

OCC EXHIBIT NO. \_\_\_\_\_

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint of Orwell	)	
Natural Gas Company,	)	
Complainant,	)	Case No. 15-0475-GA-CSS
v.	)	
Orwell-Trumbull Pipeline Company, LLC	)	
Respondent.	)	

**DIRECT TESTIMONY  
OF  
BRUCE M. HAYES**

**On Behalf of**  
**The Office of the Ohio Consumers' Counsel**  
*10 West Broad Street, Suite 1800*  
*Columbus, Ohio 43215-3485*

***March 15, 2016***

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## **ATTACHMENTS**

Attachment BMH-A: Bruce M. Hayes - List of Cases in which Testimony was filed

Attachment BMH-B: OCC Set 1, INT-2 and OCC Set 1, INT-11

**I. INTRODUCTION**

***Q1. PLEASE STATE YOUR NAME, BUSINESS ADDRESS AND POSITION.***

***A1.*** My name is Bruce M. Hayes. My business address is 10 West Broad Street, Suite 1800, Columbus, Ohio 43215-3485. I am employed by the Office of the Ohio Consumers' Counsel ("OCC") as a Principal Regulatory Analyst.

***Q2. PLEASE BRIEFLY SUMMARIZE YOUR EDUCATIONAL AND PROFESSIONAL EXPERIENCE.***

***A2.*** I graduated from the University of Kentucky in 1973 with a Bachelor of Science in Mechanical Engineering. I joined Aetna Life and Casualty in 1973 and held various positions related to Loss Control and Safety Engineering. In 1979, I joined Columbia Gas of Kentucky ("CKY") as an Industrial Sales Engineer. I transferred to Columbia Gas of Ohio ("Columbia") in 1986 and held a variety of positions in economic development, marketing and sales. During my time at the Columbia companies, I was actively involved in the development and implementation of the industrial and commercial gas transportation programs. In the early 1980s, I was involved in expanding CKY's transportation program from a single self-help customer to over fifty industrial and large commercial customers by initially establishing special contract interstate transportation programs like the Fuel Oil Displacement and Special Marketing Programs.

1 I was also involved in a customer issue regarding intrastate transportation and  
2 valuation of gas. As a result of the issue's resolution, Columbia modified its  
3 methodology for valuing gas from one based on volume to one based on British  
4 Thermal Units. This led to changes in transportation policies and billing in all the  
5 states in the Columbia Gas Distribution System.

6  
7 In the 1990s I managed the Columbia rate flexing or rate discounting program for  
8 industrial customers. In that capacity, I arranged for long-term capacity release to  
9 large customers and arranged discounts on Columbia Gas Transmission interstate  
10 pipelines. I provided input to the transportation and gas supply departments on  
11 issues such as transportation contracts, curtailment, enhanced banking  
12 arrangements and electronic measurement for large volume customers.

13  
14 In 2002 I joined OCC as a Senior Regulatory Analyst and was promoted to  
15 Principal Regulatory Analyst in 2010. I represent OCC on the gas committee of  
16 The National Association of State Utility Consumer Advocates and have served  
17 as an Executive Committee member with the North American Energy Standards  
18 Board. I have participated in various Ohio Gas Cost Recovery Proceedings and  
19 Management/Performance Audits while at Columbia Gas of Ohio and as an  
20 analyst for the OCC. I have been involved in a number of rate cases and  
21 accelerated infrastructure replacement and recovery cases associated with the four  
22 largest investor owned gas companies in Ohio. I have also participated in a  
23 number of external working groups related to gas transportation programs and

1 external working groups related to gas distribution companies moving toward  
2 exiting the merchant function or eliminating the standard offer.  
3

4 ***Q3. WHAT ARE YOUR RESPONSIBILITIES AS A PRINCIPAL REGULATORY***  
5 ***ANALYST?***

6 ***A3.*** My duties include research, investigation and analysis of gas and electric filings at  
7 the state and federal levels, participation in special projects, and assisting in  
8 policy development and implementation to protect residential consumers' best  
9 interest. I have also been the assigned leader of the OCC gas team since June 1,  
10 2008, and coordinate the activities of the members of the agency's gas team.  
11

12 ***Q4. HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY OR TESTIFIED***  
13 ***BEFORE THE PUCO?***

