

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
INVESTIGATION INTO COBRA PIPELINE
CO., LTD AND RELATED MATTERS.

CASE NO. 14-1709-GA-COI

ENTRY

Entered in the Journal on September 14, 2016

I. SUMMARY

{¶ 1} The Commission directs that an investigative audit be conducted of Cobra Pipeline Company, LTD and Orwell-Trumbull Pipeline Company, LLC and that Staff shall issue a request for proposal to select the auditor to perform the audit.

II. DISCUSSION

{¶ 2} Orwell-Trumbull Pipeline Company, LLC (OTP) and Cobra Pipeline Company, LTD (Companies) are pipeline companies under R.C. 4905.03 and public utilities as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} On September 19, 2014, and March 31, 2015, Orwell Natural Gas Company (Orwell) filed complaints in Case No. 14-1654-GA-CSS (14-1654) and Case No. 15-637-GA-CSS (15-637), respectively, against OTP pursuant to R.C. 4905.26. Both complaints relate to a reasonable arrangement for natural gas transportation services (Agreement) between Orwell and OTP, approved by the Commission pursuant to R.C. 4905.31. *In re Orwell-Trumbull Pipeline Co., LLC*, Case No. 08-1244-PL-AEC, Entry (Dec. 19, 2008).

{¶ 4} Following a hearing, the Commission issued an Opinion and Order in 14-1654 and 15-637 on June 15, 2016, finding that 14-1654 should be dismissed, and finding, in 15-637, that the arbitration provision of the Agreement should be suspended until further ordered by the Commission, that Orwell's request for refunds should be denied, that the Agreement should be modified as set forth in the Opinion and Order, and that OTP should file a rate case application pursuant to R.C. Chapter 4909 to establish just and

reasonable rates for service. *In re Complaint of Orwell Natural Gas Co. v. Orwell-Trumbull Pipeline Co., LLC*, Case No. 14-1654-GA-CSS, et al. (*Complaint Case*), Opinion and Order (June 15, 2016). The Commission also found that, since the approval of the Agreement, there have been legitimate concerns as to whether the Agreement was an arm's-length transaction. As a result, the Commission ordered that the subject matter of the above-captioned case be expanded to include an investigation of all pipeline companies owned or controlled by Richard Osborne and their affiliates that are subject to the jurisdiction of the Commission, namely the Companies. *Complaint Case* at 44.

{¶ 5} Accordingly, an investigative audit shall be conducted examining the Companies' structure, functions, affiliates, and related party transactions, and operating procedures with the report being filed with the Commission no later than April 7, 2017. Staff will oversee the investigative audit. In order to assist Staff in its oversight, all interviews with the Companies' personnel and on-site reviews of the Companies' documents must be conducted at the Companies' Ohio offices.

{¶ 6} The investigative audit report shall identify and evaluate the specific audit requirements as contained in Request for Proposal No. RA16-MP-1 (RFP), which is attached to this Entry. The RFP was developed by Staff to aid in the solicitation of responses for conducting the investigative audit for the Companies.

{¶ 7} The Commission has reviewed the RFP for the investigative audit and finds that its provisions are consistent with the Commission's objectives in this matter. Proposals will be due by October 7, 2016. The criteria to be used by the Commission to determine the selection of the investigative auditor shall include the technical and management capabilities of each firm, as well as the overall cost of each bid. The Commission shall direct, by entry, the Companies to enter into a contract with the selected auditor to perform the investigative audit.

{¶ 8} The Commission directs that all costs associated with the investigative audit be borne by the Companies.

{¶ 9} The auditor shall perform the audit as an independent contractor. Any conclusions, results, or recommendations formulated by the auditor may be examined by any participant to the proceedings for which the audit report was generated. Further, it shall be understood that the Commission and/or Staff shall not be liable for any acts committed by the auditor or its agents in the preparation and presentation of the audit report.

{¶ 10} The auditor will execute its duties pursuant to the Commission's statutory authority to investigate and acquire records, contracts, reports, and other documentation under R.C. 4903.03, 4905.06, 4905.15, and 4905.16. The auditor is subject to the Commission's statutory duty under R.C. 4901.16, which states:

Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under the appointment or employment of the commission.

{¶ 11} Once disclosure is permitted by R.C. 4901.16, the following process applies to the release of any document or information marked as confidential. Three days' prior notice of intent to disclose shall be provided to the party claiming confidentiality. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission is moved for a

protective order pertaining to such documents or information within the three-day notice period. The three-day notice period will be computed according to Ohio Adm.Code 4901-1-07.

