**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Commission’s Investigation into Ohio Rural Natural gas Co-Op and related Matters.  | ::: | Case No. 16-1578-GA-COI |

**POST-HEARING BRIEF**

SUBMITTED ON BEHALF OF THE STAFF OF

THE PUBLIC UTILITIES COMMISSION OF OHIO

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 **On behalf of the Staff of**

 **The Public Utilities Commission of Ohio**

September 23, 2016

INTRODUCTION 1

DISCUSSION 2

A. Background 2

B. ORNG’s operations continue to violate the Pipeline Safety Regulations. 6

1. Plans and Procedures 6

2. Operator Qualifications 11

3. Pressure Testing 12

4. Regulation Station Design Installation 14

5. Cathodic Protection 15

6. Public Awareness 18

7. Duck Creek Road and Ellsworth Road Installations 19

CONCLUSION 21

PROOF OF SERVICE 24

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# INTRODUCTION

The Commission initiated this case after a series of investigations by its Gas Pipeline Safety Staff (“Staff”) evidenced multiple instances of noncompliance by Ohio Rural Natural Gas within a 16 month period between February of 2015, and May of 2016. The history of those inspections, and the findings made by the Staff, are set forth in the Report filed on July 15, 2016 in this docket.

It is difficult to know where to begin. Indeed, the same was likely true of this company. From its very beginnings the Company lacked the knowledge, skills, foresight and diligence to operate pipelines in Ohio. Unfortunately, experience has not proven that the Company is any more capable today. Nor has it shown that the Company is serious about its obligations either to comply with safety regulations, or to protect the public. The Commission must act, and quickly, to force Ohio Rural Natural Gas Co-Op (“ORNG” or “Company”) to cease doing business in Ohio.

# DISCUSSION

## A. Background

Richard M. Osborne is an entrepreneur. Well-documented history here at the Commission has shown that he is prone to self-dealing and micro-management, relying more on trusted associates than on knowledgeable and experienced managers.

Darryl Knight should have been an exception to this experience. Although he entered Mr. Osborne’s circle without industry-specific knowledge, he had years of experience that should have prepared him to lead ORNG. While he did not have specific responsibility for constructing or maintaining pipelines, he had literally decades of man­agerial responsibility for companies operating pipelines subject to safety regulations.[[1]](#footnote-1) He was the Operations Manager for OsAir for eight (8) years. He was the Operations Manager for Orwell Natural Gas for six (6) years. He was President of Frontier Natural Gas for two (2) years. All of these companies operated with pipe in the ground, pipe subject to federal safety regulations. While Mr. Knight should be taken at his word that neither he nor ORNG had “the institutional knowledge that a Columbia Gas or the like has,”[[2]](#footnote-2) the Commission cannot and should not tolerate companies acting “in haste” with­out the knowledge, planning, or due diligence necessary to operate without placing the public at serious risk.

The Company’s haste is evident from its very origins. Mr. Knight testified that he formed Ohio Rural Natural Gas, LLC (“LLC”) in November 2014 to serve the Village of Waynesfield, Ohio. Mr. Knight was the sole employee.[[3]](#footnote-3) It operated out of the offices of another of Mr. Osborne’s pipeline companies, Cobra Pipeline.[[4]](#footnote-4) While registered with the Ohio Secretary of State’s office to do business in the State of Ohio, it never registered with the Commission.[[5]](#footnote-5)

But the LLC never actually engaged in any business in the state, and purportedly ceased all activities at the beginning of February 2015. Mr. Knight claimed that the LLC laid no pipe, and that it was the Co-Op that began installing a pipeline mainline “around January 17th to 19th of 2015”[[6]](#footnote-6). This the Co-Op apparently did without yet having been formed; not yet being a legal entity or registered to business in the state.[[7]](#footnote-7) And yet, Mr. Knight also testified that the pipeline work had been performed initially for the *LLC* “and then that became Ohio Rural Natural gas Co-op.”[[8]](#footnote-8)

When the Staff investigated a complaint in February of 2015, it believed that it was dealing with the LLC. Staff’s belief was certainly reasonable given the actions of the LLC, the Co-Op, or whatever was installing pipe at that time. Staff spoke with two rep­resentatives of the installing company, Sabrina Urick and Mr. Knight, both of who identi­fied themselves as representatives of the LLC. At the time, there was no Co-Op – it had not registered to do business in the State of Ohio and had not obtained an Operator ID number from the U.S. Department of Transportation, Office of Pipeline Safety.[[9]](#footnote-9) Not coin­cidentally, the Co-Op did not register with the Ohio Secretary of State until the day immediate after the Staff initiated its investigation.

