decrease gas supply on the system incurred by Columbia. These fees and charges do not reflect the purchase or sale of gas and will not impact the volumes considered in the annual reconciliation.

In addition to the fees and charges set forth in this rate schedule, on any day during which Columbia has a limitation or interruption in effect for transportation or interruptible customers, failure by Marketer to deliver according to the Daily Delivery Requirement will result in an additional penalty charge to the Marketer equal to twenty-five dollars (\$25) multiplied by the difference in Dth between the Marketer's Daily Delivery Requirement and the Marketer's actual deliveries on that day.

## ARTICLE V Supply Co-Management Defined

Company's aggregation service requires that Agent, as a participant in the Program, accept supply co-management responsibility as defined hereinafter, as a quid pro quo for its participation in this Agreement.

Agent agrees to deliver gas supplies into the Company's designated citygate receipt points on a daily basis, in accordance with the aggregate usage requirements of those customers that comprise the Agent's aggregation pool. For those transportation customers that are members of Agent's aggregation pool without daily measurement, Agent must agree to the Company's estimate of customer consumption as provided in Company's tariff and pay all charges assessed by the Company as provided in Company's tariff.

Company assigns, or offers for assignment, only that daily transportation and storage capacity necessary to serve the demand of the Agent's customer group on a day with design temperature.

Agent must obtain its own capacity and supply to serve the incremental customer demand on days colder than design. Failure of Agent to deliver volumes on such days shall be grounds for expulsion.

### Annual Reconciliation

Agent shall also be required to balance on an annual basis its gas deliveries into the Company's system with the actual overall usage levels of Agent's customer aggregation pool, as specified in the Company's tariff.

Once each year Columbia will reconcile each Marketer's imbalance that has accumulated since the prior reconciliation by determining the difference between: (1) the Marketer's deliveries to Columbia during the reconciliation period, adjusted for Btu value and Company Use and Unaccounted For gas; and, (2) the actual consumption of the Marketer's Aggregation Pool, inclusive of all adjustments applicable to the reconciliation period.

If the reconciliation shows that the Marketer delivered more than what was consumed during the period, then Columbia will pay the Marketer for the excess deliveries. If the reconciliation shows that the Marketer delivered less than what was consumed during the period, then the Marketer will pay Columbia for the under deliveries. Columbia will perform the reconciliation, including associated payment or billing, in the month following the end of the reconciliation period.

The price to be paid for gas to resolve any such imbalance will be the average price during the reconciliation period reported in PLATTS *Inside FERC's Gas Market Report* in the monthly report titled "Prices of Spot Gas Delivered to Pipelines," under the column heading "Index" for "Columbia Gas Transmission Corp., Appalachia", adjusted for Columbia Gas Transmission Corporation's FTS Retainage, and commodity charges.

The reconciliation period shall end on July 31<sup>st</sup> of each year, except that, should the effective date of this tariff not continue past March 31, 2014, the final reconciliation period will be an eight-month period ending on March 31, 2014.

## **ARTICLE VI Billing and Charges**

The Company will provide Agent with actual usage data for their aggregation pool's most recent billing period as customers are billed by the Company under Rate Schedule SVGTS.

Agent's transportation quantities shall be determined from the Company's "Monthly Summary Billing Report." The "Monthly Summary Billing Report" reflects customer's actual billed transport volumes as reported to Agent, as generated within the Company's revenue reporting system.

The billings and charges related to the daily balancing service provided by the Company are specified in the Company's tariff.

If Agent has been assigned capacity and subsequently, is excluded from further participation in the Program, as provided in the Code of Conduct of the Company's tariff, or if this Agreement is terminated in accordance with Article VIII, then Company may elect to recall the capacity immediately. If the capacity is recalled, Agent shall remain responsible for the difference between the market value of the assigned capacity for the remainder of the year and the full demand charges.