{¶ 12} Upon request of the auditor or Staff, the Companies shall provide any and all documents or information requested. The Companies may conspicuously mark such documents or information "confidential." In no event, however, shall the Companies refuse or delay in providing such documents or information.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Staff issue the RFP attached to this Entry and that October 7, 2016, be set as the due date for proposals in response to the RFP. It is further,

{¶ 15} ORDERED, That the audit set forth in Paragraph 5 be conducted and filed with the Commission. It is, further,

{¶ 16} ORDERED, That the Companies bear the cost of the audit as provided in Paragraph 8. It is, further,

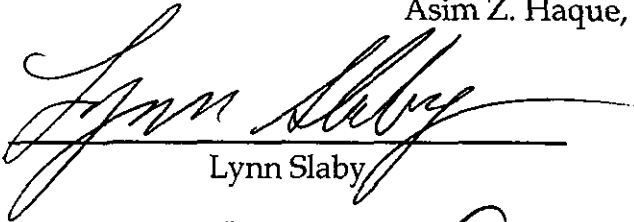
{¶ 17} ORDERED, That the Companies and the auditor observe the requirements set forth herein. It is, further,

{¶ 18} ORDERED, That a copy of this Entry be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

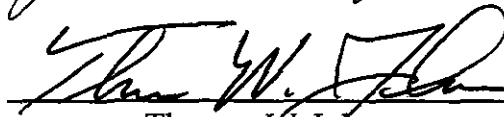
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Asim Z. Haque, Chairman



Lynn Slaby

M. Beth Trombold



Thomas W. Johnson

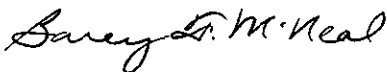


M. Howard Petricoff

NW/HW/vrm

Entered in the Journal

SEP 14 2018



Barcy F. McNeal
Secretary

REQUEST FOR PROPOSAL NO. RA16-IA-1

AN INVESTIGATIVE AUDIT
OF COBRA PIPELINE
AND
ORWELL TRUMBULL PIPELINE

THE
PUBLIC UTILITIES COMMISSION OF OHIO
180 East Broad Street
Columbus, Ohio
43215-3793

PROPOSAL DUE: October 7, 2016

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I. INTRODUCTION

On June 15, 2016, the Commission by its Opinion and Order in Case No 14-1654-GA-CSS et al. (O&O) specified that an investigative audit will be undertaken of Orwell Trumbull Pipeline and Cobra Pipeline (Companies). Based on the Commission's directives in its O&O, Staff has assembled this request for proposal (RFP). The Commission, with this RFP, is now seeking an auditor to conduct the investigative audit of the Companies.

The audit will examine the Companies' management structure, functions, affiliate and related party transactions, and operating procedures. The auditor will present its findings in an audit report that is to be filed with the Commission by April 7, 2017.

II. THE PROJECT

II.

(A) Purpose of the Investigative Audit

The investigative audit is designed to investigate the Companies' management effectiveness in operating regulated utilities. The auditor should develop an understanding of the Companies' operations, management policies and procedures, affiliate and related party transactions, and approval procedures.

(B) Role of Auditor

Any auditor who is chosen by the Commission to perform the audit expressly agrees to perform the audit as an independent contractor. Any conclusions, results, or recommendations formulated by the auditor may be examined by any participant to the proceeding for which the audit report was generated. Further, it shall be understood that the Commission and/or its Staff shall not be liable for any acts committed by the auditor or its agents in the preparation and presentation of the audit report.

(C) Commission Staff

Staff's involvement in the audit process will be to ensure that the audit requirements are addressed. Staff personnel shall be copied and informed of all correspondence between the auditor and the Companies and shall be given five working days' notice of all meetings and interviews with the Companies, so as to allow Staff the opportunity to attend. The auditor shall notify Staff of such meetings and interviews. The auditor will submit to Staff a list of the individuals being interviewed and topics to be discussed. This list shall be sent to Hilde Williamson at the following Email address: hilde.williamson@puco.ohio.gov. All interviews of Companies personnel and on-site reviews of Companies documents must be conducted at the Companies' Ohio offices.

(D) Cost of Audit and Quotation of Charges

The proposed cost of the audit shall include all expenses associated with conducting the audit and assembling the findings and recommendations into an audit report. A detailed list of costs shall be provided, broken down by phase/task, in conformance with this RFP. The proposed costs shall be considered firm prices for performing the work described in the proposal.