Given Staff’s history with reviewing Mr. Osborne’s activities, it is hardly surpris­ing that Staff would be at least suspicious about the LLC / Co-Op.[[10]](#footnote-10) A tap was made into one of Mr. Osborne’s pipelines, apparently without the knowledge of Cobra’s employees. The tap was made at Mr. Osborne’s personal direction, and with employees of another of his companies, Big Oats Field Supply Company.[[11]](#footnote-11)

With the same personnel, business cards, and forms, Mr. Knight’s company, or perhaps more appropriately Mr. Osborne’s company, continued to solicit customers rep­resenting itself as the LLC, not the Co-Op.[[12]](#footnote-12) When asked directly whether ORNG was a Co-op, municipal or private entity, Mr. Knight acknowledged that he informed Staff that ORNG was a private LLC.[[13]](#footnote-13)

It is, of course, irrelevant which entity was actually installing the pipeline. What is relevant is that it was doing so without first complying with safety regulations. When asked why he believed that ORNG could function without having satisfied all of the safety regulations, Mr. Knight admitted “[t]hat was my mistake.”[[14]](#footnote-14)

The noncompliance persists, even to this day. While many of the original viola­tions have been remedied, Staff has continued to find serious violations. Mr. Knight tes­tified that he was asked to return to the company to restore it to compliance. But the rec­ord clearly demonstrates that ORNG continues to be non-compliant. Mr. Knight, who should have had the requisite knowledge and experience to start ORNG, obviously made no effort to operate in compliance then, and has demonstrated that he is no more able to bring it into compliance now. And while there were at least initially board members who should have been able to right the ship, now only Mr. Knight and Mr. Osborne oversee[[15]](#footnote-15) an incompetent operation.

## B. ORNG’s operations continue to violate the Pipeline Safety Regula­tions.

Throughout his testimony, Mr. Knight asserts that several of the Attachments to his testimony demonstrate that the Co-Op is now in compliance with Staff’s orders. But the evidence clearly demonstrates otherwise. The following examples are not intended to be comprehensive, but illustrative of the Company’s ongoing inability to comply with the PHMSA Pipeline Safety Regulations.

### 1. Plans and Procedures

As Staff witness Peter Chace testified, natural gas pipeline operators are required by regulations issued by the Pipeline and Hazardous Materials Safety Administration (“PHMSA Pipeline Safety Regulations”) to establish a number of plans and procedures prior to operation. Procedures must be developed and followed for new construction, to ensure the pipeline and pipeline components are installed correctly and will not fail, which would result in a potentially hazardous release of natural gas from the pipeline system. Procedures are also required to operate and maintain the system safely, to respond to gas leaks and emergencies, to make local emergency response officials and the general public aware of the pipelines in the area, and to provide appropriate training for personnel.[[16]](#footnote-16)

In Staff’s March 10, 2015 Notice of Non-Compliance, ORNG was notified that it did not have the plans, procedures and programs required under 49 C.F.R. 192, including procedures for the design, installation, construction, inspection and testing of piping, and operations and maintenance manual, emergency response plan, public awareness plan, operator qualification plan, and integrity management plan.[[17]](#footnote-17) ORNG was ordered to cease operations until it had the required plans and procedures in place.

But the Company did not comply. Instead, it continued to operate in complete dis­regard for the PHMSA Pipeline Safety Regulations, installing distribution mains and ser­vice lines in defiance of the Staff’s directive.[[18]](#footnote-18)

The Company subsequently purchased a number of these manuals, but the record demonstrates that they were slow to do so, and that at least some of these are still non-compliant. The earliest that ORNG purchased manuals was almost two full months after the March 10, 2015 Non-Compliance Notice was issued. Mr. Knight testified that the Operation and Maintenance Plan was purchased on May 6, 2015[[19]](#footnote-19), four (4) months after the Co-Op began laying pipe and two (2) months after Staff’s Notice. An Operator Qualification Manual was purchased at about the same time,[[20]](#footnote-20) as were a Public Aware­ness Program[[21]](#footnote-21) and an Emergency Procedures Manual.[[22]](#footnote-22) The Integrity Management Plan came a month later yet.[[23]](#footnote-23) Although ORNG purportedly purchased a Welding Manual on September 25, 2015, it did not have a copy of the manual in May 2016, and Mr. Knight acknowledged that they had “neglected to follow up on it.”[[24]](#footnote-24)

