

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the	:	
Complaint of Orwell	:	
Natural Gas Company,	:	
	:	
Complainant,	:	
	:	Case No. 14-1654-GA-CSS
vs.	:	Case No. 15-637-GA-CSS
	:	
Orwell-Trumbull Pipeline	:	
Company, LLC,	:	
Respondent.	:	

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PROCEEDINGS

before Scott E. Farkas, Hearing Examiner, at the  
Public Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-C, Columbus, Ohio, called at 10:00  
a.m. on Wednesday, November 4, 2015.

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VOLUME II

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Wednesday Morning Session,  
November 4, 2015.

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THE EXAMINER: Why don't we go back on  
the record. This is a continuation of the hearing in  
Case 14-1654-GA-CSS and 15-637-GA-CSS, beginning with  
OCC's witness.

MR. SERIO: OCC will call Greg Slone.

THE EXAMINER: Would you raise your right  
hand.

(Witness placed under oath.)

THE EXAMINER: Be seated and you can  
proceed.

- - -

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 and business  
address for the record.

A. Gregory Slone, 10 West Broad Street,  
Suite 1800, Columbus, Ohio, 43215.

Q. By whom are you employed?

A. The Ohio Consumers' Counsel.

1 (EXHIBIT MARKED FOR IDENTIFICATION.)

2 Q. And did you have filed in this docket a  
3 document that we've marked for identification as OCC  
4 Exhibit No. 2 which is the direct testimony of Greg  
5 Slone that was filed with the Commission on  
6 October 27th, 2015?

7 A. Yes.

8 Q. And did you prepare that testimony or was  
9 it prepared under your supervision?

10 A. Yes.

11 Q. And do you have any changes or  
12 corrections to make to that testimony?

13 A. I do.

14 Q. And can you walk us through those.

15 A. The first correction is on Page 5, line  
16 1, and it's "I received a dollar amount of 12,793."  
17 That should be "12,205." And that particular number  
18 occurs another four times in the documents. So I  
19 thought we'd go through and correct it as we go.

20 That shows up again on Page 6, line 16,  
21 same correction, "12,205."

22 Page 15, line 21, same correction,  
23 "12,205."

24 Page 23, line 18 and Page 33, line 1.  
25 Evidently, I liked saying that number a lot, so I

1 wish I had gotten it right.

2 Q. And that number also appears in your  
3 Attachment GS-3, correct?

4 A. It does.

5 MR. SERIO: Your Honor, Mr. Slone put  
6 together a revised Attachment GS-3. I don't know if  
7 you want me to mark that as a replacement for or as  
8 OCC Exhibit 2A, but we have a revised worksheet that  
9 shows the calculation behind his change.

10 THE EXAMINER: Let's just mark it 2A.

11 (EXHIBIT MARKED FOR IDENTIFICATION.)

12 MR. DORTCH: Your Honor, is it 2A or 3A,  
13 Joe? I think you referred to his spreadsheet as  
14 GS-3.

15 THE WITNESS: It's 3.

16 MR. SERIO: It's Attachment 3, but the  
17 Exhibit number would be OCC Exhibit 2A.

18 MR. DORTCH: I'm sorry. I get it. Thank  
19 you.

20 MR. SERIO: May I approach, your Honor?

21 THE EXAMINER: Yes.

22 Q. (By Mr. Serio) Do you have in front of  
23 you what I've marked for purposes of identification  
24 as OCC Exhibit 2A?

25 A. I do.

1           Q.    And can you explain the change that you  
2           made to your Attachment GS-3 which is now OCC Exhibit  
3           2A?

4           A.    The dollar amount in the far right column  
5           should have been the product of the 50-cent rate  
6           times the total volume. And the mistake was it was  
7           multiplying the invoice number times the total  
8           volume.

9                        Because the rate of 95 cents is post 1,  
10          the number didn't stand out to me initially as being  
11          off by very much and it isn't. It's about \$600  
12          difference, but it was just pulling the number from  
13          the wrong column.

14          Q.    So your methodology is the same; it's  
15          just that the math was incorrect?

16          A.    Correct.

17          Q.    And now can you take us to any other  
18          changes to your testimony?

19          A.    The next change is on Page 9 at line 11,  
20          and the words "08-1244" should be replaced with "that  
21          pending." That sentence should read, "The 08-1244  
22          application stated that upon approval of that pending  
23          application."

24          Q.    So it's the second "08-1244" that needs  
25          to be replaced?

1 A. Yes.

2 Q. Okay.

3 A. On Page 18 at line 13, the sentence  
4 reads, "First Orwell increased its reliance on a  
5 related pipeline," and "a related" should be replaced  
6 with "an affiliated pipeline."

7 Next correction is on Page 21, line 7,  
8 "lake Hospital," "lake" should be capitalized.

9 the next correction is on Page 23. It  
10 would be line 16 and the number there, "12,794"  
11 should actually be "13,383."

12 Q. And should that correction also be on  
13 line 18?

14 A. No, it's a different number. We've  
15 already corrected line 18.

16 MR. DORTCH: I'm sorry, I got lost there.  
17 Could you explain the correction to me again?

18 THE WITNESS: The correction is  
19 actually -- it's part of the correction that was on  
20 OCC Attachment GS-3 that's now --

21 MR. DORTCH: 2A.

22 THE WITNESS: -- 2A. The "13,383" comes  
23 from the adjusted -- the total of the adjusted  
24 invoices for OTP.

25 MR. DORTCH: Page and line number would



1 probably help me catch up quickest.

2 THE WITNESS: Page 23, line 16, that  
3 number should be "13,383."

4 MR. DORTCH: I'm sorry. I'm with you  
5 now. Thank you.

6 Q. (By Mr. Serio) Then on line 18, the  
7 "12,794" should be "12,205" on that same page. And  
8 then your last?

9 A. The last correction I have is on OCC  
10 Attachment GS-13. The first page of that is correct  
11 and says "Attachment GS-13." Somehow, the remaining  
12 29 pages say "GS-12," but that should be -- all of  
13 them should be "Attachment GS-13."

14 Q. That's in the upper right-hand corner?

15 A. That's correct.

16 Q. So the front sheet is correct, that  
17 entire document is OCC Attachment GS-13; it just says  
18 "12" at the top of those other pages, correct?

19 A. Correct.

20 Q. With those corrections to your testimony,  
21 if I were to ask you the same questions again, would  
22 your answers be the same?

23 A. They would.

24 MR. SERIO: I move the admission of  
25 Mr. Slone's testimony pending Cross-Examination, and

1 he's available at your pleasure, your Honor.

2 THE EXAMINER: Thank you.

3 MR. DORTCH: Your Honor, before we move  
4 to Cross-Examination, I do have a motion to strike.

5 THE EXAMINER: Okay.

6 MR. DORTCH: Your Honor, the motion to  
7 strike is based on the fact that Mr. Slone's  
8 testimony repeatedly addresses the issues concerning  
9 Brainard. Brainard is not a party to this case. It  
10 is not a complaining party. It has stated no claims  
11 in this case.

12 While OCC has intervened and adopted the  
13 complainant's position in the case, it has not  
14 independently raised claims against OCC in this  
15 matter. It's certainly free to file a complaint on  
16 behalf of residents if it wishes, but the state of  
17 the pleadings as of this moment or the issues  
18 concerning Brainard are irrelevant to the issues that  
19 concern Orwell Natural Gas, shouldn't be in this  
20 case. And I can identify specifically, if you like,  
21 but I'll wait for response.

22 MR. SERIO: Your Honor, it's our  
23 understanding that Brainard has either one employee  
24 or no employees, and that Orwell virtually runs the  
25 entire Brainard operations. So in addressing the

1 matter for Orwell, you're automatically addressing  
2 the matter for Brainard.

3 And Mr. Slone's testimony correctly and  
4 specifically identifies how it impacts each of the  
5 companies separately since they are on the  
6 Commission's books two separate companies even though  
7 they are operated together under the Orwell umbrella.

