

BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

RECEIVED-DOCKETING DIV

2006 NOV 17 PM 5:13

In the Matter of the Complaint and Appeal of  
Orwell Natural Gas Company from Ordinance  
No. 06-06-03 Passed by the Council of the  
Village of Orwell

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Case No. 06-1244-GA-CMR

PUCO

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**Withdrawal of Complaint and Appeal of Orwell Natural Gas Company  
From Ordinance No. 06-06-03 Passed by  
The Village Council of Orwell on September 12, 2006**

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NOW COMES Orwell Natural Gas Company ("Orwell" or "Complainant") and withdraws its Complaint and Appeal filed pursuant to Ohio Revised Code §§ 4909.34, 4909.38, 4909.39 and 4909.42, and respectfully requests that the Commission dismiss this Complaint and Appeal and close this docket. Orwell states that:

1. On October 12, 2006, Complainant filed its Complaint and Appeal herein, alleging that on September 12, 2006, the Village Council of the Village of Orwell enacted Ordinance No. 06-06-03, which repealed and superseded prior ordinances regulating rates, charges and terms and conditions of service within the Village of Orwell and substituted reduced volumetric rates as described in Paragraph 6 of the Complaint. Ordinance No. 06-06-03 was attached to Orwell's Complaint as Attachment 1.
2. As noted in Paragraph 8 of the Complaint, on October 10, 2006, Complainant timely notified the Village by letter delivered by facsimile transmission and mailed by Certified U.S. Mail on October 10, 2006, Orwell Natural Gas Company that it rejected Ordinance No. 06-06-03.

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Technician 78 Date Processed 11-20-06

3. Subsequent to this timely notice and the filing of Orwell's Complaint in this docket, the Village of Orwell on November 1, 2006 enacted Ordinance No. 06-11-02. A copy is attached hereto as Attachment 1. That Ordinance amended Sections 1, 3 and 10 of Ordinance No. 06-06-03. The amendments extended the term of the ordinance to three years from two years; changed the monthly customer charge from \$6.00 to \$9.00; changed the volumetric rate from \$3.25/Mcf to \$3.33 in the initial 100 Mcf usage block; and provided for the submittal to the Village of quarterly and annual financial statements within 60 days of the end of each reporting period, respectively. In all other respects, Ordinance No. 06-11-02 reaffirmed and ratified Ordinance No. 06-06-03.
4. With these amendments, Orwell Natural Gas can accept Ordinance No. 06-06-03 as amended by Ordinance No. 06-11-02, and by letter dated November 10, 2006 has notified the Village of its acceptance of the Ordinances. A copy of this letter is attached hereto as Attachment 2.
5. The acceptance of the Ordinances renders this Complaint and Appeal Moot. Pursuant to Ohio Rev. Code §4909.34(B), upon the filing of a written acceptance of such an ordinance as provided in Ohio Rev. Code §743.28, the Commission shall dismiss the application insofar as it covers such municipality.
6. Pursuant to the Commission's Order in Case No. 01-2940-GA-AEC<sup>1</sup>, service agreements for customers in unincorporated areas were pre-approved pursuant to Ohio Rev. Code §4905.31, with the rates established by Orwell municipal ordinance incorporated by reference. That Order also provided that Complainant would provide advance notice to unincorporated area customers of any final

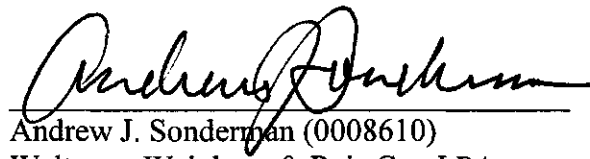
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<sup>1</sup> *In the Matter of the Application of Orwell Natural Gas Company for Approval of Contracts Governing the Rates, Terms, and Conditions of Natural Gas Service to Customers in Unincorporated Areas* (Finding and Order entered December 20, 2001).

modifications to the Ordinance rates established by the municipality. Orwell has submitted its proposed notice to the Commission staff for its prior review and has received its approval. Such notification is being submitted to unincorporated area customers.

WHEREFORE, Orwell Natural Gas Company respectfully requests that the Commission dismiss the Complaint and Appeal and close the instant docket and grant to Orwell Natural Gas Company such other and further relief to which it may, at the discretion of the Commission, be entitled.

Respectfully submitted,

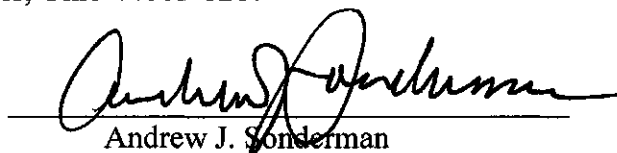


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Attorney for Orwell Natural Gas Company

#### CERTIFICATE OF SERVICE

The undersigned counsel for Orwell Natural Gas Company hereby certifies that the foregoing Withdrawal of Complaint and Appeal was served by first class mail, postage prepaid upon the following on the 17<sup>th</sup> day of November, 2006:

David L. McCombs, Esq.  
McCombs & Kotila  
100 Public Square  
P.O. Box 217  
Andover, Ohio 44003-0217



Andrew J. Sonderman

# **ATTACHMENT 1**

**Ordinance No. 06-11-02**

An ordinance amending Sections 1, 3 and 10 of Ordinance No. 06-06-03, which regulated the rates, charges, and terms and conditions of service of The Orwell Natural Gas Company, and declaring an emergency.