(E) Cost of Presenting Expert Testimony

The costs of preparing for and presenting testimony are to be billed separately from the costs listed above in paragraph (D). Expenses associated with the presentation of testimony will include the following:

- actual transportation expense (i.e., airfare, etc.)
- actual living expenses (hotels, meals, local transportation)
- actual preparation time, up to 8 hours per witness
- actual hours spent in travel
- actual hours spent presenting testimony

III. SCOPE OF WORK

In order to fulfill the purpose described above, the designated auditor will be expected to analyze, interpret, and make specific recommendations with respect to the following audit requirements in its report:

- (A) The auditor will evaluate the management structure of each of the regulated companies. The auditor will review titles, position descriptions, duties, and responsibilities along with organizational charts and lines of reporting. The auditor will verify the accuracy and integrity of the material and note any discrepancies and/or concerns.
- (B) The auditor will gauge the objectivity and independence of the Companies' management as to the outcome of negotiations with affiliates and related parties.
- (C) The auditor will assess the Companies' operating procedures and internal controls to determine their level of implementation and effectiveness. The assessment will also measure how effective the Companies have been in implementing their procedures and controls, including the individual(s) responsible, and note any deficiencies that may exist.

- (D) The auditor will investigate the reporting of related party and affiliate transactions as reported on the Companies' financial statements.
- (E) Based on the totality of its investigation, the auditor will present to the Commission its opinion as to the competencies, capability, and autonomy of the Companies management, including their board of directors, to operate the public utilities in accordance with acceptable business practices, Commission rules, orders, and Ohio statutory requirements.

IV. DELIVERABLES AND DEADLINES

- (A) The Companies shall be ordered by the Commission to enter into a contract, which shall incorporate by reference all provisions of this proposal, with the auditor chosen by the Commission to perform the audit. The Companies shall not unduly delay the execution of the contract. The auditor will submit a copy of the contract agreement between the auditor and Companies to Staff.
- (B) Availability of Documents - Upon request of the auditor or Staff, the Companies shall provide any and all documents or information requested. The Companies may conspicuously mark such documents or information as being "confidential" if this data is closely held. In no event, however, shall the Companies refuse or delay providing such documents or information.

Staff or the auditor shall not publicly disclose any document marked "confidential" by the Companies, except upon three days' prior notice of intent to disclose served upon the Companies' counsel. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any purpose, unless the Companies move the Commission for a protective order pertaining to such documents or information within the three-day notice period.

The three-day notice period will be computed according to Ohio Adm.Code 4901-1-07. Service shall be complete upon mailing or delivery in person.

- (C) Fiscal Reports - The auditor shall submit invoices when work is 50 percent complete and when work is 100 percent complete to Staff. The invoices shall include hours expended by project personnel and hourly rates. If the auditor travels to the Companies for on-site visit(s), the auditor should submit an invoice containing sufficient detail to allow Staff to determine the appropriateness of the charges. All reasonable and justified expenses will be forwarded to the Companies for payment. Failure to follow this procedure may result in delayed or reduced payments.
- (D) Presentations - Upon the request of Staff, the auditor will meet to present its findings, conclusions, and recommendations.

- (E) Draft Report – Four copies of the draft report will be provided to Staff as shown on Attachment A.
- (F) Final Report – Four copies of the final report, plus one reproducible original will be delivered to Staff by the date specified for the second report as shown on Attachment A.
- (G) Working Papers - The auditor shall deliver to Staff one complete set of working papers, indexed and in orderly form, supporting the development of all calculations and recommendations by the auditor and summarizing the procedures used in analyzing and evaluating all data. These working papers must be delivered to Staff concurrent with the delivery of the final report. For the purposes of this project, audit interview notes shall be deemed part of the auditor's work papers.
- (H) Production of Documents - Upon request of the Commission or its Staff at any time, the auditor shall immediately produce any document or information obtained or produced within the scope of the audit.
- (I) Testimony - The auditor shall present expert testimony during the course of the hearing at which the audit report is considered.

V. MINIMUM CONTENTS OF PROPOSAL

(A) General Requirements

Each proposal shall contain page numbers and a Table of Contents. In a separate numbered section, reflected in the Table of Contents, the following information shall be provided:

- (1) The name, mailing address, telephone, email address, and fax number of the individual to contact if further information about the proposal is desired.
- (2) A description of the proposed Scope of the Work to be performed, including a work plan, expected deliverable products, and task timing. The price quoted by the proposer shall include all items of work defined in the proposal. The auditor will be expected to deliver the performance described in its proposal within the quoted price.
- (3) Identification, by name, of the lead personnel to be employed and the extent of their involvement in the project. Contract terms will not permit substitution of lead personnel without prior written approval of Staff. Identification of lead personnel in the cost proposal will not constitute satisfactory compliance with this requirement.