14 ***A4.*** Yes. I have submitted testimony or testified on behalf of OCC before the Public  
15 Utilities Commission of Ohio ("PUCO") in a number of cases involving gas or  
16 electric companies. A list of these cases is included in Attachment BMH-A.  
17

1   ***Q5.   HAVE YOU PREVIOUSLY SUBMITTED TESTIMONY BEFORE ANY***  
2           ***OTHER STATE REGULATORY COMMISSION?***

3   ***A5.***   Yes. I submitted testimony on behalf of CKY, before the Kentucky Public Service  
4           Commission in Rate Case No. 8281.<sup>1</sup> My testimony related to a long-term  
5           decrease in the forecasted throughput for CKY.

6  
7   ***Q6.   WHAT DOCUMENTS HAVE YOU REVIEWED IN PREPARATION OF***  
8           ***YOUR TESTIMONY IN THIS CASE?***

9   ***A6.***   I have reviewed the Complaint filed by Orwell Natural Gas (“Orwell”) against  
10          Orwell Trumbull Pipeline (“OTP”), OTP’s Answer and Statement, and the  
11          Response by Orwell to OTP’s Answer and Statement. I have also read the  
12          PUCO’s most recent winter reconnect order and reviewed certain policies and  
13          legal requirements that set forth public utilities’ obligations to customers.

14  
15   **II.    PURPOSE OF TESTIMONY**

16  
17   ***Q7.   WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS***  
18           ***PROCEEDING?***

19   ***A7.***   The purpose of my testimony is to protect Orwell’s residential customers located  
20          on Vrooman Rd., north of Interstate 90, help ensure they continue to receive  
21          service, and not suffer the consequences of OTP’s refusal to reconnect the now  
22          isolated OTP system north of the interstate highway.

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<sup>1</sup> *In the Matter of An Adjustment of Rates of Columbia Gas of Kentucky, Inc.*, Case No. 8281, Order (December 30, 1981).

1 ***Q8. WHAT ARE THE CIRCUMSTANCES OF THE POTENTIAL LOSS OF***  
2 ***SERVICE FOR ORWELL CUSTOMERS?***

3 ***A8.*** It is my understanding that OTP's pipeline on Vrooman Rd., north of Interstate  
4 90, was disconnected due to work being done on the interstate highway. This left  
5 the northern portion of the pipeline, which serves Orwell and 13 Orwell  
6 residential customers, isolated from the rest of OTP's pipeline system. The 13  
7 residential customers receive natural gas supply by a small number of production  
8 wells that are in receivership.<sup>2</sup>

9  
10 ***Q9. HAS OTP MADE AN APPLICATION TO THE PUCO TO ABANDON ITS***  
11 ***PIPELINE LOCATED UNDER INTERSTATE 90 THAT CONNECTS THE***  
12 ***NOW ISOLATED OTP PIPELINE LOCATED NORTH OF INTERSTATE 90***  
13 ***TO THE SOUTHERN OTP PIPELINE LOCATED SOUTH OF***  
14 ***INTERSTATE 90?***

15 ***A9.*** No. OTP has not filed an Application to abandon the OTP pipeline per the Ohio  
16 Revised Code 4905.20 and Revised Code 4905.21.

17

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<sup>2</sup> See Attachment BMH-B, OCC Set 1, INT-2.

1    ***Q10. HAS OTP RECONNECTED THE OTP PIPELINE LOCATED ON***  
2            ***VROOMAN RD., NORTH OF INTERSTATE 90, TO THE REST OF THE***  
3            ***PREVIOUSLY CONNECTED OTP PIPELINE SOUTH OF INTERSTATE***  
4            ***90?***

5    ***A10.*** No. The OTP pipelines have not been reconnected to each other, leaving the north  
6            portion isolated and with supply coming from a small number of wells that are  
7            currently in receivership.<sup>3</sup>

8  
9    ***Q11. IN YOUR OPINION HAVE OTP'S ACTIONS TO DATE CONSTITUTED AN***  
10           ***ABANDONMENT OF FACILITIES?***

11   ***A11.*** Yes. The pipeline in question has been disconnected, and is not providing access  
12           to interstate pipeline service to Orwell and its customers. At this time, there is no  
13           commitment from OTP to reconnect the pipeline. On advice of counsel, it is my  
14           understanding that if OTP does not intend to place this pipeline back in service  
15           (reconnect), then OTP should have filed an application with the PUCO. In an  
16           abandonment proceeding the PUCO would rule on the reasonableness of the  
17           abandonment request, considering the potential harm to customers. OTP cannot  
18           abandon these facilities without regulatory approval.

