

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Regulation of the	:	
Purchased Gas Adjustment Clauses	:	Case No. 14-0206-GA-GCR
Contained within the Rate Schedules of	:	Case No. 14-0209-GA-GCR
Brainard Gas Corporation, Northeast Ohio	:	Case No. 14-0212-GA-GCR
Natural Gas Corporation and Orwell	:	
Natural Gas Company and Related	:	
Matters.	:	
	:	
	:	
In the Matter of the Uncollectible Expense	:	Case No. 14-0309-GA-UEX
Riders of Northeast Ohio Natural Gas	:	Case No. 14-0312-GA-UEX
Corporation and Orwell Natural Gas	:	
Company.	:	
	:	
	:	
In the Matter of the Percentage of Income	:	Case No. 14-0409-GA-PIP
Payment Plan Rider of Northeast Ohio	:	
Gas Corporation.	:	

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**MOTION FOR LEAVE TO FILE *INSTANTER* THE DIRECT TESTIMONY OF MARTIN  
K. WHELAN AND REQUEST FOR EXPEDITED TREATMENT**

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Pursuant to Ohio Administrative Code ("O.A.C.") 4901-1-12(A), Brainard Gas Corporation ("Brainard"), Orwell Natural Gas Company ("Orwell"), and Northeast Ohio Natural Gas Corporation ("Northeast") (collectively, the "Companies") respectfully request leave to file *instanter* the Direct Testimony of Martin K. Whelan. A copy of Mr. Whelan's direct testimony is attached to this motion as Attachment A. The Companies seek leave to file testimony beyond the July 10, 2015 deadline established in the Attorney Examiners' May 15, 2015 Entry. The Commission should grant this motion because Mr. Whelan's testimony supports the Stipulation and Recommendation filed on July 14, 2015 (the "Stipulation"). In addition, as discussed below, the Companies are not opposed to the Office of Ohio Consumers' Counsel ("OCC") (who is presumably

opposing the Stipulation) receiving additional time to file direct testimony. Therefore, OCC will not be prejudiced if this motion is granted. The Companies also request expedited treatment of this motion under O.A.C. 4901-1-12(C). A memorandum in support of this motion is attached below.

Respectfully submitted,

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***Attorneys for The Companies***

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## MEMORANDUM IN SUPPORT

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On May 15, 2015, the Attorney Examiner issued an entry that established a July 10, 2015 testimony deadline for the Companies. The Companies have been engaged in settlement negotiations with the OCC and Staff for almost two months. As recent as last week, the Companies were actively pursuing some form of settlement that may have satisfied all the parties to this case. While the Companies hoped to reach a settlement with all the parties prior to the Companies' deadline for filing direct testimony, the Companies were unsuccessful in meeting this goal. The Companies and Staff, however, successfully reached an agreement on Tuesday July 14, 2015, four days after the Companies' deadline for filing testimony.

The Companies request leave to file direct testimony in support of the Stipulation. The Commission has granted leave to file testimony out of time on numerous occasions.<sup>1</sup> When the Commission has considered whether leave should be granted, the Commission has focused on whether any other parties would be prejudiced. In our case, no party will be prejudiced. Staff, a signatory party to the stipulation, has indicated that it is not opposed to this motion. Although OCC is not a party to the Stipulation, it

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<sup>1</sup> *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of Duke Energy Ohio, Inc.*, 08-218-GA-GCR, (Entry at p. 2-3) (December 2, 2008); *In the Matter of the Complaint of the City of Huron v. Ohio Edison*, 03-1238-EL-CSS, (Entry at p. 5) (August 2, 2005); and *In the Matter of the Application of Columbus Southern Power Co. & Ohio Power Co. for Auth. to Establish A Std. Serv. Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Elec. Sec. Plan. in the Matter of the Application of Columbus Southern Power Co. & Ohio Power Co. for Approval of Certain Accounting Auth.*, Case No. 10-268-EL-FAC, (Opinion and Order at p. 4) (May 4, 2014).

has been closely involved in the settlement process and was provided a copy of the Stipulation before it was filed. Therefore, OCC should not be surprised by the terms of the Stipulation and would not be prejudiced by the granting of this motion. If the Commission believes that OCC needs additional time to review the Stipulation and testimony of Mr. Whelan, the Companies would not be opposed to the Commission extending OCC's deadline to file direct testimony to Thursday July 23, 2015. This would provide OCC enough time prepare testimony in opposition to the Stipulation.