The Company has failed to “follow up” on other important matters. Staff reviewed these plans and other Company records on June 16, 2015, and noted numerous deficiencies. On July 24, 2015, Staff sent a letter to ORNG stating that there were “a few issues” with its Operator Qualification (“OQ”) plan. [[25]](#footnote-25) Mr. Knight admitted that the Co-Op did not address those deficiencies, but claimed that it had since done so.[[26]](#footnote-26) But the OQ plan submitted with his testimony still fails to comply with the safety regulations. The rules require that a company identify covered tasks and ensure, through evaluation, that individuals performing covered tasks are qualified to do so.[[27]](#footnote-27) “Evaluation” is specif­ically defined in the rules, and “means a process, established and documented by the operator, to determine an individual’s ability to perform a covered task by” written or oral examination, work performance or observation.[[28]](#footnote-28) The company must maintain records that include the qualification method.[[29]](#footnote-29)

Mr. Knight should understand the evaluation process. He is, after all, the only member of ORNG’s Evaluation Committee.[[30]](#footnote-30) And he produced documentation of the qualification methodology for two (2) of the 70-some covered tasks identified in ORNG’s OQ plan. But he admitted that the plan contains neither the evaluation method, nor any documentation of the method, for any of the remaining covered tasks.[[31]](#footnote-31) The OQ plan simply does not comply with the Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations.

But it is not enough to purchase and maintain complete and compliant manuals. It is necessary that company personnel know what is in those manuals. More than that – that company personnel actually follow proscribed procedures. Two glaring violations demonstrate ORNG’s failure to properly train and supervise its employees.

The first incident occurred at the Tin Man Storage facility in November 2015. ORNG employees and/or contractors improperly installed meters that resulted in gas leaks. ORNG employees improperly installed meters, improperly installed a regulator station designed to restrict downstream gas pressure, failed to pressure test the piping to ensure it was installed properly, and failed to follow appropriate re-light procedures, endangering their customers. Even though the Company by then also had an Emergency Procedures Manual, the employee who responded – nearly an hour after a gas leak was reported – did not have any leak detection equipment and “appeared unfamiliar with leak detection and leak grading procedures.”[[32]](#footnote-32) This incident resulted in a Notice of Probable Non-Compliance being issued on December 1, 2015.[[33]](#footnote-33)

The second incident of note occurred on March 16, 2016, when Staff witness Christopher Domonkos observed ORNG employees improperly fusing pipe intended to serve residential customers. The operators, who were supposedly qualified to perform butt fusions, used damaged equipment, improperly, without adequate protection or safe­guards, while failing to follow procedures established both by the manufacturer and by ORNG, with defective manuals on-site.[[34]](#footnote-34) This incident resulted in the Notice of Probable Non-Compliance that was issued on April 5, 2016.[[35]](#footnote-35)

ORNG purchased manuals to meet its regulatory requirements. But at least some of the issues with these manuals, known to the Company for more than a year, have still not been addressed. Even when the manuals appear to be compliant, it is evident that follow-up was not done to ensure that employees knew and followed proper procedures.

### 2. Operator Qualifications

Each operator must have and follow a written qualification program. Operators are responsible for assuring that individuals performing covered tasks on their pipeline facilities are qualified.[[36]](#footnote-36) This is true whether it operates distribution (mains and services) or jurisdictional gathering or transmission lines, and is true whether the individual is an employee or a contractor. It is the responsibility of the operator to ensure that all indi­viduals performing covered tasks are qualified in a manner consistent with the operator’s OQ Program requirements.[[37]](#footnote-37)

ORNG, however, could not demonstrate *any* of their employees were qualified for a number of covered tasks in 2015.[[38]](#footnote-38) Mr. Knight admitted that it did not comply with Staff’s December 2015 order that it provide complete Operator Qualification records for all ORNG employees and contractors demonstrating that they are qualified to perform certain operation and maintenance tasks.[[39]](#footnote-39) While the Company has provided documenta­tion that the employees making defective butt fusions have been requalified, OQ records for other covered tasks are incomplete. The Company still has not complied with this order.

