

In the Matter of the Commission's )  
Investigation into Ohio Rural Natural Gas ) Case No. 16-1578-GA-COI  
Co-op and Related Matters )

Pursuant to R.C. 4903.10 and Ohio Admin Code 4901-1-35(A), Ohio Rural Natural Gas Co-op (“ORNG Co-op”) respectfully applies for rehearing of the Opinion and Order (“Opinion & Order”) issued by the Public Utilities Commission of Ohio (“PUCO” or “Commission”) on January 18, 2017, in the above captioned case. ORNG Co-op submits that the Commission’s Order is unreasonable and unlawful in the following particulars:

1. The evidence does not support the Opinion & Order's finding that ORNG Co-op's facilities are hazardous to human life and property; and
2. The evidence does not support the Opinion & Order's order that ORNG Co-op cease operations.

The reasons for granting this Application for Rehearing are set forth in the attached Memorandum in Support, which is incorporated by reference herein.

Respectfully submitted,

/s/ Michael D. Dortch

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OHIO RURAL NATURAL GAS CO-OP

## **MEMORANDUM IN SUPPORT**

### **I. INTRODUCTION**

On January 18, 2017, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) issued an Opinion and Order (the “Opinion & Order”) which found that Ohio Rural Natural Gas Co-op (“ORNG Co-op”) is in violation of the Commission’s rules for intrastate gas pipeline facilities, that its facilities are hazardous to human life and property, and that ORNG Co-op must cease operations. The evidence, however, does not support the conclusions reached in the Opinion & Order, nor does the evidence justify the draconian remedy of forcing ORNG Co-op to cease all operations. ORNG Co-op therefore respectfully requests reconsideration of the Opinion & Order and a ruling that ORNG Co-op’s facilities are not hazardous to human life and property and that ORNG Co-op may continue its operations. Via a separate Motion, ORNG Co-op also respectfully requests that the Commission stay implementation of its Order that ORNG Co-op suspend service to its customers on March 1, 2017.

### **II. DISCUSSION**

#### **A. The Commission Erred in Finding that ORNG Co-op’s Facilities Are Hazardous to Human Life and Property**

Staff alleged numerous violations against ORNG Co-op, the majority of which ORNG Co-op conceded, but the majority of which ORNG Co-op had corrected as of the hearing date in this matter. (*See* Prefiled Testimony of Darryl Knight, at 6–23 (ORNG Co-op Exhibit 1).) Nonetheless, the Opinion & Order concludes that ORNG Co-op’s facilities are hazardous to human life and property. (Opinion & Order, at 37.) The Opinion & Order reaches this conclusion largely by focusing on ORNG Co-op’s supposed lack of effort to come into compliance regarding the Duck Creek and Ellsworth Road systems, the Tin Man system, and the

items identified in the May 2016 audit. The evidence shows, however, that ORNG Co-op did not connect customers to the Duck Creek and Ellsworth Road systems pending resolution of the Staff's Notice of Probable Non-Compliance, that ORNG made good faith efforts to address Staff's concerns, and that ORNG had corrected almost all items of noncompliance.

### **1.Duck Creek and Ellsworth Road**

The Commission states that one of the most concerning aspects of this case was “the improperly installed pipeline on Duck Creek and Ellsworth Road, which Staff directed ORNG to cease operating, excavate, and replace, has never been remedied and is currently hazardous.” (Opinion & Order, at 33.) The Commission goes on to state that “ORNG has continuously ignored Staff's directives to repair the improperly installed systems at Duck Creek and Ellsworth Road.” (Opinion & Order, at 34.) These conclusions are not supported by the evidence.

First, the Duck Creek and Ellsworth Road systems have never been used to provide service to customers and have been purged of all gas. Second, no direct evidence was presented that the Duck Creek system was defective in any manner. Third, ORNG Co-op timely responded to Staff's April 2015 Notice of Probable Noncompliance and the associated Compliance Order that concerned the Duck Creek and Ellsworth Road systems by submitting a counterproposal to Staff's request that the joints in the systems be excavated and replaced as necessary. (*See* Staff Report, at 17.) Staff did not respond to ORNG Co-op's counterproposals until the hearing in this matter. (*See* Hearing Tr., at 16:21–25.)

