

BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO

|  |   |                         |
|--|---|-------------------------|
| In the Matter of the Complaint of Orwell | ) |                         |
| Natural Gas Company,                     | ) |                         |
|  | ) |                         |
| Complainant,                             | ) |                         |
|  | ) | Case No.: 15-475-GA-CSS |
| Vs.                                      | ) |                         |
|  | ) |                         |
|  | ) |                         |
| Orwell-Trumbull Pipeline Company, LLC    | ) |                         |
|  | ) |                         |
| Respondent.                              | ) |                         |

**DIRECT TESTIMONY OF MICHAEL S. ZAPPITELLO**

**Submitted on behalf of Orwell Natural Gas Company**

**March 15, 2016**

1       **I. INTRODUCTION**

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

3       **A.** Michael S. Zappitello. Orwell Natural Gas Company (“ONG”). 8470 Station  
4 Street, Mentor, Ohio 44060.

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

6       **A.** I am employed by Northeast Ohio Natural Gas Corporation (“Northeast”).  
7 Although I am compensated by Northeast, I am currently acting Director of Gas  
8 Procurement for Northeast, ONG, and Brainard Gas Corporation.

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

10      **A.** I am testifying on behalf of ONG.

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

12      **A.** I was employed by Webb Manufacturing from 1980 through 2007 as Shipping  
13 Supervisor, Traffic Manager and Department Manager. My duties included routing  
14 all shipments per published tariffs and supervising up to sixty (60) employees. I  
15 supervised all purchasing functions, supervised all customer representatives, and  
16 handled negotiations outside vendors. I was also responsible for reviewing  
17 contracts and overseeing all levels of inventory. In 2008, I was hired by Cobra  
18 Pipeline Co., LTD’s (“Cobra”) manager of purchasing. At the time, I was on the  
19 Orwell-Trumbull Pipeline Company, LLC’s (“OTP”) payroll. In 2010, I began  
20 purchasing gas for all of the Ohio utilities. I was employed as Director of Gas  
21 Procurement for Northeast in 2013.

22      **Q. Describe the duties of your current positions?**

23      **A.** I am responsible for all gas procurement for ONG, Northeast and Brainard. I am  
24 also responsible for system balancing for the Ohio utilities.

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

26      **A.** The purpose of my testimony is to support the claims ONG asserted against OTP  
27 in the complaint filed by ONG in Commission Case No. 15-475-GA-CSS.

28      **Q. Please summarize your testimony.**

29      **A.** First, I describe the timeline of events that led up to the filing of the Complaint and  
30 the timeline of events that followed the filing of the Complaint. Second, I discuss  
31 my attempts to reach a resolution with OTP during the pendency of the proceeding.

1 Finally, I summarize ONG's recommendations for the Commission with respect to  
2 ONG's various concerns.

3 **II. DESCRIPTION OF THE TIMELINE OF EVENTS**

4 **Q. Please describe the timeline of events prior to the filing of the Complaint in**  
5 **Commission Case No.: 15-475-GA-CSS.**

6 **A.** On March 5, 2015, Dale Strickland from Cobra, informed Jeff Heidnik of the  
7 pending disconnect of the Vrooman Road System (Orwell Gas System number 51)  
8 to take place the following weekend (March 13, 2015). This would have cut off  
9 (fourteen) 14 residential gas customers from access to pipeline gas in the middle of  
10 heating season. In response to Dale Strickland's visit, I emailed a letter (see  
11 attached) to Jessica Carothers on March 5, 2015.<sup>1</sup> I was very concerned with the  
12 pending disconnect, as ONG had never been notified of the disconnect prior to  
13 March 5, 2015 and there were several issues and questions that needed to be raised.  
14 Jessica Carothers responded to my detailed letter on March 6, 2015, with a mere  
15 email asking that ONG be prepared to relight customers and to provide ONG's  
16 contractor invoice and work order for the original boring of Route 90.<sup>2</sup> Jessica  
17 Carothers' email also stated that the original permit and work on the original line  
18 was done under ONG. This created a concern that OTP was claiming ONG owned  
19 the line. In response to this email, I emailed Jessica Carothers back informing her  
20 that if they had proof that the line was ONG's, they needed to show such and refund  
21 money paid for transport.

22 On March 6, 2015, I had also received a voice mail from Richard M. Osborne  
23 asking that I call him back about gas for these customers. Upon calling him back  
24 he informed me that he could supply gas to these customers through wells his  
25 production company's operated (at the time they were under receivership). One  
26 caveat to this was that ONG or a related entity had to purchase all of his production  
27 gas off of the OTP Pipeline. I stated to him that this was not an option and Richard  
28 M. Osborne hung up.