- (4) Identification, by name and title, and the hourly rate of pay and all other related costs, of the individual or individuals who will present expert testimony before the Commission during the appropriate hearing.
- (5) A description of the qualifications and experience of all audit team members to be employed on the project with a summary of work performed on projects similar to the one contemplated by this RFP. The Commission reserves the right to request samples of prior relevant work from any proposer prior to making its final selection.
- (6) A listing of the proposer's and subcontractor's clients which may have any financial interest in or litigation with the Companies or their affiliates. Proposers maintaining any present or ongoing contracts or agreements with the Companies or their affiliates may, at the discretion of the Commission, be disqualified by reason of possible conflict of interest. In the proposal, such contracts should be described in sufficient detail that the Commission can determine whether such a conflict of interest exists. A response indicating that this information will be provided on request or that such contracts are too numerous to enumerate will be cause for disqualification of the proposer.
- (7) A listing of all the proposer's offices and facilities in Ohio. If none, state "none."
- (8) A statement of financial responsibility including certification that the auditor and subcontractors have no outstanding liens or claims against them.
- (9) References that may be contacted to obtain an assessment of the auditor's work performance. The information required for each reference is as follows:
 - Name of individual to contact
 - Company at which the individual is located, city, state, and telephone number
 - Company or principal for whom the reference is given
 - Project or work for which the reference is given
- (10) The name(s) of all subcontractors to be used in performance of the proposed work, identification of the specific items to be performed/provided by the subcontractor, and the cost of the proposed subcontracted work; or if no subcontractors are to be used, the entry should be "Subcontractors - none." All such subcontracts indicated in the proposal will be acknowledged as accepted by the Commission upon selection of the proposal for contract award unless the proposer is previously notified of the contrary. No

addition, deletion, or substitution of subcontractors will be permitted during the course of the contract unless approved in advance by the Commission in writing. If subcontractors are proposed, all information required in this section shall be supplied for each subcontractor proposed. Such information shall be supplied in a format parallel to the overall format specified for proposers.

(B) EEO Data

THE COMMISSION IS AN EQUAL OPPORTUNITY EMPLOYER AND SERVICE PROVIDER.

The following required Equal Employment Opportunity data must be provided for the proposer and each subcontractor:

- (1) The proposer's total number of employees.
- (2) The percentage of the total which are women.
- (3) The percentage of the total which are Black or African American, Hispanic or Latino, Asian, Native Hawaiian or Other Pacific Islander, Native American or Alaska Native, or Two or More Races. (Please specify.)
- (4) The proposer's total number of employees located in Ohio offices.
- (5) The percentage of the Ohio total which are women.
- (6) The percentage of the Ohio total which are Black or African American, Hispanic or Latino, Asian, Native Hawaiian or Other Pacific Islander, Native American or Alaska Native, or Two or More Races. (Please specify.)
- (7) The number of individuals to be assigned to the project.
- (8) The percentage of the total assigned which are women.
- (9) The percentage of the total assigned which are Black or African American, Hispanic or Latino, Asian, Native Hawaiian or Other Pacific Islander, Native American or Alaska Native, or Two or More Races. (Please specify.)

(C) Current Contracts

The number of contracts the proposer currently has with the state of Ohio and:

- (1) The name of the state agency(s) for each contract.

- (2) The cost of each contract.
- (3) The duration of each contract.
- (4) A brief description of each contract.

VI. REVIEW CRITERIA

Proposals will be evaluated on the basis of the following criteria:

- (A) Understanding of Project - The proposal shall demonstrate that the proposer has a complete understanding of the project, is knowledgeable of the technical aspects required and has an understanding of potential problems and regulatory issues, trends, and perspectives; and the proposed work plan shall indicate appropriate phasing. The proposal shall be responsive to the RFP.
- (B) Experience of Organization and the Personnel Assigned to the Project and Related Organizational Experience - Relevant experience in field, qualified to undertake assignment. References of previous clients/projects provided.
- (C) Cost - The total proposed contract price as specified in the proposal.
- (D) Timeliness - Demonstrated ability to meet stated deadline, realistic timeline, demonstrated proven results of lead personnel, and appropriate methodology.
- (E) Compliance with Minimum Contents Requirements - Lack of satisfactory response to the Minimum Contents Requirements will be grounds for elimination of any proposal from further consideration.

VII. OTHER PROPOSAL CRITERIA

- (A) Proprietary Data in Proposal

Submissions to the Commission become public documents available for open inspection. Proprietary data in a proposal will also assume this status; therefore, discretionary action is recommended for any proprietary data contemplated for submittal in proposals.