### 3. Pressure Testing

On July 24, 2015, Staff sent a letter to ORNG raising issues needed to be addressed before the Company could begin operations. Specifically, Staff advised ORNG that it must establish a Maximum Allowable Operating Pressure (MAOP) for all energized pipe. The regulations require that new pipeline segments may not be operated until they have been tested to substantiate the MAOP, and each potentially hazardous leak has been located and eliminated.[[40]](#footnote-40)

ORNG did not then have the necessary testing records to establish an MAOP.[[41]](#footnote-41) Although Mr. Knight characterized this as a “new” issue, he admitted that he had been aware that pressure testing to establish an MAOP, and a leak survey, both had to be con­ducted before putting a line in service.[[42]](#footnote-42)

Even after this was brought to the Company’s attention, ORNG nonetheless pro­ceeded to energize its lines without having established an MAOP or having conducted leak surveys.[[43]](#footnote-43) Staff requested pressure testing records from the Company during an audit in May of 2016. No records were produced, however, until Mr. Knight’s testimony was filed in this case.[[44]](#footnote-44)

But these records do not demonstrate what Mr. Knight said they do. He claimed that his Attachment DK-17 showed that the Company had established an MAOP for its Sugar Bush, Hallock-Young, Ellsworth Road, Reynolds Road, Williams Road, Steel Head Run, and OsAir systems, and steel service lines off the Fracci, Oak, Dowd, Muzic, Williams Road Barn, and Williams Road Steel Head Run fed from farm taps.[[45]](#footnote-45) But on cross-examination he was unable to show where an MAOP had been established for: Reynolds Road, Williams Road, Steel Head Run, OsAir, Oak, Muzic, Williams Road Barn, or Williams Road Steel Head Run.[[46]](#footnote-46) Indeed, he even acknowledged that an MAOP could not be established for Williams Road Steel Head Run since there was no valve that could isolate that system.[[47]](#footnote-47)

Mr. Knight testified that he understood that the Company must conduct pressure testing to establish an MAOP before putting a line in service.[[48]](#footnote-48) He testified that the Com­pany placed lines in service before establishing MAOPs.[[49]](#footnote-49) He testified that ORNG never tested the Steel Head Run farm tap for MAOP, nor has it installed the valve neces­sary to allow it to do so.[[50]](#footnote-50) And he testified that the Company has no documentation that it has established an MAOP for a significant number of its systems. The Company has continued to fail to comply with these important requirements.

### 4. Regulation Station Design Installation

Following the Tin Man Storage incident in November, 2015, Staff conducted safety inspections on several different days, and issued a Notice of Probable Non-Com­pliance on December 1, 2015. The inspections found numerous problems with the “M&R” (meter and regulation) station. The station lacked an emergency shut off valve, proper locking devices, or a sensing line to ensure proper operation of the downstream, or backup, regulator.[[51]](#footnote-51)

This left the system without a backup means of overpressure protection, and in the event of a regulator failure the down­stream piping would be pressurized to a level beyond what it was designed to safely operate at. The station was also designed with a bypass valve that was not locked to prevent unauthorized operation, and was installed without an upstream isolation valve to stop the flow of gas to the station in the event of an emergency.[[52]](#footnote-52)

Staff ordered the Company to modify this M&R station. That is not all that the Staff ordered, however. The Compliance Order accompanying the December 1, 2015 Notice of Probable Noncompliance also ordered ORNG to “perform a visual inspection of all regulator stations currently in its system for correct design . . . and correct any defi­ciencies found.”[[53]](#footnote-53) Mr. Knight testified that two (2) of the reports attached to his testi­mony demonstrate that “ORNG Co-Op has complied with this Order.” The reports, how­ever, show no such thing.

Mr. Knight first directs the Commission’s attention to a cathodic protection report. Cathodic protection refers to oxidation of the pipe, and has nothing to do with the design flaws of the installation. Moreover, Mr. Knight acknowledged that even the referenced report only mentions one (1) of the Company’s three (3) M&R stations. He then relies on atmospheric corrosion inspection reports. Like the cathodic protection reports, these, as Mr. Knight admitted, have nothing to do with the design flaws of the installation.[[54]](#footnote-54)

If Company employees had been trained on and followed their own procedures these problems would not have occurred.[[55]](#footnote-55) But not only has the Company *still* not com­plied, it has shown a shocking lack of understanding about what must be done to show compliance. All of the correct processes and procedures are contained in the Company’s manuals. It is both of these factors – the noncompliance and the apparent lack of under­standing – that so concern Staff in this case.