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<sup>1</sup> A true and accurate copy of the March 5, 2015 letter, attached as **MSZ Attachment A.**

<sup>2</sup> A true and accurate copy of the March 6, 2016 email, attached as **MSZ Attachment B.**

1 On March 9, 2015, a Complaint was filed by ONG against OTP in this Commission  
2 Case No.: 15-475-GA-CSS.<sup>3</sup>  
3

4 **III. DESCRIPTION OF ONG'S ATTEMPTS AT RESOLUTION**

5 **Q. Please describe the attempts you and ONG made seeking resolution with OTP**  
6 **during the pendency of this proceeding.**

7 A. On March 10, 2015, the Commission issued an Order prohibiting OTP from  
8 shutting off service to the customers off of Vrooman Road and ordering service be  
9 maintained to the customers. Due to the nature and immediacy of termination of  
10 service, on March 12 and March 13, 2015, settlement conferences were held. In  
11 efforts to work alongside OTP, an agreement was reached with the Trustee for the  
12 production companies to supply gas from the wells located on the North side of  
13 Interstate 90 and to displace this gas on the OTP systems. At this time, ONG agreed  
14 to the interruption of service and the Commission lifted the directive to maintain  
15 service to these customers and also ordered that OTP provide a status report as to  
16 the reconnection of these customers to the OTP system. As of the filing of this  
17 testimony, no status report has been filed with the Commission by OTP.

18 On June 4, 2015, I sent an email back to Jessica Carothers asking for an update for  
19 replacing the line under I-90. In her reply, she simply stated that they are still  
20 waiting on Wenger Pipeline Construction ("Wenger"). A settlement conference  
21 was held on June 9, 2015, but ONG and OTP were unable to reach a resolution, as  
22 ONG still sought timeline for the reconnection of the pipeline and OTP was not  
23 able to provide an update. Several months passed and I sent another follow up  
24 email to Jessica Carothers on September 22, 2015, informing her that ODOT had  
25 finished their work on Vrooman Road.<sup>4</sup> Jessica Carothers responded to the email  
26 that OTP will revisit this and keep us posted. She also suggested that I contact  
27 Richard M. Osborne. Due to the tensions between the companies and parties  
28 involved, it was decided to not directly contact Richard M. Osborne. Since  
29 September 24, 2015, ONG has continued to patiently wait until the Vrooman Road

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<sup>3</sup> A true and accurate copy of the Complaint, attached as MSZ Attachment C.

<sup>4</sup> A true and accurate copy of the September 22, 2015 letter, attached as MSZ Attachment D.

1 line be reconnected. No further updates from OTP or status reports have been  
2 provided to me or any other individual at ONG with respect to the reconnection of  
3 the line. The fourteen (14) residential customers continue to be served solely by  
4 the production wells.

5 **IV. ONG's RECOMMENDATIONS FOR THE COMMISSION**

6 **Q. What are your recommendations regarding the Complaint filed in**  
7 **Commission Case No.: 15-475-GA-CSS?**

8 **A.** First, the Commission should create a final deadline for OTP to reconnect the  
9 Vrooman Road line. ONG's reliance on production well gas, wherein four of the  
10 five wells are currently involved in Bankruptcy proceedings, puts the fourteen (14)  
11 customers that are fed by this production well gas in limbo, as the status of these  
12 wells and their ownership are not stable. Furthermore, ONG only has one source  
13 of gas for these customers, as the line severed prevented any connection with  
14 interstate gas. ONG also requests that OTP provide status reports on a monthly  
15 basis with respect to the Vrooman Road to the Commission and ONG, similar to  
16 the status report as ordered in the Entry filed in this case dated March 15, 2015.  
17 In the alternative, the Commission can order reconnection of this line by OTP, as  
18 of this time the supply of natural gas to this system is very much in doubt.

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

20 **A.** Yes. However, I reserve the right to supplement or revise my testimony.



March 5, 2015

Jessica Carothers

Orwell Trumbull Pipeline Company, LLC

3511 Lost Nation Road

Willoughby, Ohio 44094

Mrs. Carothers:

Today, March 5<sup>th</sup>, 2015 Dale Strickland, an employee of Orwell Trumbull Pipeline Company, LLC (OTP) came into the offices of Orwell Natural Gas (ONG) to speak to Jeff Heidnik, General Manager of ONG. Marty Whelan, President of ONG was also present.

