

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Regulation of the Purchased : Case No. 14-0206-GA-GCR
Gas Adjustment Clauses : Case No. 14-0209-GA-GCR
Contained within the Rate : Case No. 14-0212-GA-GCR
Schedules of Brainard Gas :
Corporation, Northeast Ohio :
Natural Gas Corporation, :
and Orwell Natural Gas :
Company and Related Matters.:

In the Matter of the :
Uncollectible Expense Riders: Case No. 14-0309-GA-UEx
of Northeast Ohio Natural : Case No. 14-0312-GA-UEx
Gas Corporation and Orwell :
Natural Gas Company. :

In the Matter of the :
Percentage of Income Payment: Case No. 14-0409-GA-PIP
Plan Rider of Northeast :
Ohio Gas Corporation. :

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PROCEEDINGS

before Scott Farkas, Attorney Examiner, at the Public
Utilities Commission of Ohio, 180 East Broad Street,
Room 11-D, Columbus, Ohio, called at 10:00 a.m. on
Tuesday, July 28, 2015.

- - -

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APPEARANCES:

Taft, Stettinius & Hollister, LLP
By Mr. Mark S. Yurick
Mr. Devin D. Parram
65 East State Street, Suite 1000
Columbus, Ohio 43215-4213

On behalf of the Companies.

Bruce J. Weston, Ohio Consumers' Counsel
By Mr. Joseph P. Serio
Ms. Maureen R. Grady
10 West Broad Street, Suite 1800
Columbus, Ohio 43215

On behalf of the Residential
Consumers of Brainard Gas Corporation,
Northeast Ohio Natural Gas Corporation,
and Orwell Natural Gas Company.

Mike DeWine, Ohio Attorney General
William L. Wright, Section Chief
Public Utilities Section
By Mr. Werner L. Margard III
Mr. Thomas G. Lindgren
Ms. Katherine L. Johnson
180 East Broad Street
Columbus, Ohio 43215-3793

On behalf of the Staff of the Public
Utilities Commission.

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INDEX

- - -

WITNESS	PAGE
Martin K. Whelan	
Direct Examination by Mr. Yurick	10
Examination by the Hearing Examiner	12
Gregory Slone	
Direct Examination by Mr. Serio	19

- - -

EXHIBITS

JOINT EXHIBITS	IDFD	ADMTD
1 - Amended Stipulation	12	18
 COMMISSION-ORDERED EXHIBITS		
1 - Financial Audit of the Gas Recovery Mechanisms for the Effective GCR periods of Brainard Natural Gas Company, Northeast Ohio Natural Gas Corporation, and Orwell Natural Gas Company	7	8
2 - Audit of the Uncollectible Expense Mechanisms for the period January 2012 to December 2013 for the Northeast Ohio Natural Gas Corporation	7	8
3 - Audit of the Uncollectible Expense Mechanisms for the period January 2012 through December 2013 for the Orwell Natural Gas Company	7	8
4 - Audit of the Percentage of Income Payment Plan for the period January 2012 through December 2013 for Northeast Ohio Natural Gas Corporation	7	8
 COMPANY EXHIBITS		
A - Prefiled Testimony of Martin K. Whelan	11	18

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EXHIBITS

COMPANY EXHIBITS	IDFD	ADMTD
B - Proofs of Publication	22	22
OCC EXHIBITS	IDFD	ADMTD
1 - Prefiled Testimony of Gregory Slone	20	not admitted

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1 Tuesday Morning Session,
2 July 28, 2015.

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4 THE ATTORNEY EXAMINER: The Commission
5 has called for hearing at this time and place
6 Regulation of the Purchased Gas Adjustment Clauses
7 contained within the Rate Schedules of Brainard Gas
8 Corporation, Northeast Ohio Natural Gas Corporation,
9 and Orwell Natural Gas Company and Related Matters.
10 Case Nos. 14-0206-GA-GCR, 14-0209-GA-GCR,
11 14-0212-GA-GCR; also In the Matter of the
12 Uncollectible Expense Riders of Northeast Ohio
13 Natural Gas Corporation and Orwell Natural Gas
14 Company, Case Nos. 14-0309-GA-UEx, 14-0312-GA-UEx;
15 and In the Matter of the Percentage of Income Payment
16 Plan Rider of Northeast Ohio Gas Corporation, Case
17 No. 14-0409-GA-PIP.

18 My name is Scott Farkas. I am the
19 attorney-examiner assigned to hear these cases. I
20 will take appearances. First, on behalf of the
21 companies.