### 5. Cathodic Protection

Cathodic protection is a technique used to control the [corrosion](https://en.m.wikipedia.org/wiki/Corrosion) of a metal surface by making it the [cathode](https://en.m.wikipedia.org/wiki/Cathode) of an [electrochemical cell](https://en.m.wikipedia.org/wiki/Electrochemical_cell). A simple method of protection con­nects the metal to be protected to a more easily corroded “[sacrificial metal](https://en.m.wikipedia.org/wiki/Sacrificial_metal)” to act as the [anode](https://en.m.wikipedia.org/wiki/Anode). The sacrificial metal then corrodes instead of the protected metal. [[56]](#footnote-56) The efficacy of cathodic protection is determined by taking measurements of pipe-to-soil potentials or electrode potential.[[57]](#footnote-57)

There are circumstances where cathodic protection records would be relevant to violations found by the staff. Although the Company claims that it is now in compliance with cathodic protection requirements, the record clearly demonstrates that it is not cur­rently in compliance. As with the M&R station design flaws, Staff is concerned that ORNG and Mr. Knight either do not understand or simply do not care to comply with these requirements.

As a result of the May 16, 2016 inspection of operator procedures and records at ORNG, Staff found that the Company had no cathodic protection monitoring records for 2015.[[58]](#footnote-58) Mr. Knight admitted this violation.[[59]](#footnote-59) Staff expected to see documentation that protection was provided by an anode or an impressed current system, and then to see volt meter readings showing that the pipe was protected. But Staff found that the Company violated 49 C.F.R. 192.491 because it had “no records showing the location of cathod­ically protected piping or test points, or records of any tests, surveys, or inspection to demonstrate that a corrosive condition does not exist.”[[60]](#footnote-60)

Mr. Knight testified that three (3) of the reports attached to his testimony demon­strate that “ORNG Co-Op has now rectified this noncompliance issue.”[[61]](#footnote-61) The reports, however, once again, show no such thing.

Mr. Knight first directs the Commission’s attention to Continuing Surveillance Reports. Mr. Knight could not say how a visual inspection could have shown any sub­stantial change in cathodic protection requirements, and admitted that the reports con­tained no cathodic testing results.[[62]](#footnote-62) He then again relied on Atmospheric Corrosion Inspec­tion Reports. And, again, Mr. Knight admitted that atmospheric inspection does not document cathodic protection.[[63]](#footnote-63) Finally, Mr. Knight relied on Leak Survey Reports, and admitted that those, too, contain no mention of corrosion or cathodic protection. Aside from a single cathodic test report for a single system, the Company has no cathodic testing reports for any of its cathodically protected pipe. Indeed, Mr. Knight admitted that, to the best of his knowledge, the Company has not provided any cathodic protection test results to Staff.[[64]](#footnote-64)

Neither did the Company demonstrate that it had cathodically protected its pipes by the produced photographs. Staff cited the Company for failing to provide cathodic protection for its Fracci Court system. The Company claimed that it corrected the viola­tion by installing an anode bag, and that this remedy was illustrated in Attachment DK-27. When asked how the photograph showed that the violation had been corrected, Mr. Knight admitted that “[t]hey do not show that.”[[65]](#footnote-65)

The Company has neither complied, nor demonstrated that it understands what must be done to comply.

### 6. Public Awareness

ORNG was first made aware that it was noncompliant for lack of a public aware­ness plan with the March 10, 2015 Notice of Probable Noncompliance.[[66]](#footnote-66) ORNG pur­chased a plan on May 5, 2015.[[67]](#footnote-67) The rule requires that operators implement a written con­tinuing public education program.[[68]](#footnote-68) ORNG did not, however, make any effort to notify the public until after the gas leak incident at Tin Man storage.