The reason for Dale's visit was to inform ONG that the system fed by OTP off of Vrooman Road in Lake County will need to be shut down completely as there is a need to move the OTP pipe from under US 90. He informed us that this has to be done by the 18<sup>th</sup> of March 2015

For Orwell Natural Gas to plan for this a number of questions will need to be answered.

- 1) What is the timeline for construction of the new pipe under US 90 to reunite the North of US 90 system to OTP supply?
- 2) What is the plan to supply the North of US 90 ONG customers as our supplies will be cut off?
- 3) If it is to use others gas, how does OTP plan on paying back said volumes?
- 4) What date was OTP first notified that the pipe had to be moved?
- 5) Please provide a detailed Map of the shut off valves both North and South of US 90 that will be utilized so ONG can determine what customers will be effected by this.
- 6) What date does OTP plan on doing this work, and what is the anticipated length of time of the outage?

Please provide these answers and map by the end of Business day tomorrow, Friday March 6<sup>th</sup>, 2015 to Jeff Heidnik at the e mail address listed below so we can have a better understanding of how we may proceed.

Thank you in advance for you cooperation.

Mike Zappitello

Director of Gas Procurement

Orwell Natural Gas Company

CC: Jeff Heidnik [jheidnik@egas.net](mailto:jheidnik@egas.net)

Sent via e mail to: Jessica Carothers and faxed to the OTP office at 440-255-1985

**Gina Piacentino**

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**From:** Mike Zappitello <mzappitello@egas.net>  
**Sent:** Saturday, March 7, 2015 11:01 AM  
**To:** Jessica Carothers  
**Cc:** Eric Weldele; Gina Piacentino; Jeff Heidnik  
**Subject:** Re: Vrooman Road Project

Jessica:

That line belongs to OTP, OTP has been charging their tariff rate on it since it was put in service and that we have no information on the cost of or the installation of the line. If the permit was pulled under Orwell Natural Gas, that time frame would suggest it was Ottar Magnusson presumably at the direction of Rick, so OTP could use the public right of way but it's their line. If they have some evidence that the line belongs to Orwell they need to cease any construction on it as they are not Operator Qualified to work on Orwell's system. If in fact the line belongs to Orwell, they can refund all dollars we and anybody have paid to use it and we will move it with our own crews.

Thanks

Mike

Sent from my iPad

On Mar 6, 2015, at 1:23 PM, Jessica Carothers <[jcarothers@cobrapipeline.com](mailto:jcarothers@cobrapipeline.com)> wrote:

Hi Mike,

I wanted to notify you to have an Orwell crew prepared to relight the system once OTP comes back on. This will likely happen Wednesday, but we will keep you posted of any changes as the time nears.

Since the permit and work of the original line was done under Orwell Natural Gas, I ask that you provide the original contractor's invoice and information from that work order.

**Jessica Carothers**

ph 440.255.1945  
fax 440.255.1985

<image001.jpg>

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

ORWELL NATURAL GAS  
COMPANY,

Complainant,

vs.

ORWELL-TRUMBULL PIPELINE  
COMPANY, LLC,

Respondent.

Case No.: 15-475-PUCSS

RECEIVED-DOCKETING DIV  
2015 MAR -9 PM 2:22  
PUCO

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**COMPLAINT AND REQUEST FOR RELIEF**

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Pursuant to §4905.26 and §4929.24 of the Ohio Revised Code, Orwell Natural Gas Company hereby files this Complaint with the Public Utilities Commission of Ohio (hereinafter referred to as "PUCO") asserting violations of the Ohio Revised Code ("ORC"), against Orwell-Trumbull Pipeline Company, LLC and requests the relief set forth herein.

In support of their Complaint, the Complainant states as follows:

**PARTIES**

1. Orwell Natural Gas Company (hereinafter referred to as "ONG") is an Ohio Corporation with facilities located at 95 E. Main St, Orwell, OH 44076.
2. Orwell-Trumbull Pipeline Company, LLC (hereinafter referred to as "OTP") is an Ohio limited liability company and intrastate pipeline company located at 8500 Station Street, Mentor, Ohio 44060.



### **JURISDICTION**

3. OTP is engaged in the transportation of natural gas in Ohio, and, as such, is a pipe-line company under ORC §4905.03.
4. As a pipe-line company under ORC §4905.03, OTP is also a public utility as defined in ORC §4905.02.
5. ONG is a public utility pursuant to ORC §4905.02.
6. Due to the nature of these two entities, the PUCO has exclusive jurisdiction over this matter.