22 MR. YURICK: On behalf of the companies,
23 your Honor, my name is Mark Yurick. I'm with the law
24 firm of Taft Stettinius & Hollister, which is 65 East
25 State Street, Suite 1000, Columbus, Ohio 43215.

1 THE ATTORNEY EXAMINER: On behalf of
2 staff.

3 MR. MARGARD: Thank you, your Honor. On
4 behalf of the staff of the Public Utilities
5 Commission of Ohio, Mike DeWine, Ohio Attorney
6 General, William L. Wright, Section Chief, Public
7 Utilities Section, by Assistant Attorneys General
8 Werner L. Margard, Thomas G. Lindgren, Katherine L.
9 Johnson, 180 East Broad Street, Fifth Floor,
10 Columbus, Ohio.

11 THE ATTORNEY EXAMINER: Thank you.

12 MR. SERIO: Thank you. On behalf of the
13 residential utility customers of Brainard, Northeast
14 and Orwell, Bruce Weston, Consumers' Counsel, by
15 Joseph P. Serio.

16 MR. MARGARD: Your Honor, as a
17 preliminary matter, as the Bench is aware, by
18 Commission rule audit reports ordered by the
19 Commission to be performed by the staff and filed in
20 the proceedings are deemed admitted into evidence in
21 the record. Consequently, I would like to mark for
22 purposes of identification for the record the four
23 audit reports filed in these cases.

24 Specifically I would like to mark as
25 Commission-Ordered Exhibit No. 1 the Financial Audit

1 of the Gas Recovery Mechanisms for the Effective GCR
2 periods of Brainard Natural Gas Company, Northeast
3 Ohio Natural Gas Corporation, and Orwell Natural Gas
4 Company filed in Case Nos. 14-206, 14-209, and
5 14-212, respectively, on January 27, 2015.

6 THE ATTORNEY EXAMINER: So marked.

7 MR. MARGARD: As Commission-Ordered
8 Exhibit No. 2 the Audit of the Uncollectible Expense
9 Mechanisms for the period January 2012 to
10 December 2013 for Northeast Ohio Natural Gas
11 Corporation filed in Case No. 14-309 on January 22,
12 2015.

13 As Commission-Ordered Exhibit No. 3,
14 the Audit of the Uncollectible Expense Mechanisms
15 for the period January 2012 through December 2013 for
16 the Orwell Natural Gas Company filed in Case
17 No. 14-312 on January 22, 2015.

18 THE ATTORNEY EXAMINER: So marked.

19 MR. MARGARD: And, finally, as
20 Commission-Ordered Exhibit No. 4, the Audit of the
21 Percentage of Income Payment Plan for the period
22 January 2012 through December 2013 for the Northeast
23 Ohio Natural Gas Corporation filed in Case No. 14-409
24 on January 22, 2015.

25 THE ATTORNEY EXAMINER: Okay. I'll just

1 note for the record our Rule 4901-1-28 does provide
2 that audit reports, reports of investigation
3 performed by staff are deemed admitted into the
4 record as evidence at this time. Thank you.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 THE ATTORNEY EXAMINER: At this time it's
7 my understanding there is an Amended Stipulation. I
8 believe there was a Stipulation earlier filed and now
9 that's an Amended Stipulation. Is that accurate?

10 MR. YURICK: That's accurate, your Honor.
11 That stipulation was filed I believe on Friday.

12 THE ATTORNEY EXAMINER: Okay. And for
13 the record, does the Amended Stipulation supersede
14 the Stipulation that was originally filed?

15 MR. YURICK: Yes, it does.

16 THE ATTORNEY EXAMINER: And, for the
17 record, the staff and the companies are the only two
18 signatory parties; is that correct?

19 MR. YURICK: That's correct, your Honor.

20 THE ATTORNEY EXAMINER: Mr. Serio, what's
21 the OCC's position on the Amended Stipulation?

22 MR. SERIO: I have a statement I would
23 like to read, your Honor.

24 The Ohio Consumers' Counsel thanks the
25 PUCO staff and the three utilities for continuing to

1 negotiate with us on these issues affecting
2 consumers, even after those parties had filed an
3 initial settlement among themselves on July 14, 2015.

4 The further negotiations resulted in a
5 second settlement, the amended settlement, filed on
6 July 24, 2015. The testimony of Greg Slone that we
7 filed on July 23, 2015, describes the reasons the
8 Consumers' Counsel opposed the first settlement.