8 So we think it is relevant to separate  
9 because if you didn't, you would potentially be  
10 addressing a fix for Orwell, and then the Orwell  
11 personnel that operate Brainard would have to operate  
12 under a different set of -- potentially a different  
13 contract for the handful of customers that are  
14 Brainard customers, and that would be incredibly  
15 difficult to do. It would be unfair to the Brainard  
16 customers, and it would be very costly for Orwell's  
17 management to have to operate under two separate  
18 agreements when they're operating the companies  
19 essentially as one.

20 THE EXAMINER: Mr. Yurick?

21 MR. YURICK: From the companies'  
22 perspectives, one of the claims for relief is to  
23 avoid the contract. The contract clearly relates to  
24 both Brainard and Orwell. So while Brainard might  
25 not be a named plaintiff or complainant, the contract

1 does relate to both parties.

2 And there is an agreement that the Bench  
3 could take judicial notice that Orwell essentially  
4 operates Brainard for a fee; therefore, we believe  
5 that Mr. Slone's testimony is relevant to the issues  
6 presented in the case.

7 THE EXAMINER: Staff?

8 MR. MARGARD: I have nothing further to  
9 add. Thank you.

10 MR. DORTCH: Your Honor, the fact of the  
11 matter, as Mr. Serio pointed out, is that they are  
12 two different companies. It doesn't matter how  
13 they're operated. They're specifically for relief  
14 involved here that has been raised only in testimony  
15 and only by OCC.

16 As far as operational difficulties that  
17 the voiding of this contract may result in for  
18 Orwell, assuming that that would happen, I suspect  
19 that the parties would consult and determine what  
20 that means as far as it may go for the continuing  
21 enforceability of that contract versus the party who  
22 is not in this proceeding.

23 But whether something could be reached at  
24 that point in time or whether something can't be  
25 reached at that point in time is a matter between the

1 companies, and one of those companies is simply not  
2 here. Again, this is -- on the state of the  
3 pleadings, this is a claim not raised.

4 THE EXAMINER: Okay. I'm going to deny  
5 your motion to strike, but I'll note that the  
6 Commission will give appropriate weight to the fact  
7 that Brainard is not a complainant in this case.

8 MR. DORTCH: Thank you, your Honor.

9 THE EXAMINER: I believe the witness is  
10 ready for Cross-Examination. Does Orwell have any  
11 questions?

12 MR. YURICK: No, your Honor.

13 THE EXAMINER: Does the Staff have any  
14 questions?

15 MR. MARGARD: No, your Honor.

16 - - -

17 CROSS-EXAMINATION

18 By Mr. Dortch:

19 Q. Good morning, Mr. Slone.

20 A. Good morning.

21 Q. Would you turn to Page 10 of your  
22 testimony, starting at line 8.

23 A. Okay.

24 Q. Thank you. The paragraph there and your  
25 entire point over the next 25 lines of your testimony

1 following line 8 is that Mr. Smith was President of  
2 both OTP and ONG, and Mr. Rigo was an Executive Vice  
3 President of OTP and ONG; is that fair?

4 A. Fair.

5 Q. And then despite the fact that that's the  
6 only thing that you've asserted in lines 10 -- Page  
7 10, line 10 through Page 11, line 6, you conclude  
8 based on the fact that they were both officers in  
9 both companies, that they made no distinction between  
10 Orwell and OTP, and that the fact that they worked  
11 for Richard Osborne made every other distinction  
12 secondary. Is there anything about their titles that  
13 support that statement?

14 A. Their titles, they used the title -- for  
15 instance, Mr. Rigo, he used Executive Vice President  
16 when he signed for OTP.

17 Q. I agree.

18 A. When he signed for Orwell, he's Executive  
19 Vice President. When Mr. Smith signed for Orwell, he  
20 used President. When Mr. Smith signed for OTP, he  
21 used President there.

22 It's my belief that both of them work  
23 very closely and had for years with Mr. Osborne.  
24 They both worked -- they both took direction from  
25 him, and that was their -- and based on the

1       testimonies that I heard in previous cases, that was  
2       their focus to work for him.

3               Q.    I don't care about testimony in previous  
4       cases. Your testimony in this case --

5               A.    I cited to it here.

6               Q.    Your testimony in this case, sir, is that  
7       they both held both titles, and from that, you state  
8       clearly they made no distinction between the titles?

9               A.    My opinion, yes.

10              Q.    It's based on their two titles per your  
11       testimony?

12              A.    It's based on their actions and their  
13       titles.

14              Q.    All right. You then state line 6 -- I'm  
15       sorry, Page 11, line 10 through Page 11, line 20,  
16       pretty much again you merely state that the two had  
17       positions in both companies. Is that a fair summary  
18       of your testimony?

19              A.    I'm sorry, that's page 11 --

20              Q.    Lines 10 through 20. The entire  
21       paragraph again concerns only the fact that they were  
22       both officers, had titles in both companies?

23              A.    No, it's pointing out that they both  
24       would sign contracts for either company, and it  
25       didn't seem to make a difference which ones signed

1 for Orwell or which ones signed for OTP. In both  
2 cases, their signature was good for that company.

3 Q. Did you ever see a case of a contract  
4 between one of the companies, let's say  
5 Orwell-Trumbull Pipeline, and any other party in  
6 which either Mr. Rigo or Mr. Smith signed that  
7 contract on behalf of Orwell Natural Gas?

8 A. Did I ever see --

9 Q. Yeah, have you seen any example, can you  
10 point me to any paperwork where one of the two  
11 gentlemen is acting on behalf of one of the companies  
12 and asserted his title, the title he possessed in the  
13 other company?

14 A. No, I actually didn't realize until I got  
15 the discovery from the company that both people that  
16 signed the 2008 contract were employed by OTP which  
17 further reinforced my issue between -- of the bias of  
18 that contract.

19 MR. DORTCH: Move to strike, your Honor.  
20 The answer to my question is a "yes" or "no, have you  
21 ever seen such a paper."

22 THE EXAMINER: I'm going to allow the  
23 answer to stand.

24 A. Thank you, your Honor.

25 Q. Have you ever seen the two men, either of



1 the two men, confuse their title or confuse who they  
2 were acting for when they signed a contract?

3 If the contract was with Orwell-Trumbull,  
4 one of the two men signed on behalf of  
5 Orwell-Trumbull; is that fair?

6 A. For the contracts that I reviewed, that  
7 were with Orwell-Trumbull, best of my recollection,  
8 one of the two signed that contract.

9 Q. And they signed on behalf of  
10 Orwell-Trumbull, not on behalf of Orwell Natural Gas?

11 A. They both signed on behalf of  
12 Orwell-Trumbull. The Orwell-Trumbull contracts, they  
13 signed on behalf of Orwell-Trumbull, yes.

14 Q. The same is true for the contracts they  
15 signed on behalf of Orwell Natural Gas; they signed  
16 on behalf of Orwell Natural Gas, correct?

17 A. Yes.

18 Q. Turn to Page 12 of your testimony.

19 A. All right.

20 Q. You say that the contracts reflect a bias  
21 in favor of Orwell-Trumbull Pipeline because  
22 interruptible transportation service is being charged  
23 at 95 cents where Orwell Natural Gas had previously  
24 paid Dominion only 92 cents per MCF for firm  
25 transportation service, do you see that, lines 5

1 through 12?

2 A. Yes.

3 Q. And that 92-cent rate with Dominion, you  
4 are aware that that was a very significant discount  
5 off of Dominion East Ohio's GTS rate; is that fair?

6 A. That's fair. That's why it was so  
7 egregious to lose it.

8 Q. It was egregious to lose it. Why was it  
9 lost, in your understanding?

10 A. My understanding of the 2006 -- or 2005  
11 Dominion contract with Orwell was they were given  
12 some concessions. Mostly I think a lot of it was  
13 they were aggregating -- they were allowing Orwell to  
14 aggregate the various meters that were part of the  
15 contract into one monthly amount. That allowed the  
16 company to be built under the bottom step of the rate  
17 and not have to pay all those meter charges.

18 Q. It was a valuable thing for the company  
19 to have, correct?

20 A. I thought so.

21 Q. Now, isn't it true that what Dominion  
22 East Ohio demanded in return was that the company not  
23 pursue any activities that would diminish volume on  
24 DEO Ohio?