## **ARTICLE VII Payment**

On a monthly basis for the term of the Agreement, Company shall make payment to Agent for the revenues billed for the Agent, subject to any deduction for the offsets or recoupments of any amounts owed to the Company as specified herein. The payment shall be at a two percent (2%) discount of the total amount billed by the Company for Agent to its total Customer Group for providing natural gas supplies to the Customer Group for that month. Company shall calculate the amount due Agent by first adding together all of the bills for natural gas sold to customers in the Agent's aggregation pools and then multiplying that total amount by ninety-eight percent (98%).

Company and Agent agree that all fees, costs, charges and penalties owed to the Company shall be offset and/or recouped from Agent's receivables check. The Company shall have the right to offset or recoup: 1) all amounts or costs that are incurred by Agent related to participation in this Program; 2) all amounts or costs owed directly to the Company; and, 3) all amounts or costs for which the Company is or will be responsible if not paid by Agent, including, but not limited to, capacity charges billed by interstate pipeline companies. In calculating the payment due Agent under this Agreement, said fees, costs, charges and/or penalties shall be deducted from the amount to be paid to Agent after the discount has been applied to the total amount billed by the Company.

Payment to Agent shall be made by the Company, within thirty (30) days after the last unit billed in any billing cycle. Said monthly payment shall be made to Agent by the Company, regardless of whether any particular customer(s) in Agent's Customer Group(s) pays their bill(s).

The Company reserves the right to adjust Agent's account with regard to payment for amounts billed by Company for Agent for up to two (2) years after the original billing date for

any individual customer's bill at issue for accounting, meter reading, measurement accuracy or any other necessary adjustment.

## **ARTICLE VIII Remedies**

Defaults. In addition to other rights to terminate or cancel that appear elsewhere in this Agreement, if Company or Agent fails to perform, to a material extent, any of the obligations imposed upon either under this Agreement, then the other party may, at its option, terminate or cancel this Agreement by causing written notice thereof to be served on the party in default, stating specifically the cause for terminating or canceling this Agreement and declaring it to be the intention of the party giving the notice to terminate or cancel the same. In the event a party receives notice of termination or cancellation made pursuant to this Article VIII, the party in default shall have ten (10) days after the service of the aforesaid notice in which to remedy or remove the cause or causes stated in the notice for terminating or canceling this Agreement, and if, within said period of ten (10) days, the party in default does so remedy or remove said causes, then such notice shall be deemed to have been withdrawn and this Agreement shall continue in full force and effect. If the party in default does not so remedy or remove the cause or causes within said period of ten (10) days, then, at the option of the party giving notice, this Agreement shall terminate or cancel as of the expiration of said ten (10) day period.

Termination Rights – Non-Delivery or Bankruptcy. Notwithstanding the above paragraph entitled "Defaults" in Article VIII of this Agreement, in the event that Agent fails to deliver gas supplies in accordance with the Rules and Regulations of Company's tariff, then Company shall have the right to terminate this Agreement immediately upon written notice to Agent, by facsimile, electronic mail or otherwise.

In the event that Agent files a petition for relief under the federal bankruptcy laws, and this Agreement has not been terminated for non-delivery of gas supplies, then Agent shall cause to be filed with the federal bankruptcy court having jurisdiction a notice and take other action to declare its intentions with regard to assuming or rejecting this Agreement within 5 days after the order for relief. Failure to file and take the required action within 5 days after the order for relief will constitute notice that Agent intends to reject the Agreement.

If this Agreement is terminated due to non-delivery of supplies by Agent, or if Company is notified of Agent's intention to reject this Agreement in accordance with federal bankruptcy laws, then the Company shall notify Agent's customers of such termination or rejection and shall return all of Agent's customers to the Company's system supply. The Company shall also determine whether or not any capacity previously assigned to Agent must be returned to the Company, based upon Company's determination of its necessity for service to such customers.