Pursuant to O.A.C. 4901-1-12(C), the Companies request expedited treatment of this motion. Counsel for Staff indicated that Staff does not oppose expedited treatment of this motion. OCC, however, has indicated that it does oppose the Companies' request for expedited treatment.

Respectfully submitted,

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***Attorneys for The Companies***

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served this 15th day of July, 2015 by electronic mail upon the following:

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/s/ Mark S. Yurick

Mark S. Yurick

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Payment Plan Rider of Northeast Ohio	:	
Gas Corporation.	:	

**DIRECT TESTIMONY OF MARTIN K. WHELAN**

Submitted on Behalf of Brainard Gas Corporation, Northeast Ohio Natural Gas  
Corporation and Orwell Natural Gas Company

July 15, 2015

Attachment A

1    **Q.     Please state your name and business address.**

2    A.           Martin K. Whelan, 5640 Lancaster-Newark Road, Pleasantville,  
3           Ohio 43148.

4    **Q.     By whom are you employed and in what capacity?**

5    A.           I am President of Northeast Ohio Natural Gas Company  
6           ("Northeast"), Orwell Natural Gas Company ("Orwell"), and Brainard Gas  
7           Corporation ("Brainard") (collectively, the "Companies").

8    **Q.     On whose behalf are you testifying in this proceeding?**

9    A.           My testimony is being sponsored by the Companies.

10   **Q.     Please describe your professional experience and qualifications.**

11   A.           I have 15 years of experience in Heavy Highway Construction, with  
12           an emphasis on the installation of underground utilities including sanitary  
13           sewers, storm sewers, electric, water lines and gas lines. For the last 11  
14           years I have been involved with the Operations of both Northeast and  
15           Orwell and have attended various industry seminars and classes related  
16           to the distribution of natural gas.

17               I began working for Orwell in September of 2002 as a Project  
18           Manager in charge of pipeline construction. I was also involved with  
19           operations and earned the title of Operations Manager prior to being  
20           transferred to Northeast in January 2004, with the title Vice President,  
21           Chief Operating Officer.

22

1     **Q.     Describe the duties of your current position?**

2     A.           I am currently President of the Companies. I am responsible for all  
3               aspects of the day to day operations of the Companies including pipeline  
4               construction, pipeline maintenance, pipeline safety, and metering. I am  
5               very familiar with both Orwell's and Northeast's pipeline systems and have  
6               been involved with the construction, maintenance and operation of both  
7               systems.

8     **Q.     What is the purpose of your testimony?**

9     A.           I am testifying in support of the Stipulation and Recommendation  
10           ("Stipulation") that was filed in the above captioned matters on July 14,  
11           2015. I will provide an overview of the key terms and conditions of the  
12           Stipulation, and explain how the Stipulation meets the criteria used by the  
13           Commission when considering stipulated agreements.

14    **Q.     Please summarize the Stipulation.**

15    A.           The Stipulation, as a package, resolves the GCR financial audits for  
16           Brainard, Northeast, and Orwell (Case Nos. 14-206-GA-GCR, 14-209-GA-  
17           GCR, and 14-212-GA-GCR, hereafter referred to as the "GCR cases"), the  
18           audits of Northeast's and Orwell's uncollectable expense ("UEX") riders  
19           (Case Nos. 14-309-GA-UEX and 14-312-GA-UEX, hereafter referred to as  
20           the "UEX cases"), and an audit of Northeast's percentage of income  
21           payment plan ("PIPP") rider (Case No. 14-409-GA-PIP, hereafter referred  
22           to as the "PIPP case"). The Stipulation incorporates various