19  

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<sup>3</sup> See Attachment BMH-B, OCC Set 1, INT-11.



1    ***Q12. DO YOU BELIEVE THAT ABANDONING FACILITIES USED TO SERVE***  
2            ***CUSTOMERS IS UNREASONABLE?***

3    ***A12.*** Yes, if OTP does not reconnect the pipeline, Orwell's customers are at risk of  
4            being denied a reliable gas supply from OTP. And in turn, Orwell will be unable  
5            to ensure that those residential customers receive reliable natural gas service.

6  
7    ***Q13. CAN YOU ARTICULATE THE REASONS WHY ABANDONING***  
8            ***FACILITIES USED TO PROVIDE UTILITY SERVICE WOULD***  
9            ***DETRIMENTALLY AFFECT CUSTOMERS?***

10   ***A13.*** The abandonment of facilities could adversely affect the welfare of the public.  
11            The loss of service resulting from the abandonment of OTP's facilities could  
12            leave these customers without the ability to heat their houses. This presents clear  
13            dangers to these residential customers, especially in inclement weather. While  
14            customers may currently have access to gas from a few production gas wells  
15            currently in receivership, the reliability of this supply source is in question. The  
16            continued operation and production life of these wells is uncertain. As a result,  
17            their viability as a long-term supply source for customers is in doubt. Without  
18            natural gas service, the residential customers may be forced to convert to propane.  
19            Converting to propane would be both an expensive and inconvenient option for  
20            both the customers and Orwell.

21

1    ***Q14. IS ABANDONING FACILITIES WITHOUT PUCO APPROVAL CONTRARY***  
2    ***TO OHIO REGULATORY POLICY?***

3    ***A14.*** Yes. The Ohio Supreme Court and the United States Supreme Court have noted  
4       that, “states have an important stake in protecting the captive market and that state  
5       regulation of natural gas sales to local consumers serves important interests in  
6       health and safety, including requiring a dependable supply and ensuring that  
7       residential customers are not frozen out of their houses in cold months.”<sup>4</sup> It has  
8       long been state policy to ensure utilities exercise extreme caution when shutting  
9       off service.<sup>5</sup>

10  
11   ***Q15. IS IT STATE POLICY THAT A LOCAL DISTRIBUTION COMPANY***  
12   ***(“LDC”) LIKE ORWELL HAS DUTY TO SERVE THESE RESIDENTIAL***  
13   ***CUSTOMERS, EVEN IF OTP REFUSES TO RECONNECT THE LINE?***

14   ***A15.*** Yes, as the Ohio Supreme Court has stated, “Ohio also protects residential  
15       customers by requiring LDCs to follow certain administrative procedures before  
16       terminating service, and additional protections are afforded to ensure that Ohio  
17       LDCs provide continued service to low-income, elderly, and handicapped  
18       residential customers...And Ohio LDCs are currently default providers, or  
19       providers of last resort, for customers who return to LDCs for natural gas when an

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<sup>4</sup> *Columbia Gas Transmission Corp. v Levin*, 117 Ohio St.3d 122, 135-136 (2008) citing *Gen. Motors Corp. v. Tracy*, 519 U.S. 278, 306 (1997).

<sup>5</sup> “The Commission expects that the utility companies under our jurisdiction will assist customers in every way possible to maintain their service for heating purposes.” *In the Matter of the Commission’s Consideration of Solutions Concerning the Disconnection of Gas and Electric Service in Winter Emergencies for 2015-2016 Winter Heating Season*, Case No. 15-1460-GE-UNC, Finding and Order at ¶5-6 (Sep. 2, 2015).