- (B) Due Date and Submittal Address

Proposals must be received at the following address no later than 5:00 p.m., October 7, 2016. The proposal should be sent in a sealed container, clearly marked and addressed to:

Public Utilities Commission of Ohio
Attn: Hilde Williamson
Response to RFP: Case No. RA16-IA-1
180 East Broad Street, 3rd floor
Columbus, Ohio 43215-3793.

NOTE: By responding to this request for proposal, the proposer expressly accepts and is bound by all the terms thereof, including all attachments, exhibits, and schedules.

Six copies of the proposal are to be submitted to the Commission. Also, an electronic copy may be emailed to hilde.williamson@puco.ohio.gov. Providing a bid electronically does not relieve the proposer of the requirement of submitting the six hard copies.

(C) Required Response

Once a bidder has subscribed, the bidder will remain on the service list and will be notified of future RFP postings.

The "Requests for Proposals" link is at:
<http://www.puco.ohio.gov/PUCO/Docketing>

Pending RFPs and further information will be posted at the above website.

(D) Auditor Requirements and Minority Participation

- (1) The Commission, in awarding the contract, will give preference to Ohio auditors. Ohio auditors include not only established domestic companies actively doing business in Ohio, but also encompass multi-state companies with headquarters outside of Ohio, but with substantial commitments of offices, divisions, and facilities within this State.
- (2) The Commission will give preference to proposers demonstrating compliance with minority and women EEO criteria.

(E) Late Proposals

A proposal is considered late if it is received after the exact time set for receipt of proposals. A late proposal will be considered along with other proposals only if it is received before the evaluation of proposals has, in the sole opinion of the Commission, substantially progressed and then only if one of the three following conditions exists:

- (1) Mail Delay - The lateness is due solely to a delay in the mail when the response has been sent by registered or certified mail for which an official dated postmark on the original receipt has been obtained.
- (2) Commission Error - If it is received by any reasonable means at the Commission in sufficient time to be delivered at the office designated for the opening and would have been received at such office except for delay due to mishandling at the Commission. Only an appropriate date or time stamp showing the time of receipt will be accepted as evidence of timely receipt of the proposal.
- (3) Exceptions - Any other late proposal will not be considered, unless it is the only proposal received or, in the sole judgment of the Commission, it offers some important technical advantage and is of benefit to the Commission.

(F) Modification or Withdrawal of Proposal

Any proposal may be withdrawn or modified by written request of the proposer, if the request is received by the Commission at the above address before the date set for receipt of original proposals.

(G) Modification or Withdrawal of this RFP

This RFP may be modified or withdrawn at any time prior to the time set for receipt of proposals and thereafter as long as no proposal has been opened. Upon any such modification or withdrawal, all proposers will be notified and any person or firm who has expressly requested such notice in writing will also be notified of such changes at the discretion of the Commission.

(H) Right to Reject Any and All Proposals

The Commission reserves the right, without limitation or discussions with those submitting proposals, to reject any and all proposals.

(I) Relevance

The proposer shall include only relevant information and pertinent exhibits in the proposal. Duplication of materials provided in the RFP, exhaustive resumes, inclusion of standard company promotional materials, etc. will not garner additional points in the evaluation process and may detract from the clarity and conciseness of the proposal.

(J) Statutory Scope of the Audit

Any auditor who is chosen by the Commission to perform an audit shall execute its duties pursuant to the Commission's statutory authority to investigate and acquire records, contracts, reports and other documentation under R.C. 4903.02, 4903.03, 4905.06, 4905.15, and 4905.16.

(K) Disclosure

Any auditor shall abide by all provisions of R.C. 4901.16, which states:

Except in his report to the public utilities commission or when called on to testify in any court or proceeding of the public utilities commission, no employee or agent referred to in Section 4905.13 of the Revised Code shall divulge any information acquired by him in respect to the transaction, property, or business of any public utility, while acting or claiming to act as such employee or agent. Whoever violates this section shall be disqualified from acting as agent, or acting in any other capacity under the appointment or employment of the commission.

Once disclosure is permitted by R.C. 4901.16, the following process applies to the release of any document or information marked as confidential. Three days' prior notice of intent to disclose shall be provided to the party claiming confidentiality. Three days after such notice, Staff or the auditor may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission is moved for a protective order pertaining to such documents or information within the three-day notice period. The three-day notice period will be computed according to Ohio Adm.Code 4901-1-07.

VIII. STAFF CONTACT

Administrative or technical questions regarding this RFP should be directed to Hilde Williamson at (614) 466-4687.

ATTACHMENT A

Suggested Start of the Audit	Draft Audit Report Due Date	Final Audit Report Due Date
October	March 2017	April 2017