1 recommendations that Staff made in the GCR, UEX, and PIPP cases.<sup>1</sup>

2 The following represents a summary of the key provisions of the

3 Stipulation:

- 4 • The Signatory Parties agree that Brainard will file an adjustment of \$3,940  
5 to the GCR rate in the customers' favor, agree that Northeast will file an  
6 adjustment of \$856.285 to the GCR rate in customers' favor, and agree  
7 that Orwell will file an adjustment of \$34,533 to the GCR rate in Orwell's  
8 favor.  
9
- 10 • The Signatory Parties agree that Brainard filed an updated Lake Erie  
11 College transportation contract with the Commission in Case No. 14-948-  
12 GA-AEC on October 27, 2014, consistent with Staff's recommendation on  
13 page 4 of the GCR Report.  
14
- 15 • Consistent with Staff's recommendation in GCR Report, Brainard agrees  
16 that it will conduct visual meter readings for the large transportation  
17 customers within one hour of the Bridge Road meter reading by Cobra  
18 Pipeline.  
19
- 20 • Consistent with Staff's recommendation on pages 4 and 13 of the GCR  
21 Report, Brainard, Northeast, and Orwell agree that the person responsible  
22 for gas procurement for Brainard, Northeast, and Orwell will be a different  
23 individual than the person responsible for gas procurement for Gas  
24 Natural Resources.  
25
- 26 • Orwell agrees to enter into good faith negotiations with Dominion East  
27 Ohio Gas Company to re-establish the taps or interconnections that were  
28 previously in place, which will potentially result in lower cost gas  
29 procurement options for Orwell. Orwell also agrees it will not collect the  
30 cost of re-establishing the taps or interconnections from its GCR  
31 customers.  
32
- 33 • The Signatory Parties agree that any damages, refunds, or other relief  
34 obtained from Orwell-Trumbull Pipeline as a result of the Complaint Case  
35 No. 15-475-GA-CSS shall be shared between GCR customers and Orwell.  
36

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<sup>1</sup> On January 22, 2015, Staff filed its report for the Audit of the Uncollectable Expense Mechanisms for Northeast ("Northeast UEX Report"), a report for the Audit of the Uncollectable Expense Mechanisms for Orwell ("Orwell UEX Report"), and report for the Audit of the Percentage of Income Payment Plan for Northeast ("Northeast PIPP Report"). On January 27, 2015, Commission Staff filed its report for the Financial Audit of the Gas Cost Recovery Mechanisms for Brainard, Northeast, and Orwell for the Effective GCR Periods ("GCR Report").

- 1       • The Signatory Parties agree to meet not less than once per year to  
2       discuss potential capacity and supply options available to Northeast and  
3       Orwell in order to promote the diversity of supplies for the economic and  
4       reliability benefit of Northeast's and Orwell's customers.  
5
- 6       • Northeast and Orwell agree to all of Staff's recommendations in the UEX  
7       Reports.  
8
- 9       • Northeast agrees to all of the recommendation in the PIPP Report.  
10
- 11   **Q.     Please describe the background circumstances that led to the**  
12   **Stipulation.**
- 13   A.       On February 13, 2014, the Commission directed that a GCR  
14       hearing be held in the above captioned cases, and directed Staff to  
15       perform GCR financial audits for the Brainard, Northeast, and Orwell,  
16       directed audits of Northeast's and Orwell's UEX riders, and directed an  
17       audit of Northeast's PIPP rider. The Office of Ohio Consumers' Counsel  
18       ("OCC") filed a motion to intervene in the cases on May 22, 2014, which  
19       was granted by the Commission. After Staff filed its GCR, UEX, and PIPP  
20       Reports, all the parties met to discuss potential settlement. All the parties  
21       met on numerous occasions over a span of a few months, and worked in  
22       good faith towards a resolution of these cases. On July 14, 2015, Staff  
23       and the Companies reached an agreement and entered into the  
24       Stipulation. The Stipulation addresses most of the concerns raised by  
25       Staff in its GCR, UEX, and PIPP Reports, and also addresses some  
26       additional concerns raised by Staff during settlement discussions.  
27       Although OCC did not sign the Stipulation, OCC was involved in the  
28       settlement process, and was not precluded from settlement discussions.