9 Given the improvements in the outcomes
10 for consumers in the amended settlement, the
11 negotiations have resulted in the Consumers'
12 Counsels' updated position not to oppose it. Those
13 outcomes include increased refunds for consumers
14 regarding the bills they paid for natural gas and a
15 future independent management audit

16 To be clear, what we do not oppose is the
17 amended settlement as it is filed for adoption by the
18 PUCO. Again, we appreciate the efforts of the
19 parties in these challenging negotiations.

20 Thank you.

21 THE ATTORNEY EXAMINER: Thank you.

22 You may proceed.

23 MR. YURICK: Thank you, your Honor. To
24 support the Stipulation the companies would call
25 Martin Whelan to the stand.

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THE ATTORNEY EXAMINER: Okay.

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MARTIN K. WHELAN

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Yurick:

Q. Sir, would you please state your full name and spell your last name for the record.

A. Martin K. Whelan, W-H-E-L-A-N.

Q. And, sir, how are you currently employed?

A. I'm the president of three Ohio utilities, Northeast Ohio Natural Gas, Orwell Natural Gas, and Brainard Natural Gas.

Q. And how long have you been employed in that capacity for the company?

A. Since March of 2014.

Q. Did you work for the companies or related companies prior to that?

A. I worked for Orwell Natural Gas from 2002 to 2004; from 2004 to 2014 I was the vice president, chief operating officer of Northeast Ohio Natural Gas; from 2011 to current I'm the president of Spellman Pipeline.

Q. Sir, in connection with your position as

1 president of Orwell, Brainard, and Northeast Ohio
2 Natural Gas, have you personally been involved in
3 negotiations that ultimately resulted in the
4 execution of an Amended Stipulation in this case
5 filed here on July 24, 2015?

6 A. Yes.

7 Q. And did you submit written testimony in
8 support of an original stipulation in this case?

9 A. Yes.

10 MR. YURICK: May I approach, your Honor?

11 THE ATTORNEY EXAMINER: Yes.

12 Q. So, sir, handing you what has been marked
13 Companies Exhibit A, is that a true and accurate copy
14 of your prefiled written testimony in this case?

15 A. Yes.

16 Q. And was that testimony drafted by you or
17 at your direction?

18 A. Yes.

19 Q. And, again, that testimony refers to an
20 original non-Amended Stipulation that was filed in
21 this case on July 14, correct?

22 A. Yes.

23 Q. But if I asked you the questions set
24 forth in your prefiled testimony here today, would
25 your answers be the same and would your testimony be

1 the same as it relates to the Amended Stipulation?

2 A. Yes.

3 Q. Handing you what has been marked Joint
4 Exhibit 1, is that a true and accurate copy of the
5 Amended Stipulation filed in this case?

6 A. Yes.

7 MR. YURICK: Your Honor, at this point
8 the companies would hereby move the admission of
9 Joint Exhibit 1 and Companies Exhibit A into the
10 record, and we will proffer Mr. Whelan for
11 cross-examination.

12 THE ATTORNEY EXAMINER: Thank you.

13 Does the staff have any questions of this
14 witness?

15 MR. MARGARD: I do not. Thank you, your
16 Honor.

17 THE ATTORNEY EXAMINER: Does OCC have any
18 questions?

19 MR. SERIO: No questions.

20 THE ATTORNEY EXAMINER: As there has been
21 no cross, there will be no redirect, obviously.

22 I do have questions for the witness about
23 the Stipulation, just for clarification purposes.

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EXAMINATION

By The Attorney Examiner:

Q. If you turn to page 2 of the Stipulation, in the second full paragraph it begins, "Except for enforcement purposes, neither this Stipulation and Recommendation nor information and data contained," and then it goes on. What does that mean "Except for enforcement purposes"? What does that refer to?

A. My understanding of it is they didn't want to cross into the other open cases.

Q. It didn't what?

A. There are open cases in front of the Commission.

Q. Okay. If you turn to page 3, under B, Gas Cost Recovery, Financial Audit, No. 2, it says, "The Signatory Parties agree that Brainard filed an updated Lake Erie College transportation contract with the Commission... on October 27."

Is that statement in there just to reference the recommendation of the staff that was made with regard to that contract?

A. Yes.

Q. Okay. And aren't there other Brainard contracts that are also outstanding or have been filed?

1 A. Yes.

2 Q. Why weren't the other contracts
3 referenced?

4 A. I think this one was referenced in the
5 staff report.

6 Q. That's the only reason you have that in
7 there?

8 A. Yes, sir.

9 Q. Go to the next page, page 4. In No. 5,
10 the adjustment that is made for Orwell's GCR's
11 customers is over a period of eight quarters. Do you
12 know why it's eight quarters versus a shorter time
13 period?