That incident highlighted the importance of the regulations. Tenants at Tin Man complained, but called Orwell Natural Gas, their former distributing utility, because they were unaware that their service had been switched to ORNG. Others contacted 911, leading to a response from the Mentor Fire Department. They, in turn, contacted Orwell, never having been notified by ORNG that it was providing service.[[69]](#footnote-69)

Even after the incident, ORNG only notified owners of Tin Man units, and *not* other customers, the general public, or appropriate government organizations.[[70]](#footnote-70) Even after the Company was found to be in violation of the public awareness rules on December 1, 2015, the Company did nothing until this docket was opened. Given the Company’s recalcitrance, Staff is concerned that continuing public education will not occur absent the persistent threat of sanctions.

### 7. Duck Creek Road and Ellsworth Road Installations

Duck Creek Road intersects with Ellsworth Road. By the time that Staff witness Christopher Domonkos observed the defective fusions being made during a pipeline installation on Ellsworth Road,[[71]](#footnote-71) ORNG’s crew had already completed its installation on Duck Creek Road. Mr. Knight acknowledged that the Ellsworth Road fusions were improperly done and were defective.[[72]](#footnote-72) And Mr. Knight did not deny – indeed, could not – that the same operators installed the Duck Creek pipeline, using the same damaged and defective equipment, and the same faulty procedures, without the benefit of critical pages in the procedure manual. None of this would have occurred had the Company enforced policies and procedures that they had in place.[[73]](#footnote-73) ORNG’s “paper compliance” meant nothing in the field where compliance is most critical.

Staff acknowledges that the Company has purchased new equipment and appar­ently requalified its operators. But these actions do not correct the violations that have already occurred. The Company was ordered to excavate, cut out, and replace all of the joints in the Duck Creek Road system, but has not done so.[[74]](#footnote-74) Furthermore, the Company was ordered to take the Ellsworth Road system out of service, and to excavate, cut out, and replace all of the joints in that system, but has not done so.[[75]](#footnote-75)

That the Ellsworth Road system, pressurized at 40%, has not yet failed is of little comfort to Staff. Mr. Knight acknowledged that defective joints can function when pres­surized for years without issue. But he also admitted that improperly fused joints could result in leaks and “the possibility of having a fire, explosion.”[[76]](#footnote-76) Temperature, ground conditions, soil shifting, lateral forces can all cause defective joints to rupture.[[77]](#footnote-77) And these systems are in rural areas subject to farm and construction equipment.[[78]](#footnote-78) These sys­tems pose a serious threat of property damage and even potential loss of life if left unre­paired. The Commission must direct that the Ellsworth system be taken out of service immediately.

# CONCLUSION

 Staff witness Peter Chace concisely summarized Staff’s position about ORNG’s operations. He concluded that:

ORNG is not following the requirements of the Pipeline Safety Regulations, despite the repeated notices by the Com­mission staff of safety violations. The lack of record keeping, coupled with the failure to implement the plan and procedures contained in the manual they purchased in compliance with the March 10, 2015 notice shows a blatant disregard for commission authority and the laws of the State of Ohio. . .

ORNG management consistently demonstrates a willful dis­regard of safety regulations and has established a pattern of ignoring their own policies and procedures, and refusing to implement these procedures, except as part of corrective action plan for violations specifically identified and docu­mented by Staff in the field.[[79]](#footnote-79)

The Company’s “demonstrations” of current compliance further document its inability to operate safely, let alone lawfully.

Staff made a number of recommendations in its Report. Staff respectfully submits that the record demonstrates that ORNG’s facilities are currently hazardous to life and property, and requests that the Commission so find. Consequently, the Commission should cease all construction and operations until the Company completes, to Staff’s sat­isfaction, all of the items from Staff’s cumulative correction action plans, corrects all of the violations cited in the Staff Report from the May, 2016 annual audit, and can demon­strate that it possess the knowledge and management oversight to consistently follow the pipeline safety regulations.

Staff has also recommends that a fine of $600,000 be assessed against the Com­pany. While ORNG has demonstrated that it does not have the cash to pay such a fine, it is clear that those who control this company have the means to do so. Despite its co-operative status, this company only exists because of the financing provided by Richard Osborne and his controlled companies.[[80]](#footnote-80) If the Company cannot afford the fine, then it clearly cannot be expected to take the corrective actions necessary to operate safely.

In the interest of protecting public health and safety, Staff submits that the Com­mission must act swiftly to declare the ORNG pipeline system to be a hazardous facility, and to order it to cease all operations immediately.