25 A. I think they offered the rate discounts

1       that they did to -- in order for Orwell to not try to  
2       bypass their customers.

3               Q.     Not try to bypass their customers.  What  
4       do you mean by "bypass"?

5               A.     Serve their customers -- serve customers  
6       that Dominion was currently serving.

7               Q.     So Dominion didn't want Orwell competing  
8       with it; is that fair?

9               A.     I think that was the reason they offered  
10      the lower rate.

11              THE EXAMINER:  That's just an assumption  
12      you're making?

13              THE WITNESS:  That's an assumption.

14              THE EXAMINER:  You have no firsthand  
15      knowledge of that?

16              THE WITNESS:  No, I wasn't involved in  
17      that contract.

18              Q.     (By Mr. Dortch) But you agree that it was  
19      a logical assumption based on the terms of the  
20      contract?

21              A.     It's the assumption that I made when I  
22      reviewed the contract.

23              Q.     Thank you.  Now, firm transport is most  
24      important, if I understand the way it operates, when  
25      volumes are -- when the highest volumes are necessary

1 to be transported; is that fair?

2 A. A firm transportation agreement is most  
3 valuable when the pipeline is reducing or cutting the  
4 flow on interruptible contracts so that if I've got  
5 two contracts and one is firm and one is  
6 interruptible and they're both for a thousand a day  
7 and the pipeline that serves those two customers can  
8 only deliver a thousand a day, you could have a  
9 situation like that.

10 Then if the -- you get to a critical  
11 point weather wise in the wintertime typically for a  
12 gas company where the pipeline was unable to deliver  
13 more than that 8,000 a day, even though those two  
14 companies that I mentioned, maybe they typically only  
15 delivered 3-, 400 a day, but on that peak day in the  
16 wintertime, the contract -- the company with the firm  
17 contract needs the full thousand, they'll get the  
18 full thousand, and the interruptible contract will  
19 not be able to nominate any gas. Even though their  
20 contract will allow for a certain amount of  
21 nomination, they won't be able to flow.

22 Q. You understand that Orwell-Trumbull  
23 Pipeline was built essentially to serve Orwell  
24 Natural Gas; do you not?

25 A. I disagree.

1           Q.     Nonetheless, Orwell-Trumbull Pipeline --  
2     to your knowledge, has Orwell-Trumbull Pipeline ever  
3     curtailed any volume of shipment on its pipeline in  
4     its history?

5           A.     I'm not aware of whether they have or  
6     haven't. What I am aware of is that over the next  
7     eight years they could.

8           MR. DORTCH: Motion to strike, your  
9     Honor. My question was asked and answered, and  
10    Mr. Serio can --

11          THE EXAMINER: I'm going to let it stand.

12          Q.     (By Mr. Dortch) You were present  
13    yesterday during Mr. Zappitello's testimony; were you  
14    not?

15          A.     I was.

16          Q.     Do you remember the figure that  
17    Mr. Zappitello testified they had put through OTP in  
18    a single day?

19          A.     I don't.

20          Q.     I'll be honest, I don't either.

21          THE EXAMINER: Should be in the  
22    transcript.

23          MR. DORTCH: Yeah, but I'm not going to  
24    force -- go to look for it now. I know it's in the  
25    transcript. Thank you.

1           Q.    Page 13, line 12.  You make the statement  
2   that both Spelman Pipeline and Cobra Pipeline have  
3   tariff --

4           A.    I'm sorry, line 12 is blank.

5           Q.    Page 13.  Oh, I'm sorry.  I directed you  
6   to line 12, but then I started reading above it.  I  
7   apologize.

8           A.    Okay.

9           Q.    Above line 12, you point out that Spelman  
10   and Cobra have tariffs with a 50-cent DTH rate for an  
11   interruptible service, and you then say that you  
12   believe that OTP system should be at approximately  
13   the same level; do you see that?

14          A.    Yes.

15          Q.    And that's because of your statement that  
16   these pipelines are similarly situated to OTP?

17          A.    Both of these, Spelman and Cobra, are  
18   similar, so is North Coast, and their rate's 25  
19   cents.  I could have gone I think somewhere between  
20   25 and 50, but because of those two companies both at  
21   50 cents and also because of the contract that  
22   Orwell-Trumbull Pipeline signed with J Dog, which was  
23   also 50 cents, it seemed like an appropriate number.

24          Q.    Would you turn to Page 16 of your  
25   testimony.  That's where your reference to a 25-cent

1 per Dekatherm rate is.

2 A. Page 16?

3 Q. Page 16.

4 A. Okay.

5 Q. And although you made corrections to your  
6 testimony, let's try to fix something here if you  
7 don't mind. Would you also then look at your  
8 Attachment GS-8. I'll refer you specifically now to  
9 line 16, Page 16, where you say 25 cents per  
10 Dekatherm and then GS-8, paragraph 2, and you can go  
11 backwards through that.

12 THE EXAMINER: Which page?

13 MR. DORTCH: GS-8, Page 1 of 18,  
14 paragraph 2, which deals with the period between 2009  
15 and October 2011.

16 Q. If you turn to the next page, though, you  
17 see August 2008 through October 2009. All I'm  
18 pointing out, sir, is that it appears that on a  
19 period beginning August 1, 2008, the North Coast  
20 transmission rate is 38 cents rather than a quarter,  
21 would you agree?

22 A. That's what this says. My recommendation  
23 on the 50 cents today....

24 Q. Doesn't change?

25 A. I believe they're at 25 cents today, but

1 this does say 38 cents.

2 Q. So 38 cents. And you acknowledge that  
3 you could have taken an average, but you felt 50  
4 cents was appropriate, fair enough?

5 A. Yes.

6 Q. Let's exclude Orwell-Trumbull from your  
7 list here. And what is the interruptible  
8 transportation rate on Dominion East Ohio?

9 A. I don't know.

10 Q. You heard Mr. Zappitello testified it's  
11 at \$1.62 today, correct?

12 A. If that's what's in the transcript. I  
13 really don't recall, but it's very possible.

14 Q. And you don't feel Dominion East Ohio was  
15 also a similarly situated pipeline?

16 A. Absolutely not.

17 Q. That is based on?

18 A. Well, for one, they're a distribution  
19 company. Their main business is to deliver to end  
20 users. And Orwell-Trumbull Pipeline is basically an  
21 intrastate pipeline that's main business is to  
22 transport gas across its systems to LDCs or to in  
23 this case for OTP to transport production gas as  
24 well.

25 Q. But you are aware that management viewed



1 Dominion East Ohio as its principal, if not sole  
2 competition, for customers in the area; are you not?

3 A. You're talking about OTP's management?

4 Q. Yes, sir.

5 A. I'm not sure what they view as their  
6 competition or their sole competition. They may have  
7 viewed Dominion as a competitor. I don't know that  
8 they would have viewed them as their sole competitor.  
9 I'm not aware of what they thought.

10 Q. You reviewed the discovery in this case?

11 A. There was a lot of discovery. I reviewed  
12 the discovery, yes.

13 Q. And are you aware of statements in the  
14 discovery by management or representatives of  
15 management holding Dominion out as the sole -- I'll  
16 go just principal, let's leave the term sole" out --  
17 as a principal competition?

18 MR. SERIO: Can you give him a citation  
19 of something in particular versus --

20 MR. DORTCH: I'm trying not to. The one  
21 thing that comes to my mind immediately is a  
22 confidential matter, so I didn't really want to do  
23 that. I don't think referencing it necessarily  
24 requires us to go off the record.

25 Q. (By Mr. Dortch) But are you aware of the

1 Brumley valuation of the company?

2 A. Yes, I am.

3 Q. And did you review the Brumley evaluation  
4 of the company?

5 A. I did.

6 Q. And do you recall one of the things that  
7 is stated by Brumley is that -- Sorry, I'll need to  
8 have a moment.

9 THE EXAMINER: While you're looking for  
10 that, I have a couple questions since you've laid out  
11 in this chart on Page 16 of your testimony. Of these  
12 pipelines, do you know what proportion of the  
13 customer base each of these pipelines provides gas  
14 to?