Whereas, the mayor and council of the Village of Orwell deem it necessary and proper to amend Sections 1, 3 and 10 of Ordinance No. 06-06-03 to make changes to the rates and charges to be charged and collected and the services to be rendered by the Orwell Natural Gas Company.

Now, Therefore, be it ordained by the council of the Village of Orwell, County of Ashtabula, and State of Ohio that:

**Section 1.** Sections 1, 3 and 10 of Ordinance No. 06-06-03 be and hereby are amended to be as follows:

**Section 1.** Rates, Charges, Rules, and Regulations. The rates and charges to be charged and collected and the rules and regulations governing services to be rendered by Orwell Natural Gas Company, its successors and assigns, for gas and gas service furnished to all of its customers within the limits of the Village of Orwell ending December 31, 2009, shall be as set forth in this ordinance, which is hereby adopted pursuant to Article XVIII, Section 4 of the Ohio Constitution and Section 4909.34 of the Ohio Revised Code.

**Section 3.** Authorized Gas Distribution Rates and Charges. From the effective date of this ordinance through the period ending December 31, 2009, the Company shall charge the following rates and charges for delivering gas to its customers within the village limits.

- a. Monthly customer Charge. A customer charge of \$9.00 per month shall be charged to each customer regardless of the amount of gas if any consumed during the month, and in the case of a commercial and/or industrial customer served by more than one line and meter, regardless of the number of service lines and meters; provided, however, that the customer charge shall not be imposed in any month in which there is no consumption as a result of a voluntary request by the customer for the shutoff of the meter.
- b. General Service Rate. The general service rate that shall be charged each month to each customer shall be the total of the following:
  - i. For the first 100 Mcf \$3.33
  - ii. From 101 to 400 Mcf \$3.10
  - iii. Over 400 Mcf \$3.00
- c. Self-Help Arrangements. Nothing contained in this ordinance shall prevent the Company from entering into a self-help arrangement with customers to provide for the transportation of gas owned by the customer to the customer's premises; provided, however, that all such special contracts be filed with and approved by the PUCO and that the general service shall be no greater than the rate specified

in Section 3,b, above. Copies of such contracts and all applications to the PUCO for approval of same shall be filed with the Mayor.

**Section 10.** Village Access to Company Financial Information. The Company shall provide quarterly and annual financial statements to the Mayor within seven (7) days of availability, and no later than sixty (60) days after the end of each fiscal period. The financial statements to be provided shall include, without limitation, a balance sheet and statements of income, retained earnings, and cash flow.

**Section 2.** Sections 1, 3 and 10 of Ordinance No. 06-06-03 are hereby repealed and superseded by this ordinance. Ordinance 06-06-03 be and hereby is otherwise reaffirmed and ratified.

**Section 3.** This Ordinance is declared to be an emergency measure necessary for the orderly conduct of Village affairs, so as to assure that the changes to the rates, charges, and terms and conditions of service of The Orwell Natural Gas Company are implemented in a timely fashion.

Wherefore, This Ordinance shall take effect and be in full force immediately.

Passed:

November 1, 2006

Approved:

[Signature]

Mayor

Attest:

[Signature]  
Clerk

[Signature]  
President of Council

# **ATTACHMENT 2**

**WELTMAN, WEINBERG & REIS CO., L.P.A.**

ATTORNEYS AT LAW

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*Via Certified Mail, Return Receipt Requested and Facsimile*

November 17, 2006

Lawrence Bottoms, Mayor  
Cynthia L. Pace, Clerk-Treasurer  
Village of Orwell  
P.O. Box 56  
Orwell, Ohio 44076

David L. McCombs, Esq.  
McCombs & Kotila  
100 Public Square  
P.O. Box 217  
Andover, Ohio 44003-0217

Re: **Acceptance of Ordinance No. 06-11-02, Passed November 1, 2006**

Dear Mayor Bottoms, Ms. Pace and Attorney McCombs:

I have been authorized to notify you that Orwell Village Ordinance No. 06-06-03, as amended by Ordinance No. 06-11-02 adopted by the Village Council at its meeting on November 1, hereby is accepted by Orwell Natural Gas Company.

Please be advised that Orwell Natural Gas Company is required by Public Utilities Commission order to provide notice to its customers in unincorporated areas that revised rates established by the Village will be incorporated by reference in their service agreements. We must obtain PUCO approval for that form of notice. We have submitted it for review by the Commission's staff and are awaiting approval. Upon receipt of that approval, we will notify all customers, including those in the Village, and anticipate that we will commence billing the revised rates and charges established by these ordinances with bills rendered on and after December 1, 2006.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Andrew J. Sonderman'.

Andrew J. Sonderman  
Attorney for Orwell Natural Gas Company

cc: PUCO Docketing Division  
Thomas J. Smith, Orwell Natural Gas Company