ORNG was not ignoring Staff's directive, nor was it defying Staff. Due to Staff's lack of response to ORNG Co-op's counterproposal, ORNG Co-op was required to wait for a decision in this matter to determine how to proceed. Thus, not until the Commission issued the Opinion & Order on January 18, 2017, did ORNG Co-op know that its counterproposal was deemed

unacceptable. The evidence therefore does not support the Commission's conclusion that ORNG Co-op continuously ignored Staff's directives to repair the Duck Creek and Ellsworth Road systems.

## **2. Tin Man**

The Commission also cites to the Tin Man issues identified in Staff's December 2015 Notice of Probable Noncompliance as evidence that ORNG Co-op's facilities are hazardous of life and property. (Opinion & Order, at 32.) ORNG Co-op has always acknowledged that there were unfortunate regulatory violations at the Tin Man facility as a result of the changeover of service from Orwell Natural Gas to ORNG Co-op. However, it is undisputed that ORNG Co-op worked in good faith with Staff to immediately correct the violations, that the violations identified at the Tin Man Facility were corrected the same week as the changeover occurred, and that there has been no improper installation of meters resulting in leaks since the Tin Man incident. (Staff Exhibit 1, at 17; ORNG Co-op Exhibit 1, at 7:9–21, and Attachments DK-9 and DK-12 thereto.) ORNG Co-op demonstrated that it did learn from its mistakes at Tin Man and has not repeated them. The Commission's contrary conclusion is not supported by the evidence.

## **3. The May 2016 Audit**

Finally, contrary to the Commission's conclusion, the vast majority of noncompliance issues identified in Staff's May audit of 2016 have been corrected. Of the 21 items identified in the audit, the Opinion & Order identifies only 4 that remain outstanding—establishing MAOPs for some systems, completing cathodic testing, and providing emergency training to employees, and completing the qualified task forms for the Operation Qualification manual. (Opinion & Order, at 28–29, 33; *see also* ORNG Co-op Post Hearing Brief, at 6; Prefiled Testimony of Darryl Knight, at 18–23 (ORNG Co-op Exhibit 1).) Thus, the Commission's conclusion that

ORNG Co-op is not “mainly in compliance” is incorrect. (Opinion & Order, at 34.) In addition, ORNG Co-op remains ready to work with Staff to ensure full compliance with all Commission regulations and has recently been in discussions with Staff regarding the same.

#### **4. Conclusion**

In finding that ORNG Co-op’s facilities are hazardous to human life and property, the Opinion and Order relies on its conclusion that ORNG Co-op has consistently flouted the Commission’s regulations. ORNG Co-Op acknowledges it made numerous mistakes at the time that it began operations. As discussed above, and as the record demonstrates, the record does not support the Commission’s conclusion that ORNG Co-op failed to address those errors, is ignoring Staff, or that its facilities represent a public safety risk. The Commission’s finding that ORNG Co-op’s facilities are hazardous to human life and property is therefore incorrect and its corresponding order that ORNG Co-op cease service to its member customers by March 1, 2017 is not warranted.

### **III. CONCLUSION**

For the foregoing reasons, and for the reasons stated in ORNG’ Co-Op’s Separate Motion for the Entry of an Order that stays that portion of the Commission’s Order mandating it cease all service to its customers by March 1, 2017, ORNG Co-op respectfully requests that the Commission reconsider its Opinion & Order to find that ORNG Co-op’s facilities are not hazardous to human life and property and, as such, that ORNG Co-op may continue its operations.

Respectfully submitted,

/s/ Michael D. Dortch

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### **CERTIFICATE OF SERVICE**

The PUCO's e-filing system will serve notice of this filing upon counsel for the for the Complainant, the Ohio Consumers' Council, and the Staff of the Public Utilities Commission of Ohio.

Further, I hereby certify that a true and accurate copy of the foregoing was served upon counsel for Staff of the Public Utilities Commission this February 17, 2017, by electronic mail:

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Summary: Application for Rehearing electronically filed by Mr. Michael D. Dortch on behalf of Ohio Rural Natural Gas Co-op