15 THE WITNESS: You say what portion of  
16 Orwell Natural Gas?

17 THE EXAMINER: Of their system, yeah, of  
18 Orwell Natural Gas.

19 THE WITNESS: Well, North Coast actually  
20 delivers into Orwell-Trumbull Pipeline, so they  
21 wouldn't deliver anything directly. They have a  
22 contract with Orwell, but that contract brings the  
23 gas from --

24 THE EXAMINER: Through OTP?

25 THE WITNESS: Through OTP, correct.

1 THE EXAMINER: Do you know if that's an  
2 interruptible contract?

3 THE WITNESS: I believe it is. The  
4 Spelman contract, they only recently in the last year  
5 or so took any gas, and I think it's fairly nominal,  
6 and they did take some in that critical point in  
7 March of 2014 from Spelman, but it does not account  
8 for very much in the system. The program may be a  
9 little more --

10 THE EXAMINER: By "not very much," less  
11 than 10 percent?

12 THE WITNESS: Less than ten percent.  
13 Same for Cobra. They may be a little more than that,  
14 but remember Cobra, I believe, delivers into  
15 Orwell-Trumbull Pipeline, so even though they may  
16 have a contract and they're transporting on Cobra,  
17 Cobra's line is still where they're able to bring gas  
18 to Orwell Natural Gas. I believe it has to go  
19 through OTP as well.

20 And that's -- again, Spelman may be the  
21 same, I'm not sure if they have a direct interconnect  
22 to Spelman or if Spelman also has to go through OTP,  
23 but remember, we've got an exclusive contract or  
24 Orwell has an exclusive contract with OTP to take all  
25 of their gas wherever OTP can serve it. So they're

1 going to be 95 percent of their load or they should  
2 be a hundred percent wherever they have capacity.

3 THE EXAMINER: What about Dominion?

4 THE WITNESS: Dominion is able to serve a  
5 portion. I believe it's about 22 -- 20 to  
6 25 percent. I believe the number is actually  
7 22 percent, but that will change from year to year  
8 based on growth.

9 THE EXAMINER: 22 percent of --

10 THE WITNESS: That's total load being  
11 served by Dominion East Ohio, and those are markets  
12 that only Dominion can serve because Orwell-Trumbull  
13 didn't have a pipeline into that area.

14 THE EXAMINER: Okay. Thank you.

15 MR. SERIO: Your Honor, could we go off  
16 the record for a second?

17 THE EXAMINER: Yes.

18 (Off the record.)

19 THE EXAMINER: Back on the record.

20 Q. (By Mr. Dortch) Mr. Slone, I had asked  
21 you a question about management's belief that  
22 Dominion East Ohio is the company's only direct  
23 competitor, and then I asked you if you had seen  
24 statements by management or by representatives of  
25 management or by others to that effect. Do you

1 recall now having seen such statements?

2 A. I'm sure I read this. I didn't recall  
3 what it said. I think it was the way you asked the  
4 question.

5 Q. Sometimes I can ask bad questions.

6 A. I still wouldn't have recalled this. I  
7 can certainly see what it says. I think when you  
8 refer to it as your sole competitor, when we're  
9 talking about a 15-year contract, competitors can  
10 come and go, there would be production gas that could  
11 come in. I mean, obviously, when they did this --

12 Q. Sir, I just asked you if you're aware of  
13 management's view.

14 A. I was trying to get there.

15 Q. Sorry. I'll allow you to finish your  
16 answer.

17 A. I think at this point in time when this  
18 document is put together, that's what management for  
19 OTP viewed. They say that right here. So that's  
20 what they felt at that point in time.

21 THE EXAMINER: Just for the record, the  
22 document you're referring to is --

23 MR. DORTCH: Your Honor, for the record,  
24 the document that is being referred to is a  
25 confidential valuation of Orwell-Trumbull company

1       dated June 2011 prepared by Brumley Capital  
2       Corporation, and it is the subject of the  
3       confidentiality agreement in this proceeding.

4               THE EXAMINER:   Okay, thank you.

5               Q.     (By Mr. Dortch) Returning to this concept  
6       to similarly, you point out that the Cobra and  
7       Spelman and Orwell-Trumbull are intrastate pipeline  
8       companies. Do you have any idea the capital  
9       investment in any of those three companies?

10              A.     No.

11              Q.     Any idea of the operating revenues of  
12      those three companies?

13              A.     No.

14              Q.     Profits, losses of those three companies?

15              A.     No.

16              Q.     The age of the infrastructure for those  
17      three companies?

18              A.     My belief is that -- Well, for instance,  
19      the Cobra Pipeline, I believe that Cobra purchased  
20      that system from Columbia Gas Transmission, and I  
21      think it was a gathering system in southeastern Ohio,  
22      and I believe those lines have been around for many,  
23      many years, you know, more than 50, maybe more than  
24      60 or 70.

25              And I do know that Orwell-Trumbull

1 Pipeline became a pipeline in 2006. So I view  
2 Orwell-Trumbull Pipeline as a relatively new pipeline  
3 compared to, for instance, Spelman is an old products  
4 line that was rehabbed, and I think it was owned  
5 originally by Marathon. So I think that line also  
6 has been around a number of years.

7 I don't know the history of the North  
8 Coast line as far as when it was constructed, but  
9 I've been aware of North Coast for a number of years.  
10 It's an operating pipeline. So my view of the four  
11 pipelines is that Orwell-Trumbull Pipeline is by far  
12 the newest of the intrastate pipelines.

13 Q. Are you aware of all the supply sources  
14 in each of those pipelines?

15 A. A little bit. Spelman is fed by Columbia  
16 Gas Transmission. Cobra is fed by local production  
17 and Columbia Gas Transmission. North Coast, I'd be  
18 guessing on theirs. I'm not sure exactly. I know it  
19 comes from west to east, so it's coming out of  
20 originally Chicago, maybe the Toledo market. And  
21 Orwell-Trumbull Pipeline is receiving gas from all  
22 three of those other pipelines.

23 Q. Do you have any idea the customer base of  
24 the three or four, I guess, pipelines -- five  
25 pipelines if we add Dominion East Ohio, relative size

1 of the customer base?

2 A. Dominion East Ohio obviously is vastly  
3 larger from a customer base standpoint than the other  
4 three which is one of the reasons I wouldn't include  
5 it in with a comparison of the rates of the others.  
6 The other three, I don't know exact numbers. I would  
7 guess that their customer base is -- for all is  
8 probably less than 15, maybe less than 30. It's a  
9 small number in comparison to a million of Dominion  
10 East Ohio.

11 Q. When you say 30, you're talking about  
12 customers on the pipeline, you're not talking about  
13 end use customers or were you talking about 30,000  
14 end user customers?

15 A. For instance, Orwell-Trumbull Pipeline  
16 has a contract with J Dog Marketing, now being  
17 operated by Gas Natural Resources. That's one  
18 customers of theirs. Orwell Natural Gas is one  
19 customer of the pipeline. Great Plains Exploration  
20 is one customer. They may have some individual  
21 production contracts with independent producers. I  
22 don't know all, but that's what I'm saying, it's a  
23 very manageable number of customers.

24 Q. I apologize. My question may have been  
25 badly stated and probably certainly was. Do you have



1 any idea how many end use customers are dependent  
2 upon Spelman?

3 A. Dependent?

4 Q. Yes.

5 A. Well, I believe that Orwell Natural Gas  
6 has about 8,500 customers total, in that range, and  
7 that would be residential, commercial and industrial.  
8 As far as all of those customers would be certainly  
9 dependent on Orwell-Trumbull Pipeline.

10 And I guess there's a portion of them,  
11 about 20 percent of them maybe, that are dependent on  
12 Dominion East Ohio. I don't know that any of those  
13 customers on Orwell would be necessarily dependent on  
14 Spelman or Cobra. I'm just not sure.

15 Q. Do you know the end use customers that  
16 are dependent upon Spelman, leaving Orwell-Trumbull  
17 out of the equation, any end use customers?