14 A. Orwell's original adjustment was in their
15 favor. We agreed to additional disallowances while
16 we were negotiating with the OCC, but because of the
17 disallowances, we asked for an extra year to spread
18 them out over.

19 Q. So that's basically going from an
20 undercollection to an overcollection. I mean, it
21 changes towards the customers' favor and you wanted
22 additional time to make the difference?

23 A. Yes.

24 Q. Okay. Go to the next page, page 5. In
25 No. 8 it talks about including -- well, first of all

1 you, list two cases, 15-475 and 16-637. Although
2 there is another case that's pending between Orwell
3 and the pipeline company, why isn't that case
4 referenced?

5 A. There's no monetary damages associated
6 with the other case. The other case is a guarantee
7 of service.

8 Q. Can you tell me when you say "other
9 relief" there, the last two words in No. 8, what does
10 that refer to? What other relief would that be
11 referring to?

12 A. Anything that the Commission orders.

13 Q. In 9A, the word "damages" there in A,
14 does that include punitive damages? What kind of
15 damages does that include?

16 A. I think there's a question as to whether
17 or not their pipeline tariffs were fair and
18 reasonable and, if the Commission decides to adjust
19 their pipeline tariffs, that savings would go to the
20 consumer.

21 Q. Okay. And the word "refund," is that
22 referencing money that should be passed through to
23 customers through the GCR? Is that what that's
24 referring to?

25 A. Yes.

1 Q. And in A it talks about any damages up to
2 \$200,000. B it talks about monies in excess of
3 \$200,000. What's the rationale for allowing the
4 company to recover amounts -- any amounts?

5 A. We prepaid some of the money in the
6 Stipulation where Orwell went from an undercollection
7 to an overcollection.

8 Q. You paid that in the Stipulation? What
9 Stipulation?

10 A. This one. We paid additional -- we
11 allowed additional disallowances of OTP costs as a
12 part of the settlement.

13 Q. So this is allowing you to recoup that
14 back?

15 A. Some of it, yes.

16 Q. Is the anticipation that the amount will
17 be in excess of \$200,000?

18 A. I honestly can't answer that.

19 Q. On page 6, C2, there's a reference to a
20 Chapter 11 bankruptcy filing, a nonpaying customer's
21 Chapter 11 bankruptcy filing. Is this referencing a
22 particular customer?

23 A. No. It's a company policy. I believe
24 that Orwell as soon the get a bankruptcy notice, they
25 are putting the money on the bad debt rider instead

1 of waiting the required 180 days.

2 Q. Has this happened already?

3 A. Yes.

4 Q. Is it one customer in particular?

5 A. I believe it was one.

6 Q. Do you know who the customer is?

7 A. No.

8 Q. Do you know the amount that's involved
9 here?

10 A. I do not.

11 Q. But, in any event, that bad debt is going
12 to be in the bad debt rider account, which would be
13 recouped from GCR customers; is that accurate?

14 A. Yes, sir.

15 THE ATTORNEY EXAMINER: That's all the
16 questions I have. Thank you.

17 Is there anything further from the
18 company?

19 MR. YURICK: No, your Honor. We renew
20 our motion to admit Joint Exhibit 1 and Companies
21 Exhibit A.

22 THE ATTORNEY EXAMINER: Any objection to
23 the admission of Companies Exhibit A?

24 MR. SERIO: No, your Honor.

25 THE ATTORNEY EXAMINER: That will be

1 admitted.

2 (EXHIBITS ADMITTED INTO EVIDENCE.)

3 THE ATTORNEY EXAMINER: Anything further
4 from the companies?

5 MR. YURICK: No, your Honor.

6 THE ATTORNEY EXAMINER: Anything further?

7 MR. MARGARD: No, your Honor.

8 THE ATTORNEY EXAMINER: Anything from
9 OCC?

10 MR. SERIO: Yes, your Honor. We call
11 Greg Slone for his testimony.

12 THE ATTORNEY EXAMINER: Does his
13 testimony have anything to do with the Stipulation?

14 MR. SERIO: We believe that his testimony
15 provides the Commission a basis for determining that
16 the Stipulation is the reasonable, and we would like
17 his testimony put into the record. We can waive it
18 in or I can call him to the stand.