Respectfully submitted,

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 **On behalf of the Staff of**

 **The Public Utilities Commission of Ohio**

# PROOF OF SERVICE

 I hereby certify that a true copy of the foregoing **Post-Hearing Brief** submitted on behalf of the Staff of the Public Utilities Commission of Ohio,was served by regular U.S. mail, postage prepaid, or hand-delivered, upon the following Parties of Record, this 23rd day of September, 2016.

*/s/ Werner L. Margard*

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1. Tr. at 28, 30. [↑](#footnote-ref-1)
2. Direct Testimony of Darryl Knight, Company Ex. 1, at 6. [↑](#footnote-ref-2)
3. Tr. at 38. [↑](#footnote-ref-3)
4. Tr. at 39. [↑](#footnote-ref-4)
5. Tr. at 38. [↑](#footnote-ref-5)
6. Tr. at 40. [↑](#footnote-ref-6)
7. Tr. at 42. [↑](#footnote-ref-7)
8. *Id*. [↑](#footnote-ref-8)
9. Prepared Testimony of Peter Chace, Staff Ex. 3, at 3-4. [↑](#footnote-ref-9)
10. While most of this experience has come during the investigations of Mr. Osborne’s involvement with his former companies, Orwell Natural Gas and Northeast Ohio Natural Gas, the observations made by the Commission there are certainly germane here. The Commission has criticized the “severe organizational dysfunction within the Companies and between the regulated companies and their nonregulated affiliates,” evidenced in part by “management unawareness.” *In the Matter of the Regulation of the Purchased Gas Adjustment Clauses Contained Within the Rate Schedules of Northeast Ohio Natural Gas Corporation and Orwell Natural Gas Company*, Case Nos. 12-209-GA-GCR, *et al*. (Opinion and Order at 51) (Nov. 13, 2013). Osborne companies have disregarded internal controls, and functioned in a “culture of indifference.” *Id*. The Commission questioned “the judgment of the current management of the Companies and whether they are sufficiently responsible and capable to continue to manage a public utility in accordance with acceptable business practices, Commission rules and orders, and Ohio statutory requirements.” *Id*. at 52. [↑](#footnote-ref-10)
11. Tr. at 41-42. [↑](#footnote-ref-11)
12. Tr. at 43-44; Staff Ex. 4. [↑](#footnote-ref-12)
13. Tr. at 45; Staff Ex. 5. [↑](#footnote-ref-13)
14. Tr. at 49. [↑](#footnote-ref-14)
15. Tr. at 23. This is particularly troubling given the difficulties that Staff has experienced with Mr. Osborne. Staff specifically notes the incident related in the Staff Report where Mr. Osborne questioned the participation of Staff witness Peter Chace, the Staff Gas Pipeline Safety Program (GPS) Manager, in a field audit, and advised that “his employees” would not assist while Mr. Chace was present. Staff Report of Investigation, Staff Ex. 1, at 10. [↑](#footnote-ref-15)
16. Prepared Testimony of Peter Chace, Staff Ex. 3, at 5. [↑](#footnote-ref-16)
17. Staff Report of Investigation, Appendix A, Staff Ex. 1. [↑](#footnote-ref-17)
18. Prepared Testimony of Peter Chace, Staff Ex. 3, at 7. [↑](#footnote-ref-18)
19. Tr. at 50. [↑](#footnote-ref-19)
20. Tr. at 51. [↑](#footnote-ref-20)
21. Tr. at 53. [↑](#footnote-ref-21)
22. Tr. at 54. [↑](#footnote-ref-22)
23. *Id*. [↑](#footnote-ref-23)
24. Tr. at 53. [↑](#footnote-ref-24)
25. Staff Report of Investigation, Appendix B, Staff Ex. 1. [↑](#footnote-ref-25)