### **GENERAL ALLEGATIONS**

7. The allegations contained in Paragraphs 1 through 6 of this Complaint are re-alleged and incorporated as if fully set forth herein.
8. The PUCO has approved Tariffs for ONG and OTP and the two parties have been acting pursuant to those Tariffs since 2008. (See Entry and Order under Case No.: 08-1244).
9. On March 5, 2015, OTP, through an employee, notified ONG that a system fed by OTP off of Vrooman Road in Lake County will be shut down *completely* (emphasis added) for an alleged need to move OTP pipe and/or maintenance.
10. In response to this information, ONG, to protect its customers and for the safety of all involved, sent correspondence to OTP requesting detailed information about the shut down as well as plans to ensure customers would be able to receive gas.
11. On March 6, 2015, OTP responded to this correspondence with a mere email stating "have an Orwell crew prepared to relight the system once OTP comes back on." No other information or answers were provided.

12. As of the filing of this Complaint, the owner of the line was presumed to be OTP, as OTP has been charging the Tariff rate since the line was in service; however, this ownership is now in dispute.

13. Further, there is no evidence or apparent need for this complete shutdown and/or maintenance.

14. If the shutdown is permitted, this would leave several customers without gas during the middle of the winter season.

15. Complainant now files this Complaint with the Commission, asserting the following violations of Ohio law and Commission regulations.

#### **COUNT ONE**

16. The allegations contained in Paragraphs 1 through 14 of this Complaint are re-alleged and incorporated as if fully set forth herein.

17. ORC §4929.22 establishes the minimum service requirements of a retail natural gas supplier for the protection of consumers in the state.

18. ORC §4929.22(E) specifically mandates "minimum service quality, safety and reliability."

19. OTP's obvious intent and plans to shut down the system off Vrooman road is in violation of §4929.

#### **COUNT TWO**

20. The allegations contained in Paragraphs 1 through 18 of this Complaint are re-alleged and incorporate as if fully set forth herein

21. The proposed complete shutdown of the system off Vrooman Road is unjust and unreasonable and violates the PUCO Entry issued in Case No. 14-1654-GA-CSS.

22. ORC §4905.26 provides that any service, measurement or practice by a public utility that is in any respect unjust, unreasonable, unjustly discriminatory, unjustly preferential, or in violation of law, the PUCO will set a hearing.

23. OTP's obvious intent and plans to shutdown the system off Vrooman road is in violation of ORC §4905.26.

### **PRAYER FOR RELIEF**

WHEREFORE, for the reasons stated herein, Complainant respectfully requests that the Commission grant the following relief:

1. Find that the Complainant has set forth reasonable grounds for their Complaint;
2. Order an Entry be enforced as to prevent shut-off for residential and commercial customers of ONG;
3. Set a hearing and notify all parties involved;
4. Award Complainant's attorney's fees as statutorily authorized;
5. Order any other remedy permitted by ORC §4905.61;
6. Order any other relief that the Commission deems appropriate, just and reasonable.

Respectfully submitted,

**THE WELDELE & PIACENTINO  
LAW GROUP CO., LPA**

GINA M. PIACENTINO-0086225

88 E. Broad Street, Suite 1560

Columbus, Ohio 43215

Telephone: 614-221-0800

Facsimile: 614-388-5533

E-mail: [gpiacentino@wp-lawgroup.com](mailto:gpiacentino@wp-lawgroup.com)

*Counsel for Orwell Natural Gas Company*

**PRAECIPE FOR SERVICE**

TO THE CLERK:

Please cause the Complaint and Request for Relief be served upon the following Defendant

ORWELL-TRUMBULL PIPELINE CO., LLC  
ATTN: THOMAS J SMITH  
8500 STATION STREET  
SUITE 100  
MENTOR, OH 44060

To: Jessica Carothers

From: Mike Zappitello

Subject: Vrooman Road North.

Date: September 22<sup>nd</sup>, 2015

Jessica:

As you are aware we are still not connected to the Orwell Trumbull system north of Route 90.

We had reached out to Kevin King on another matter. He was the project head from ODOT. He has told us there are no longer any construction issues that would be stopping the new line from going under route 90.

Can you confirm a date when we can anticipate these two lines getting reconnected?

Thank you

Mike Zappitello

Director of Gas Procurement.

Orwell Natural Gas Company.

jj

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**3/15/2016 3:57:57 PM**

**in**

**Case No(s). 15-0475-GA-CSS**

Summary: Testimony Testimony of Mike Zappitello on behalf of Orwell Natural Gas Company  
electronically filed by Ms. Gina M Piacentino on behalf of Orwell Natural Gas Company