18 A. I don't know.

19 Q. Any end use customers, to your knowledge,  
20 dependent upon Cobra?

21 A. It's my belief that Cobra has a number of  
22 direct tap or farm taps that would be serving  
23 customers probably predominantly of Northeast Ohio  
24 Natural Gas, and there are farm taps on the Orwell  
25 system that's also taken directly off of

1       Orwell-Trumbull Pipeline, but I don't know the  
2       numbers.

3               Q.     You don't know the numbers, though. But  
4       I'm glad you mentioned farm taps. You do understand  
5       the concept of a farm tap?

6               A.     To me, a farm tap is a tap on a  
7       transmission line that serves a dual purpose of it's  
8       what the pipeline bills the utility and also what the  
9       utility bills the customer.

10              Q.     And you understand that Orwell-Trumbull  
11       permits farm taps -- I'm sorry, permits Orwell  
12       Natural Gas to construct farm taps directly on the  
13       Orwell-Trumbull Pipeline system, correct?

14              A.     My understanding is that they do allow it  
15       and that's very typical of what a transmission  
16       company would do. The reason that that would be  
17       allowed, it adds to the revenues on the transmission  
18       company as well because it's another source of  
19       transmission, so it's something they allow, and it  
20       makes sense from a business standpoint for them to.

21              Q.     Are you aware of any charges that  
22       Orwell-Trumbull Pipeline Company imposes on Orwell  
23       Natural Gas company for farm taps?

24              A.     When you say "charges," you're talking  
25       about as far as the construction of the tap itself?

1 Q. Construction charges, tap fees.

2 A. My understanding -- This may not be  
3 correct, my understanding is that Orwell owns the  
4 meter and that Orwell-Trumbull would be paid a  
5 transportation rate for volumes that flow through  
6 that meter.

7 Q. So the volumes get paid. I'm asking  
8 about fees for the tap itself.

9 A. I don't know how that's charged.

10 Q. Do you know whether Cobra or Spelman or  
11 Dominion East Ohio or North Coast imposed charges for  
12 those taps?

13 A. I'm not sure how each of the individual  
14 pipelines charge for taps on their system. Probably  
15 varies probably even from year-to-year with the  
16 company.

17 Q. Sir, on Page 15, question and answer 12,  
18 you conclude that Orwell's GCR customers have paid  
19 \$1,524,586 more than they should otherwise have paid  
20 due to the contract between Orwell and OTP, correct?

21 A. Yes.

22 Q. And that figure is based solely upon your  
23 use of 50 cents per MCF as a transportation fee  
24 rather than the contract fee?

25 A. It's based on what the rates should have

1       been had it been an arm's-length agreement.

2               Q.     That's your opinion of what the rates  
3       should have been? I'm just confirming.

4               A.     Yes.

5               Q.     50 cents is your number?

6               A.     50 cents is what I believe the number  
7       should have been in the rate. So in my view, they  
8       were overcharged by 45 cents per MCF for all the  
9       volumes that have been delivered from OTP since the  
10      inception of the contract. That's the genesis of  
11      this number.

12              Q.     Thank you. Your answer's "yes, 50  
13      cents." No other costs considered, it's simply the  
14      volumetric fees over the course of the years?

15              A.     Yes.

16              Q.     Now, you were present during the  
17      deposition of Mr. Osborne?

18              A.     I was.

19              Q.     You had an opportunity to observe him and  
20      to hear his testimony at that point in time?

21              A.     I did.

22              Q.     Had you ever met Mr. Osborne before that?

23              A.     That was the first time.

24              Q.     That was the first time. Based upon your  
25      observation of Mr. Osborne and your understanding of

1 his deposition, which you have reviewed, you were  
2 present for and you've since reviewed the transcript,  
3 I understand?

4 A. Yes, I did.

5 Q. Have you formed an opinion of whether he  
6 would have built Orwell-Trumbull at all if he were  
7 not going to receive a rate that he believed would  
8 recover his investment?

9 A. Yeah, I don't think Orwell-Trumbull  
10 was -- or that Orwell was the reason that he built it  
11 at all. I think the initial reason was to get his  
12 production gas to market. I think that at the time  
13 when he was involved in the production gas and  
14 considering this pipeline construction, he saw  
15 relatively high -- well, more than relatively, they  
16 were extremely high rates for natural gas. And I  
17 think his focus at that point in time was production.

18 As the market for commodity rate for gas  
19 dwindled, I think he became more focused on the rate  
20 that he could get for flowing gas on Orwell, but I  
21 don't believe at all that that was the reason that he  
22 built that pipeline was to get 95 cents per Mcf from  
23 Orwell.

24 Q. You understand that his production  
25 companies have actually been injured by the

1 construction of Orwell-Trumbull Pipeline; do you not?

2 A. No, I don't agree.

3 Q. You do understand that Orwell-Trumbull  
4 Pipeline is a high pressure system; 200 psi is its  
5 operating pressures typically?

6 A. I actually would look at it somewhat  
7 differently.

8 Q. Can you answer my question: Do you  
9 understand the pressure at which Orwell-Trumbull  
10 Pipeline operates?

11 A. That's what I was trying to explain. It  
12 operates, and this was brought out yesterday, at a  
13 pressure between 740 and 40 pounds over across the  
14 system. That's what I was going to try to explain.

15 Q. There's a backbone to Orwell-Trumbull  
16 Pipeline, correct?

17 A. Backbone?

18 Q. There's a 10-inch pipeline -- or I'm  
19 sorry, 8-inch pipeline that forms the backbone of  
20 Orwell-Trumbull Pipeline Company; do you understand  
21 that?

22 A. Yes.

23 Q. And you understand that that pipeline  
24 system operates at a high pressure system?

25 A. I believe it's designated as a high

1 pressure distribution system. I think that's how  
2 it's been referred to in the testimony.

3 Q. And particularly in wintertime when  
4 pressures in the pipeline need to be high, do you  
5 understand whether gas wells can feed into that  
6 system during high pressure periods?

7 A. I thought that's where you were going. I  
8 think that the gas wells -- My understanding, this  
9 may or may not be right, but the gas wells need the  
10 pressure to be no more than 200 pounds where they're  
11 feeding in in order for the gas wells to feed into  
12 the OTP system.

13 And that's why I was going to say that  
14 I'm not sure that -- I think OTP -- I think Orwell  
15 could possibly get more capacity out of those  
16 two-inch lines if they were operating above  
17 200 pounds to serve customers, but because I believe  
18 Orwell-Trumbull keeps those two-inch lines down  
19 around 200 pounds, that limits how much Orwell can  
20 actually receive from those lines.

21 Q. Page 21, line 7 of your testimony. You  
22 state here that -- Well, going back to Page 20, let's  
23 tackle the whole paragraph. Page 20, line 15 through  
24 Page 21, line 8, you point to Lake Hospital's  
25 extremely low price per Mcf, 31 cents.

1 A. Not to exceed 31 cents.

2 Q. Not to exceed 31 cents, thank you. And  
3 compare it to Orwell's 95-cent per Mcf price for  
4 transportation.

5 A. Yes.

6 Q. And you opine that the significantly  
7 lower rate Lake Hospital's paying justifies the  
8 12-year length of the contract; is that's right?

9 A. I'm saying if I'm Lake Hospital and I  
10 know what others are being charged and I'm getting a  
11 chance to have a significantly discounted rate for  
12 firm service, I'd probably jump at a 12-year contract  
13 for that.

14 Q. But you are comparing the 95-cent rate to  
15 the 31-cent rate? I just want to be sure.

16 A. I am. I shouldn't because one's firm and  
17 one's interruptible, but I am --

18 Q. I understand your opinion on firm and  
19 interruptible.

20 Sir, you are a gas analyst; you've had a  
21 history as a gas analyst?

22 A. I've been with the Ohio Consumers'  
23 Counsel for five-and-a-half years serving as a gas  
24 analyst. I have a history in the gas industry.

25 Q. And are you aware of publicly available



1 indexes that report the price of natural gas?