26. Direct Testimony of Darryl Knight, Company Ex. 1, 8-9. [↑](#footnote-ref-26)
27. 49 C.F.R. 192.805. [↑](#footnote-ref-27)
28. 49 C.F.R. 192.803. [↑](#footnote-ref-28)
29. 49 C.F.R. 807(a)(4). [↑](#footnote-ref-29)
30. Tr. at 61. [↑](#footnote-ref-30)
31. Tr. at 62. [↑](#footnote-ref-31)
32. Tr. at 62. [↑](#footnote-ref-32)
33. Staff Report of Investigation, Appendix C, Staff Ex. 1. [↑](#footnote-ref-33)
34. *Id*. [↑](#footnote-ref-34)
35. Staff Report of Investigation, Appendix D, Staff Ex. 1. [↑](#footnote-ref-35)
36. 49 C.F.R. 192.805(b). [↑](#footnote-ref-36)
37. Pipeline Technical Resources, U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, <https://primis.phmsa.dot.gov/oq/faqs.htm#3> (accessed September 20, 2016). [↑](#footnote-ref-37)
38. Prepared Testimony of Peter Chace, Staff Ex. 3, at 23. [↑](#footnote-ref-38)
39. Tr. at 64. [↑](#footnote-ref-39)
40. 49 C.F.R. 192.503(a). [↑](#footnote-ref-40)
41. Staff Report of Investigation, Appendix B, Staff Ex. 1. [↑](#footnote-ref-41)
42. Tr. at 55. [↑](#footnote-ref-42)
43. Tr. at 57. [↑](#footnote-ref-43)
44. Tr. at 71. [↑](#footnote-ref-44)
45. Direct Testimony of Darryl Knight, Company Ex. 1, at 22. [↑](#footnote-ref-45)
46. Tr. at 97-98. [↑](#footnote-ref-46)
47. *Id*. [↑](#footnote-ref-47)
48. Tr. at 55, 64. [↑](#footnote-ref-48)
49. Tr. at 57. [↑](#footnote-ref-49)
50. Tr. at 98. This is the farm tap, incidentally, that serves Richard Osborne’s cabin. Tr. at 74. [↑](#footnote-ref-50)
51. Staff Report of Investigation, Appendix C, Staff Ex. 1. [↑](#footnote-ref-51)
52. Prepared Testimony of Peter Chace, Staff Ex. 3, at 12. [↑](#footnote-ref-52)
53. Staff Report of Investigation, Appendix C, Staff Ex. 1. [↑](#footnote-ref-53)
54. Tr. at 73. [↑](#footnote-ref-54)
55. Prepared Testimony of Peter Chace, Staff Ex. 3, at 14. [↑](#footnote-ref-55)
56. <https://en.m.wikipedia.org/wiki/Cathodic_protection> (accessed Sep. 20, 2016); Tr. at 91. [↑](#footnote-ref-56)
57. *Id*. [↑](#footnote-ref-57)
58. Staff Report of Investigation, Staff Ex. 1 at 13. [↑](#footnote-ref-58)
59. Direct Testimony of Darryl Knight, Company Ex. 1, at 20. [↑](#footnote-ref-59)
60. Staff Report of Investigation, Staff Ex. 1 at 14. [↑](#footnote-ref-60)
61. Direct Testimony of Darryl Knight, Company Ex. 1, at 21. [↑](#footnote-ref-61)
62. Tr. at 93. [↑](#footnote-ref-62)
63. Tr. at 96. [↑](#footnote-ref-63)
64. Tr. at 92. [↑](#footnote-ref-64)
65. Tr. at 90. [↑](#footnote-ref-65)
66. Staff Report of Investigation, Appendix C, Staff Ex. 1. [↑](#footnote-ref-66)
67. Tr. at 53. [↑](#footnote-ref-67)
68. 49 C.F.R. 616(a). [↑](#footnote-ref-68)
69. Staff Report of Investigation, Staff Ex. 1, at 4. [↑](#footnote-ref-69)
70. Tr. at 75. [↑](#footnote-ref-70)
71. Prepared Testimony of Christopher Domonkos, Staff Ex. 2, at 8-9. [↑](#footnote-ref-71)
72. Tr. at 77. [↑](#footnote-ref-72)
73. Prepared Testimony of Christopher Domonkos, Staff Ex. 2, at 10. [↑](#footnote-ref-73)
74. Tr. at 80. [↑](#footnote-ref-74)
75. Tr. at 81. [↑](#footnote-ref-75)
76. Tr. at 82. [↑](#footnote-ref-76)
77. *Id*. [↑](#footnote-ref-77)
78. Tr. at 84. [↑](#footnote-ref-78)
79. Prepared Testimony of Peter Chace, Staff Ex. 3, at 23-24. [↑](#footnote-ref-79)
80. Tr. at 101. [↑](#footnote-ref-80)