1 alternative supplier fails to provide service.”<sup>6</sup> It is state policy to ensure that  
2 customers who are connected to the system are not subject to inappropriate  
3 disconnection or abandonment.  
4

5 **III.**

7 **IV. RECOMMENDATION**

9 ***Q16. WHAT IS YOUR RECOMMENDATION REGARDING RECONNECTING***  
10 ***ORWELL’S RESIDENTIAL CUSTOMERS?***

11 ***A16.*** My recommendation is that the PUCO take action to protect Orwell’s consumers  
12 and prevent OTP from abandoning any facilities that currently are necessary for  
13 Orwell to serve residential customers. The PUCO should either require OTP to  
14 file an application to abandon these facilities or require OTP to reconnect the  
15 pipeline to ensure that Orwell’s customers can continue to receive natural gas  
16 service.  
17

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<sup>6</sup> *Columbia Gas Transmission Corp.*, 117 Ohio St.3d at 136.

1 ***Q17. DO YOU HAVE ANY OTHER RECOMMENDATIONS REGARDING OTP***  
2 ***FILING AN APPLICATION TO ABANDON SERVICE?***

3 ***A17.*** Yes, OTP must follow the guidelines laid out in state law and show that the  
4 proposed abandonment “is reasonable” and has “due regard for the welfare of the  
5 public.”<sup>7</sup>

6  
7 ***Q18. DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?***

8 ***A18.*** Yes it does. However, I reserve the right to incorporate new information that may  
9 subsequently become available.

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<sup>7</sup> See R.C. 4905.21.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the *Direct Testimony of Bruce M. Hayes, on Behalf of the Office of the Ohio Consumers' Counsel*, was served on the persons stated below via electronic service this 15th day of March 2016.

/s/Ajay Kumar  
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**Bruce M. Hayes****List of Cases in which Testimony was submitted on Public Utility Regulation**

As an employee of the Office of the Ohio Consumers' Counsel (OCC):

<u>Company</u>	<u>Docket No.</u>	<u>Date</u>
Dominion East Ohio Gas Company	05-219-GA-GCR	2006
Columbia Gas of Ohio, Inc.	04-221-GA-GCR	2006
Columbia Gas of Ohio, Inc.	05-221-GA-GCR	2006
Columbia Gas of Ohio, Inc.	07-478-GA-UNC	2007
Duke Energy Ohio, Inc.	07-589-GA-AIR et al.	2008
Vectren Energy Delivery of Ohio, Inc.	07-1285-GA-EXM	2010
Dominion East Ohio Gas Company	11-2401-GA-ALT	2011
Dominion East Ohio Gas Company	08-169-GA-ALT	2011
Columbia Gas of Ohio, Inc.	08-1344-GA-EXM	2011
Dominion East Ohio Gas Company	12-1842-GA-EXM	2012
Columbia Gas of Ohio, Inc.	12-2637-GA-EXM	2012
Duke Energy Ohio, Inc.	12-1682-EL-AIR et al.	2013
Duke Energy Ohio, Inc.	12-1685-GA-AIR et al.	2013
Vectren Energy Delivery of Ohio, Inc.	13-1571-GA-ALT	2014
Duke Energy Ohio, Inc.	15-0050-GA-RDR	2015
Duke Energy Ohio, Inc.	14-1622-GA-ALT	2015

As an employee of Columbia Gas of Kentucky, Inc.:

<u>Company</u>	<u>Docket No.</u>	<u>Date</u>
Columbia Gas of Kentucky, Inc.:	8281	1981

**INT-2.** Does OTP plan on reconnecting the pipelines (mentioned in INT-1) currently separated by I-90 on Vrooman Rd?

**RESPONSE:** OTP is presently evaluating a connection of pipelines it owns north and south of I-90. It has, however, made no decisions regarding the establishment or maintenance of service via a pipeline beneath I-90.

**INT-11.** Have any studies been done to explore what alternative natural gas supply sources are available to OTP to supply gas to the OTP pipeline located north of I-90 along Vrooman Rd.?

**OBJECTION:** The interrogatory is vague and confusing as the meaning of a “study” is unclear, as is the meaning of “alternative.” No studies of alternative natural gas supply sources are within the possession, custody or control of Respondent.

**RESPONSE:** Notwithstanding the foregoing objection, OTP states that it is aware that there are five natural gas wells located north of I-90, south of the Grand River, and west of Vrooman Road, all of which are supply sources available to ONG end-use customers.

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Summary: Testimony Direct Testimony of Bruce M. Hayes on behalf of the Office of the Ohio Consumers' Counsel