2 A. Yes, I am.

3 Q. And can you name those indexes or at  
4 least some of which you are familiar?

5 A. Well, I mean, the one that I typically  
6 use is the NYMEX, New York Mercantile Exchange.  
7 There's one in Chicago. There are publications. We  
8 have a publication that we get at the Consumers'  
9 Counsel called SNL that I look at, at various gas  
10 prices, gas pricing points on a daily basis.

11 Q. Are you familiar about Platts Daily?

12 A. I am.

13 Q. Or I'm sorry, Platts Gas Daily I think is  
14 the correct name. And does Platts Gas Daily, to your  
15 knowledge, report the prices of natural gas?

16 A. In a former job prior to the OCC, I did  
17 use Platts' service and in an effort not just for gas  
18 but coal and --

19 Q. Other commodities as well?

20 A. Yes.

21 Q. Thank you. Do you consider the indexes  
22 that we've just named, NYMEX, Chicago, SNL, Platts,  
23 there are others I'm sure, Dow Jones perhaps, do you  
24 consider them reliable when you look at the gas  
25 prices being reported?

1 A. Yes.

2 Q. And to your knowledge, do people who are  
3 experts in your industry regularly make use of such  
4 indexes?

5 A. Yes, I believe they do.

6 Q. And do they regularly rely upon those  
7 indexes in the course of their performance of their  
8 duties?

9 A. Yes.

10 MR. DORTCH: Your Honor, may I have a  
11 moment?

12 THE EXAMINER: Yes.

13 Q. Mr. Slone, would you turn to OCC  
14 Attachment GS-2. I take it this is where you  
15 calculate your 1.5 million rate?

16 A. Yes.

17 Q. And I just want to be certain I  
18 understand. The total volume Mcf appears to be a  
19 monthly statement or summary of probably volumes  
20 invoiced to Orwell-Trumbull or by Orwell-Trumbull to  
21 Orwell Natural Gas?

22 A. Yes.

23 Q. Just so that we're clear, what is free  
24 gas and why is it not included?

25 A. My understanding, the free gas

1 designation for Orwell would be customers served off  
2 their system. We either have a well on their  
3 property or have granted right-of-way for the  
4 pipeline. For some reason, the company has -- those  
5 are two of the most common reasons, but that the  
6 company would allow them to have so much free gas  
7 every year.

8 Q. As gas analysts, are you familiar with  
9 gas development?

10 A. You mean production?

11 Q. Production drilling.

12 A. Sure.

13 Q. So free gas, household gas, those kinds  
14 of things are often traded away in return for the  
15 rights to drill a well --

16 A. Typical --

17 Q. -- to develop the mineral state; is that  
18 fair?

19 A. Standard -- Yeah, standard would be you  
20 get free gas to let someone drill, plus one-eighth  
21 drill rate. That used to be the standard.

22 Q. That used to be the standard.

23 A. I don't know what it is today.

24 Q. I do. We should talk.

25 MR. DORTCH: Your Honor, may I have one

1 more moment?

2 THE EXAMINER: Yes.

3 MR. DORTCH: Your Honor, I would ask, we  
4 now have had Mr. Zappitello and Mr. Slone -- you're  
5 not a Ph.D, are you?

6 THE WITNESS: No.

7 MR. DORTCH: We now have Mr. Slone and  
8 Mr. Zappitello both testify that Platts is a  
9 recognized and respected index in the industry and  
10 regularly relied upon by those in the industry. And  
11 I would ask that your Honor take administrative  
12 notice of the reliability of Platts and the data,  
13 Platts Gas Daily and the data reported therein.

14 THE EXAMINER: Okay.

15 MR. SERIO: Your Honor, I don't object to  
16 administrative notice of Platts in general, but  
17 Mr. Slone testified that he hasn't used Platts in his  
18 time at OCC. So any specific numbers is where I have  
19 more of an objection.

20 And my understanding with Platts and a  
21 lot of those publications is you have to pay in order  
22 to get them. And one of the reasons he hasn't used  
23 it at OCC is we don't pay for all of them, we pay for  
24 some, and he has access to the ones we pay for.

25 So the general concept that Platts is a

1 generally reputable source of information, we don't  
2 object to that, but specific numbers that Mr. Slone  
3 wasn't familiar with, that I would object to.

4 MR. DORTCH: Your Honor, I'm not going to  
5 ask Mr. Slone any questions about any numbers. I'm  
6 just trying to establish Platts exists, that it's  
7 considered reliable, and that we can all rely upon it  
8 as a publicly available index.

9 MR. SERIO: For that general, I have no  
10 objection, your Honor.

11 MR. YURICK: The company has no objection  
12 to the general recognition of Platts.

13 MR. DORTCH: I do want to make certain  
14 that we're on the same page here.

15 THE EXAMINER: Let's go off the record  
16 for a second.

17 (Off the record.)

18 THE EXAMINER: Back on the record. The  
19 Bench will take administrative notice of Platts as an  
20 accurate and reputable source for information related  
21 to the pricing of gas, similarly as is NYMEX and the  
22 SNL.

23 MR. DORTCH: Your Honor, not that I'm  
24 going to use it, but Mr. Zappitello referred to the  
25 report from CME, or is that just in reference to the

1 Chicago Mercantile Exchange? Mr. Zappitello?

2 MR. YURICK: Could you repeat the  
3 question?

4 MR. DORTCH: I'm not going to use it, but  
5 I just -- never mind. I just wanted to make sure  
6 that nobody else felt constrained as to where they  
7 would go to get the information.

8 THE EXAMINER: I would encourage the  
9 parties if they're going to include a particular  
10 reference to a particular source of information that  
11 they're relying on for a price of gas, that they  
12 provide that to the other parties.

13 MR. DORTCH: Thank you, your Honor.

14 THE EXAMINER: Proceed.

15 MR. DORTCH: Thank you, your Honor. Your  
16 Honor, I have no further questions for the witness.

17 THE EXAMINER: Is there any Redirect?

18 MR. SERIO: Yes, your Honor. I have a  
19 couple questions.

20 - - -

21 REDIRECT EXAMINATION

22 By Mr. Serio:

23 Q. Mr. Slone, you participated in the 10-209  
24 and 212 and 12-209 and 212 GCR cases involving  
25 Northeast and Orwell, correct?

1           A.    I provided testimony in both.

2           Q.    You attended those hearings, correct?

3           A.    I did.

4           Q.    Do you remember that Tom Smith, the  
5 President of Orwell Northeast at the time, testified  
6 in both of those proceedings?

7           A.    I know he testified in one.  I think it  
8 was both.

9           Q.    And were you present in the room when  
10 Mr. Smith testified?

11          A.    Yes.

12          Q.    Do you recall Mr. Smith testifying that  
13 he was President for virtually every company that  
14 Mr. Osborne owned and at times he expressed confusion  
15 over which companies he was specifically an officer  
16 of?

17               MR. DORTCH:  Objection, your Honor.  Your  
18 Honor, Mr. Serio is attempting to create a record  
19 based on a transcript contained in another  
20 proceeding.  Under the Commission rules, if he wanted  
21 to use the deposition, for example, of Mr. Smith or  
22 any other sort of transcript of Mr. Smith's  
23 testimony, it should have been filed at least three  
24 days before this proceeding began, and I would have  
25 had an opportunity to review it.

1           This is the first time the issue has  
2       been raised. I don't want to open the record in this  
3       proceeding to the other record in other proceedings.  
4       I certainly don't want to do it through Mr. Serio  
5       stating what the transcript said and having Mr. Slone  
6       agree to it. That's not a proper way to introduce  
7       evidence.

8           THE EXAMINER: The transcript in any  
9       particular case speaks for itself. So if there was  
10      testimony with respect to what Mr. Smith said, that's  
11      in a transcript.

12          MR. SERIO: Yes, it is, your Honor.

13          THE EXAMINER: I am going to take -- I  
14      think there was a request yesterday to take  
15      particular administrative notice of particular audit  
16      cases. I'm going to take administrative notice of  
17      the 2010, 2012, 2014 audits of Northeast, Orwell,  
18      Brainard which includes the transcripts of the cases,  
19      the orders and entries and the Staff report and any  
20      stipulation that was filed in those cases.