Sole and Exclusive Remedies. The liquidated damages, termination rights, cancellation rights, and interest payment and other remedies outlined in this Agreement and in the Company's tariffs for non-performance herein shall be Company and Agents' sole and exclusive remedies for such non-performance. In no event shall either party be liable for special, incidental, exemplary, punitive, indirect or consequential damages including, but not limited to, loss of profit or revenue, cost of capital, cost of substitute products, downtime costs, or claims for damages by third parties upon Company or Agent. This applies whether claims are based upon contract, warranty, tort, (including negligence and strict liability), or

other theories of liability.

#### **ARTICLE IX Force Majeure**

Neither of the parties hereto shall be liable in damages to the other, except for the actual delivered costs, plus shrinkage, of replacement supplies and flow through of penalty charges, for any act, omission, or circumstance occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, storms, floods, washouts, civil disturbances, explosions, breakage, or accident to machinery or lines of pipe, gas curtailment imposed by interstate or intrastate pipelines, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome. Failure to prevent or settle any strike or strikes shall not be considered to be a matter within the control of the party claiming suspension.

Such causes or contingencies affecting the performance hereunder by either party hereto, however, shall not relieve it of liability in the event of its concurring negligence or in the event of its failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch, nor shall such causes or contingencies affecting such performance relieve Agent from its obligations to make payments of amounts due hereunder.

#### **ARTICLE X Title to Gas**

Agent warrants that it will have good title to all natural gas delivered to the Company hereunder, and that such gas will be free and clear of all liens, encumbrances, and claims whatsoever, and that it will indemnify the Company, and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of a breach of such warranty.

#### **ARTICLE XI Limitation of Third Party Rights**

This Agreement is entered into solely for the benefit of the Company and Agent and is not intended and should not be deemed to vest any rights, privileges or interests of any kind or nature to any third party, including, but not limited to the aggregations pool that Agent establishes under this Agreement.

**ARTICLE XII**  
**Succession and Assignment**

This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. However, no assignment of this Agreement, in whole or in part, will be made without prior written approval of the non-assignee party. The written consent to assignment shall not be unreasonably withheld.

**ARTICLE XIII**  
**Applicable Law and Regulations**

This Agreement shall be construed under the laws of the Commonwealth of Kentucky and shall be subject to all valid applicable State, Federal and local laws, rules, orders, and regulations. Nothing herein shall be construed as divesting or attempting to divest any regulatory body of any of its rights, jurisdiction, powers or authority conferred by law. In the event that any regulatory agency, including but not limited to the Kentucky Public Service Commission, does not approve, as filed or in a manner acceptable to Company, the transportation rate schedules SVGTS and SVAS, to which this Agreement relates, then this Agreement for Small Volume Aggregation Service associated with the Columbia Gas of Kentucky small volume gas transportation program shall be null and void and shall have no effect.

**ARTICLE XIV**  
**Notices and Correspondence**

Written notice and correspondence to the Company shall be addressed as follows:

Columbia Gas of Kentucky, Inc.  
Attn: Choice Program Management  
290 W. Nationwide Blvd.  
Columbus, Ohio 43215

Telephone notices and correspondence to the Company shall be directed to (614) 398 – 8622.  
Email notices to the Company shall be directed to [Choice@nisource.com](mailto:Choice@nisource.com)

Written notices and correspondence to Agent shall be addressed as follows:

Company: \_\_\_\_\_  
Attention/Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Telephone number: \_\_\_\_\_  
Email: \_\_\_\_\_



Either party may change its address for receiving notices effective upon receipt, by written notice to the other party.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on the day and year first above written.

**Witness**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

**Columbia Gas of Kentucky, Inc.**

Signature: \_\_\_\_\_

Printed name: Kylia Davis

Title: Manager Choice & Transportation Support Services

Date: \_\_\_\_\_

**Witness**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

**Agent/Supplier**

Signature: \_\_\_\_\_

Printed name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_