1     **Q.     What criteria have the Commission used in considering approval of a**  
2     **stipulation among signatory parties in a proceeding?**

3     A.           My understanding is that a stipulation must satisfy three criteria: (1)  
4               the stipulation must be the product of serious bargaining among capable,  
5               knowledgeable parties; (2) the stipulation must not violate any important  
6               regulatory principle or practice; and (3) the stipulation must, as a package,  
7               benefit ratepayers and the public interest.

8     **Q.     Does the Stipulation in this case satisfy these criteria?**

9     A.           Yes. It does.

10    **Q.     Is the Stipulation the product of serious bargaining among capable,**  
11    **knowledgeable parties?**

12    A.           Yes. Staff and the Companies have a history of participation and  
13               experience in the GCR, UEX, and PIPP cases, and are represented by  
14               experienced and competent counsel. The Signatory Parties reached the  
15               Stipulation after a thorough investigation by Staff, after a substantial  
16               amount of discovery was performed by OCC, and after numerous  
17               settlement meetings. The Signatory Parties are very knowledgeable of all  
18               the relevant issues in these cases, and they used this knowledge to reach  
19               a comprehensive resolution of all the issues in these cases.

20    **Q.     Does the stipulation violate any important regulatory principle or**  
21    **practice?**

22    A.           No. It is my understanding that stipulations are approved by the  
23               Commission in GCR, UEX, and PIPP cases, and that these stipulations

1 typically adopt all of or a portion of the recommendations of Staff. In this  
2 case, the Stipulation adopts the majority of Staff's recommendations in the  
3 GCR Reports and all of the recommendations in the UEX and PIPP  
4 Reports. Moreover, the Stipulation goes beyond the recommendations in  
5 the Staff Reports because the Stipulation contains the Companies'  
6 commitments to address Northeast's and Orwell's capacity and supply  
7 options. These commitments are consistent with the Commission's goal  
8 of ensuring that GCR customers pay the lowest possible price for gas.

9 **Q. Does the Stipulation, as a package, benefit customers and rate**  
10 **payers?**

11 A. Yes. Customers benefit from the Stipulation in a number of ways.  
12 As a total package, the Signatory Parties have agreed to financial  
13 adjustments to the GCR rates of Brainard and Northeast that work in  
14 customers' favor. Although the financial adjustment of Orwell works in the  
15 Orwell's favor (due to Orwell's previous under-collection from its  
16 customers), Orwell has agreed to share with customers awards or  
17 damages that may be obtained by Orwell in Case No. 15-475-GA-CSS.  
18 Further, Orwell has agreed to enter into good faith negotiations with  
19 Dominion East Ohio Gas Company to re-establish the taps or  
20 interconnections that were previously in place, which may potentially result  
21 in lower cost supply options for Orwell's customers.

1 Q. **Does this conclude your testimony?**

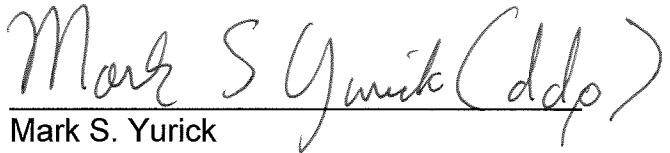
2 A. Yes. I reserve the right to supplement my testimony.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served this 15th day of July, 2015 by  
electronic mail upon the following:

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**in**

**Case No(s). 14-0206-GA-GCR, 14-0209-GA-GCR, 14-0212-GA-GCR, 14-0309-GA-UEX, 14-0312-GA-U**

Summary: Motion Motion for Leave electronically filed by Mr. Devin D. Parram on behalf of  
Northeast Ohio and Brainard Gas and Orwell Natural Gas