19 THE ATTORNEY EXAMINER: You can call him
20 to the stand.

21 MR. SERIO: We call Greg Slone to the
22 stand.

23 Do you need a copy, your Honor?

24 THE ATTORNEY EXAMINER: Thank you.

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GREGORY SLONE

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Serio:

Q. Please state your name for the record.

A. Gregory Slone.

Q. And give your business address.

A. It's -- I actually don't recall. It's 10 West Broad Street, Columbus, Ohio, 43215.

Q. Thank you. And are you the same Greg Slone who previously filed testimony on July 23, 2015?

A. I am.

Q. Do you have a copy of that with you?

A. I do now.

Q. And was that testimony prepared by yourself or under your direct supervision?

A. It was.

Q. And do you have any changes or modifications to the testimony?

A. I do not.

Q. And if I were to ask you the same questions today, would your answers be the same?

A. They would.

1 MR. SERIO: Mr. Slone is available for
2 cross-examination, your Honor.

3 THE ATTORNEY EXAMINER: Okay. Are you
4 marking this exhibit?

5 MR. SERIO: Yes. We would like to mark
6 this for purposes of identification OCC Exhibit
7 No. 1.

8 THE ATTORNEY EXAMINER: So marked.

9 (EXHIBIT MARKED FOR IDENTIFICATION.)

10 THE ATTORNEY EXAMINER: Does staff have
11 any questions for the witness?

12 MR. MARGARD: No, your Honor.

13 THE ATTORNEY EXAMINER: Do the companies
14 have any questions?

15 MR. YURICK: No, your Honor.

16 THE ATTORNEY EXAMINER: I don't have any
17 questions.

18 MR. SERIO: Thank you, your Honor. We
19 move OCC Exhibit No. 1 into the record.

20 THE ATTORNEY EXAMINER: Any objection to
21 the admission of OCC Exhibit No. 1?

22 Hearing none, I will note that parts of
23 this testimony do not relate to the Stipulation. I'm
24 not even sure the word "Stipulation" appears in this
25 document.

1 Would that be correct? Does the word
2 "Stipulation" or "Amended Stipulation" appear in the
3 testimony?

4 MR. SERIO: I can say "Amended
5 Stipulation" does not. I don't recall if the word
6 "Stipulation" does or not. Our intent was to explain
7 the OCC's position when taken in totality with the
8 book audit reports, and the resulting Stipulation
9 shows the reason for the parties meeting where they
10 did.

11 THE ATTORNEY EXAMINER: I'm going to
12 reserve ruling on there at this time, and I will --
13 that's it, at this time.

14 Anything further?

15 MR. YURICK: No, your Honor. Thank you
16 very much.

17 THE ATTORNEY EXAMINER: I leave the
18 record open in the event that the Commission has any
19 questions.

20 Thank you.

21 MR. SERIO: Thank you, your Honor.

22 THE ATTORNEY EXAMINER: Before we
23 conclude, the proof of publication, did you make that
24 an exhibit?

25 MR. PARRAM: We did not. We can if you

1 would like. We filed that on Friday with the docket.

2 THE ATTORNEY EXAMINER: It is doctored?

3 MR. PARRAM: Yes. It was filed on
4 Friday.

5 THE ATTORNEY EXAMINER: Off the record
6 for a second.

7 (Discussion off record.)

8 THE ATTORNEY EXAMINER: It's been
9 docketed. It's been filed. It's the part of docket.

10 MR. YURICK: Thank you, your Honor. The
11 proof of publication was previously docketed. That
12 was filed on the 24th. We would like to, with the
13 Court's permission, mark that Companies Exhibit 3,
14 and move for the admission into the record of Company
15 Exhibit B, the proof of publication.

16 THE ATTORNEY EXAMINER: Okay. Any
17 objections to the admission?

18 MR. SERIO: No objection, your Honor.

19 MR. MARGARD: No.

20 THE ATTORNEY EXAMINER: It will be
21 admitted.

22 (EXHIBIT ADMITTED INTO EVIDENCE.)

23 MR. YURICK: Thank you, your Honor.

24 THE ATTORNEY EXAMINER: I also note there
25 were no members of public present at the hearing.

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Thank you. We will adjourn at this time.

(The hearing adjourned at 10:23 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, July 28, 2015, and carefully compared with my original stenographic notes.

Rosemary Foster Anderson,
Professional Reporter and Notary
Public in and for the State of
Ohio.

My commission expires April 5, 2019.
(RFA-78982)

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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-UEx

Summary: Transcript in the matter of Brainard Gas Corporation, Northeast Ohio Natural Gas Corporation, and Orwell Natural Gas Company hearing held on 07/28/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Anderson, Rosemary Foster Mrs.