21          MR. DORTCH: Thank you, your Honor. I  
22      understand your Honor's ruling. For the record, I  
23      would object, and I will note that among other  
24      objections, there is a constitutional due process  
25      problem with -- I would be concerned with that and



1 may raise the constitutional due process issue at a  
2 later time.

3 THE EXAMINER: Okay.

4 MR. SERIO: Just for the record on  
5 Cross-Examination, Mr. Slone was asked about whether  
6 Mr. Smith or Mr. Rigo ever signed as an officer of  
7 one company and indicated that they were an officer  
8 for another company, and I was simply following up on  
9 that, and I think that the transcript will show what  
10 Mr. Smith testified to at the time.

11 THE EXAMINER: It certainly will.

12 Q. (By Mr. Serio) Do you recall the question  
13 about the value of firm transportation and when it's  
14 most valuable?

15 A. Yes.

16 Q. And would you agree with me that for  
17 human needs residential customers, firm  
18 transportation is most valuable when the temperatures  
19 are coldest and demand is the greatest?

20 A. Yes.

21 Q. And when you're comparing firm  
22 transportation versus interruptible transportation,  
23 whether transportation service has historically ever  
24 been interrupted or not, does that change the risk of  
25 potential interruption on a going forward basis?

1           A.    No, it doesn't. That's why I made the  
2 statement that I did, that, you know, we don't know  
3 what's going to happen over the next eight years in  
4 the contract.

5           Q.    And if you look at your Attachment GS-2,  
6 and I believe this would apply to most of your  
7 testimony, the information under "Total Volumes, Free  
8 Gas Volumes Invoice," where did you get that raw data  
9 from?

10          A.    That is discovery in this case from -- in  
11 this case it was from Orwell.

12          Q.    One last question: In your experience in  
13 the gas industry, are you familiar with situations  
14 where company A would offer discounts to company B  
15 that would allow company B to turn around and  
16 undercut the price that company A was offering to its  
17 customers that might then become customers of the  
18 other company?

19          A.    This is an unusual situation that you  
20 don't typically see out there. I do recall an  
21 instance where Columbia Gas Transmission or Columbia  
22 Gas of Ohio and Columbia Gas Transmission provided  
23 service to I believe it was Suburban, and Suburban  
24 and Columbia, this goes back several years, but they  
25 did battle over territory and customers based on

1 deliveries from Columbia Gas.

2 Q. And in a situation like that, is there a  
3 requirement that the company providing the service,  
4 in that case Columbia Gas Transmission, offer the  
5 discount to any particular customers?

6 A. I believe that was their -- in that  
7 particular case, I believe it was just their standard  
8 tariff rate. I don't know that there's a requirement  
9 that they offer a discount or no discount, but as I  
10 recall, that was just their tariff rate.

11 MR. SERIO: That's all I have, your  
12 Honor. Thank you.

13 THE EXAMINER: Let's go off the record  
14 for a second.

15 (Off the record.)

16 THE EXAMINER: Let's go back on the  
17 record. Does the Company Orwell have any questions?

18 MR. YURICK: No questions.

19 THE EXAMINER: Staff?

20 MR. MARGARD: No, thank you, your Honor.

21 THE EXAMINER: Mr. Dortch?

22 MR. DORTCH: Brief Redirect, your Honor.

23 THE EXAMINER: Okay.

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REDIRECT EXAMINATION

By Mr. Dortch:

Q. Mr. Slone, Mr. Serio asked you questions about the risk of interruption. I want to make certain that everybody understands exactly how firm transportation works in your understanding. Firm transportation is a legal concept, not an operational concept; would you agree with that?

A. Well, I think the firm transportation agreements absolutely feed into the operations of the company.

Q. Let me try to rephrase my line of questioning here. Every pipeline has a capacity that varies from point in time from time to time; is that your understanding?

A. Yes.

Q. And very simply, I use -- for the record, I'm holding a ballpoint pen between my two fingers. My right hand is in and my left hand is out, okay? If we've got the pipeline sitting there, the volume, the capacity of this pipeline, my ballpoint pen, is maybe a tenth of an ounce of ink, let's say, fair enough? And it's static, nothing's going to change. If I pull out some ink, I create room in the pen, and we could then put some more ink in; is that your

1 understanding?

2 A. The capacity in a pipeline is dependent  
3 basically on the pressure coming into that pipeline  
4 and the size of that line itself and then the load  
5 that's pulled out the other end, assuming that you  
6 have a constant volume coming at the entrance of the  
7 pipeline which is going to create that pressure drop  
8 across the line.

9 Q. So we're going to have -- It ties when  
10 there's a heavy demand by end users. There's also  
11 going to be increased capacity because you could push  
12 more gas in during any period of time?

13 A. No, if you want to get more gas capacity  
14 in a finite diameter pipeline, you have to increase  
15 the pressure at the inlet or at other delivery points  
16 into that system in order to increase the capacity.

17 In this case, because they're starting  
18 out, I'm sure they're taking the maximum capacity off  
19 of North Coast -- when I say that, I'm talking about  
20 Orwell-Trumbull Pipeline --

21 Q. I understand.

22 A. -- they're taking the maximum at least  
23 that they drastically can take in the pipeline that  
24 is certified for off of North Coast.

25 Q. Why do you assume that, sir?

1           A.     Because they've had pressure issues at  
2     the other end of their system, so they need as much  
3     pressure coming in as they can get.

4           Q.     You're assuming they're taking everything  
5     North Coast can provide them?

6           A.     I'm assuming --

7           Q.     They're taking everything they're willing  
8     to pay for; is that a more fair statement?

9           A.     Yeah, I guess it depends at point of time  
10    if gas -- if they aren't able to buy gas for some  
11    reason.

12          Q.     And Mr. Zappitello talked about such a  
13    situation yesterday?

14          A.     That's correct.

15          Q.     And I want to stay on the Redirect, so I  
16    won't go there. Now, to obtain firm transport rather  
17    than interruptible transport, what does one do? You  
18    just --

19          A.     If we're talking about Orwell or  
20    Orwell-Trumbull, you negotiate with the pipeline.

21          Q.     Let's leave Orwell or Orwell-Trumbull out  
22    of it, just any pipeline, any shipper.

23          A.     If a distribution company --

24          Q.     No distribution company. If a shipper  
25    wants to ship on a pipeline.

1           A.    They would negotiate with that pipeline  
2           for a firm service contract.

3           Q.    They would pay for that firm service  
4           contract, correct?

5           A.    Typically they would pay more than they  
6           would for interruptible.

7           Q.    And they would pay more than they would  
8           for an interruptible?

9           A.    That's correct.

10          Q.    Are you aware of what DEO charges for  
11          firm transport service?

12          A.    Well, I assume it's their tariff rate.

13          Q.    What is their tariff rate, if you know?

14          A.    It was a three or four-step rate.

15          Q.    That's for volumetric charges. Do you  
16          know what they charge for their firm service?

17          A.    I don't know.

18          Q.    Do you know what a maximum transport  
19          daily quantity is per the --

20          A.    It would be a number in that contract  
21          between the shipper and the transmission company. It  
22          would be a number in the contract that they could  
23          nominate up to, that they being the shipper could  
24          nominate up to.

25          Q.    And that would typically apply only to

1 firm service?

2 A. No, no. Every interruptible contract or  
3 a firm contract would both have a maximum daily  
4 quantity in it. And there's a reason, because you  
5 might -- and if the contract's interruptible, it  
6 doesn't mean that it's going to be interrupted a  
7 hundred percent right off the bat.

8 The pipeline may institute flow orders  
9 that cuts that interruptible contract in half, for  
10 instance. Let's say they had a 2,000 a day maximum  
11 daily quantity, the interruption could be that  
12 they're now only allowed to flow 50 percent of that  
13 contract.

14 Q. Thank you for making that clear to me. I  
15 appreciate it. I've been troubled by that for days.

16 MR. DORTCH: I have no further questions.  
17 Thank you.

18 THE EXAMINER: Thank you. You're  
19 excused.

20 MR. SERIO: Your Honor, I renew my motion  
21 to admit Mr. Slone's testimony, OCC Exhibit 2, and I  
22 would also move OCC Exhibit 2A, Revised Schedule GS-3  
23 into the record.

