

In the Matter of the Commission's)
Investigation into Ohio Rural Natural Gas) Case No. 16-1578-GA-COI
Co-op and Related Matters)

NOW COMES Ohio Rural Natural Gas Co-op (“ORNG Co-op”), and respectfully moves the Public Utilities Commission of Ohio (“PUCO” or “Commission”) to enter a stay until at least June 1, 2017, of that portion of its January 18, 2017 Opinion and Order which directs ORNG Co-op to suspend all service to its customers by March 1, 2017. The reasons for granting this Motion are set forth in the attached Memorandum in Support, which is incorporated by reference herein.

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

On January 18, 2017, the Public Utilities Commission of Ohio (“PUCO” or “Commission”) issued an Opinion and Order (the “Opinion & Order”) which found that Ohio Rural Natural Gas Co-op (“ORNG Co-op”) is in violation of the Commission’s rules for intrastate gas pipeline facilities, and that its facilities are hazardous to human life and property. Most importantly, the Order directs ORNG Co-op to cease operations and suspend natural gas service to all of its customers by March 1, 2017. As demonstrated in ORNG Co-op’s Application for Rehearing of the Opinion and Order filed contemporaneously with this Motion, the evidence does not support the Opinion & Order’s conclusion that ORNG Co-op systems and facilities are hazardous to human life and property. More importantly, however, the Order to cease operations on March 1, 2017 – only six weeks after the date the Order was entered, and a mere two weeks after ORNG Co-op’s application for rehearing would come due – inevitably means that some number of ORNG Co-op’s member-customers will be deprived, in the midst of winter, of a source of energy to heat their homes, to provide hot water, and to prepare meals if ORNG Co-op is compelled to suspend service to those member-customers on March 1, 2017. That deprivation is unnecessary under the facts of this case, and a stay of that portion of the Commission’s Order is therefore appropriate.

II. DISCUSSION

A. The Commission Should Stay Implementation of Its Order that ORNG Co-op Suspend Natural Gas Service to Its Customers on March 1, 2017

Together with this Motion, ORNG Co-op is filing an Application for Rehearing of this Commission’s January 18, 2017, Opinion and Order. Pursuant to R.C. § 4903.10(B), the filing of ORNG Co-op’s Application for Rehearing stays the Order that ORNG Co-op suspend natural

gas service to its customers on March 1, 2017. However, a separate, more formal, stay of the Commission's service suspension order is necessary to ensure that member-customers of ORNG Co-op are confident that they will not be left without natural gas service during winter, to permit member-customers to transition off the system if they desire to do so, and to permit ORNG Co-op to satisfy Staff that the concerns that it has raised are unjustified.

First, R.C. § 4903.10(B) provides that:

Where [an] application for rehearing has been filed before the effective date of the order as to which a rehearing is sought, the effective date of such order, unless otherwise ordered by the commission, shall be postponed or stayed pending disposition of the matter by the commission or by operation of law.

R.C. § 4903.10(B).

ORNG Co-op intends to satisfy this Commission and its Staff that ORNG Co-op is a responsible operator providing service to end use customers. To that end, ORNG Co-op fully complied with the immediate directives of this Commission's Opinion and Order, without seeking a stay of those directives. It timely mailed copies of the Commission's January 18, 2017 Opinion & Order and the Notice thereof to its member-customers as directed by the Order, for example. It is responding to inquiries from member-customers by advising them to contact alternative suppliers, where available. Through counsel, it has provided the Commission Staff with copies of all system maps, showing the location and extent of all taps by which ORNG Co-op is providing service to its member customers so that Staff is better able to understand the scope of ORNG Co-op's operations. ORNG Co-op provided the Commission with a confidential list of its member-customers, again as directed. It is working to satisfy any concerns raised by Staff regarding the immediate safety and integrity of its systems and facilities, and to that end it is currently performing a leak survey, requested by Staff, of all ORNG Co-op systems and taps. Its Duck Creek / Ellsworth Road systems are idle, and purged of gas.

ORNG Co-op's Application for Rehearing is being filed before the March 1, 2017 implementation date of the suspension of service. Thus, implementation of the suspension of service portion of the Opinion & Order is automatically stayed by operation of law. R.C. § 4903.10(B); *see also Kanally v. Ameritech Ohio Co.*, 8th Dist. Cuyahoga No. 89472, 2008-Ohio-4446, ¶ 16 (Sept. 4, 2008) (holding that "[t]he PUCO's order becomes effective immediately after entry, unless . . . a timely application for rehearing [is filed]."). Even though the March 1, 2017 service suspension requirement of the Opinion & Order may be stayed by operation of law, the Commission should formally recognize a stay to both prevent member-customers from being left without heat during the midst of winter and to reassure customers that they will not abruptly suffer the loss of their source of heat, hot water, and in some cases cooking fuel.

ORNG Co-op currently has approximately 120 customers that receive natural gas service from it. Nearly half those customers receive service through either ORNG Co-op's "Tin Man" system or its "Halleck Young" system. This Commission should note that Commission Staff directly observed ORNG Co-op address and correct Staff's objections to the construction and initial operation of those systems, and thus Staff is aware that the deficiencies they perceived to exist have already been addressed.

The Commission should also be aware that another significant portion of ORNG Co-op's customers did not have natural gas service prior to obtaining it from ORNG Co-op. For some of those customers, gas fuel was a completely new source of fuel. Many other member-customers expended the substantial costs of converting from propane heat in order to receive natural gas service. These member-customers would all incur significant cost to convert their service back to electric or propane. Further, some customers are likely to find it difficult to make

arrangements to switch service back by March 1, 2017. Indeed, even customers that once received natural gas service from Orwell Natural Gas prior to switching service to ORNG Co-op and now wish to switch back are likely to need time to react to the Commission's entry, to obtain Orwell Natural Gas approval of conversion back to Orwell Natural Gas, and to allow Orwell Natural Gas the opportunity to make such system changes as it may require to provide service.

Immediate enforcement of the Commission's Order will certainly mean that dozens of residents of Northeast Ohio will be left without the ability to heat their homes and facilities beginning on March 1, 2017, when the average high temperature in the Mentor, Ohio area (where ORNG Co-op is based) is 39 and the average low temperature is 23 degrees Fahrenheit. *See* AccuWeather.com for Mentor Ohio, <http://www.accuweather.com/en/us/mentor-oh/44060/month/340001?monyr=3/01/2017> (last visited Feb. 15, 2017). As such, the March 1, 2017 service suspension requirement of the Opinion & Order should be stayed to ensure that customers are not left without service during winter.

III. CONCLUSION

ORNG Co-op respectfully requests that this Commission stay – until at least July 1, 2017 – that portion of its Order that compels ORNG Co-op to cease providing service altogether.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The PUCO's e-filing system will serve notice of this filing upon counsel for the for the Complainant, the Ohio Consumers' Council, and the Staff of the Public Utilities Commission of Ohio.

Further, I hereby certify that a true and accurate copy of the foregoing was served upon counsel for Staff of the Public Utilities Commission this February 17, 2017, by electronic mail:

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Summary: Motion Motion to Stay the Commission's Order to Discontinue Service to Customers by March 1, 2017 electronically filed by Mr. Michael D. Dortch on behalf of Ohio Rural Natural Gas Co-op