24 THE EXAMINER: Any objection?

25 MR. DORTCH: No, objection, your Honor.



1 MR. MARGARD: No objection.

2 MR. YURICK: No objection.

3 THE EXAMINER: Exhibit OCC 2 and 2A will  
4 be admitted.

5 (EXHIBITS ADMITTED INTO EVIDENCE.)

6 MR. SERIO: Your Honor, before we get to  
7 Miss Carothers, I had a couple other documents I'd  
8 like to move into the record.

9 OCC had prefiled the deposition  
10 transcript of Miss Carothers and Mr. Osborne, and I'd  
11 like to mark those for identification. We already  
12 asked Orwell-Trumbull, and they didn't object. I'd  
13 like to mark the deposition of Miss Carothers and the  
14 attachments for the deposition as Exhibit OCC 3. I'd  
15 like to mark Mr. Osborne's deposition and Attachments  
16 as OCC Exhibit 4, and the confidential portion of  
17 Mr. Osborne's deposition and the confidential  
18 exhibits as OCC Exhibit 4A.

19 MR. DORTCH: No objections, your Honor.

20 (EXHIBITS MARKED FOR IDENTIFICATION.)

21 MR. SERIO: I don't have an envelope, but  
22 the confidential is yellow. And for ease of the  
23 record, since we filed them, I don't know that we  
24 need to attach them to the transcript, but I'll  
25 provide these to the court reporter anyways.

1 THE EXAMINER: Is there any objection to  
2 the admission of OCC 3, 4, and 4A?

3 MR. YURICK: No objection, your Honor.

4 MR. DORTCH: No, your Honor.

5 MR. SERIO: I have a copy if anyone needs  
6 one.

7 THE EXAMINER: Those will be admitted.

8 (EXHIBITS ADMITTED INTO EVIDENCE.)

9 THE EXAMINER: Why don't we take a  
10 ten-minute recess.

11 MR. DORTCH: Thank you, your Honor.  
12 Let's go off the record.

13 (Off the record.)

14 (Recess taken.)

15 THE EXAMINER: Let's go back on the  
16 record.

17 Mr. Dortch?

18 MR. DORTCH: Thank you, your Honor.  
19 Plaintiffs will rest. Plaintiffs do not feel the  
20 necessity of calling --

21 THE EXAMINER: Plaintiffs?

22 MR. DORTCH: Respondent. The funny thing  
23 is, most of the time I represent defendants anyways.  
24 The Respondent rests.

25 MR. KUMAR: Your Honor, for

1 clarification, would you be withdrawing  
2 Miss Carothers' testimony then?

3 MR. DORTCH: Miss Carothers' testimony is  
4 not part of the record as I understand it. It is  
5 prefiled testimony. And the fact that I did not put  
6 her on means --

7 MR. KUMAR: You're not putting it into  
8 the record.

9 MR. DORTCH: -- not putting it in the  
10 record.

11 THE EXAMINER: Okay. Is there anything  
12 more on behalf of the company?

13 MR. YURICK: Your Honor, I do have a  
14 motion which we can wait. Obviously Mr. Dortch's  
15 free to proceed however he wants, but there is this  
16 issue of the arbitration clause, and I would like to  
17 make a motion addressing that. I can do that now or  
18 some other point if you would like.

19 THE EXAMINER: I'm not sure other than  
20 this point where we would handle it.

21 MR. YURICK: I didn't either, but at any  
22 rate, the motion would be for the Commission to issue  
23 a stay on the arbitration proceedings until the  
24 Commission would decide whether or not the contract  
25 containing arbitration clause is actually a valid

1 contract.

2 The companies are proceeding to  
3 arbitration. They are -- There's expense related to  
4 that arbitration. And the companies would ask the  
5 Commission for an order staying those proceedings  
6 until the Commission would decide whether or not the  
7 contract is effective.

8 MR. DORTCH: Your Honor, with respect,  
9 the arbitration proceeding -- Well, your Honor, with  
10 respect, I don't believe the Commission has the  
11 authority to stay the administration of another  
12 tribunal, and an arbitration proceeding is precisely  
13 that.

14 I understand nobody wants to go through  
15 this twice certainly, but there certainly are issues  
16 in the arbitration proceeding that I believe are  
17 beyond -- remedies that are available in the  
18 arbitration proceeding that I believe are beyond the  
19 authority of the Commission to award my client.

20 And specifically, the issue of damages  
21 for breach of contract is not a matter that the  
22 Commission has jurisdiction over. The Commission may  
23 set aside this contract. It may not set aside this  
24 contract. It may make some ruling about the prudence  
25 of the contract.

1           It is my belief and I will be arguing  
2           that if the Commission decides that this is an  
3           imprudent contract and that Orwell Natural Gas was  
4           imprudent in entering into it, the solution to be  
5           ordered by the Commission is to not permit Orwell  
6           Natural Gas to recover those imprudent costs from the  
7           rate base. It is not to impose those costs on  
8           Orwell-Trumbull.

9           But in any event, there is the separate  
10          issue of damages beyond the jurisdiction of the  
11          Commission, and we would object to any order that  
12          would attempt to impose such a stay.

13          THE EXAMINER: Okay.

14          MR. SERIO: Your Honor, consistent with  
15          yesterday's ruling, we support the Commission's  
16          jurisdiction in the proceeding. At most then, it  
17          should be a matter that's briefed for the Commission,  
18          but OCC's entire theory of the case is that there was  
19          never a valid, binding contract in the first place.

20          And if the Commission agrees with OCC  
21          that there was never a contract, then an arbitration  
22          clause within the contract is null and void. So it  
23          makes sense for the Commission to go through its  
24          decision-making process prior to any arbitration  
25          proceeding because the Commission has jurisdiction

1 and the Commission can determine that there was no  
2 contract in the first place because for the factors  
3 that Mr. Slone raised in his testimony.

4 THE EXAMINER: Does the Staff have  
5 anything to say?

6 MR. MARGARD: I rise in a delicate  
7 position. Your Honor, I will certainly acknowledge  
8 that there is a contract that currently exists and  
9 has been approved by the Commission and which  
10 contains an arbitration clause. To the extent that  
11 that contract exists, I believe that the arbitration  
12 clause has some legal force.

13 I won't weigh in specifically with  
14 respect to the motion other than to say that absent a  
15 suspension of the contract, I believe that the  
16 Respondents have a right to pursue their arbitration  
17 rights.

18 THE EXAMINER: I'll take your motion  
19 under advisement. I believe it's a matter that you  
20 can include in the brief, and that will give both  
21 sides time to weigh in on that particular issue.  
22 Let's go off the record.

23 (Off the record.)

24 THE EXAMINER: Let's go back on the  
25 record. The briefing schedule will be as such:

1 Initial briefs will be due by December 16th and reply  
2 briefs due by January 8th. I would ask that all  
3 parties serve each other electronically and also the  
4 Bench.

5 And as there is a request for relief in  
6 the complaint with respect to monetary refunds, I'd  
7 also ask you to cite to particular cases with respect  
8 to that issue such as TCO, something like that.

9 Anything else on behalf of any parties?

10 MR. YURICK: Nothing on behalf of the  
11 companies, your Honor.

12 MR. DORTCH: Nothing on behalf of the  
13 Respondent, your Honor.

14 THE EXAMINER: OCC?

15 MR. SERIO: No, your Honor.

16 THE EXAMINER: The Staff?

17 MR. MARGARD: No, your Honor.

18 THE EXAMINER: We're adjourned. Thank  
19 you.

20 (The hearing was concluded at 11:53 a.m.)

21 - - -

CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Wednesday, November 4,  
2015, and carefully compared with my original  
stenographic notes.

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Cynthia L. Cunningham

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**Case No(s). 14-1654-GA-CSS, 15-0637-GA-CSS**

Summary: Transcript in the matter of Orwell Natural Gas Company vs. Orwell-Trumbull Pipeline Company, LLC hearing held on 11/04/15 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Cunningham, Cindy