

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Orwell-)
Trumbull Pipeline Company, LLC to Amend) Case No. 16-1726-PL-AIR
Its Rates and Charges)
)
)

**MEMORANDUM IN SUPPORT OF THE MOTION TO INTERVENE OF ORWELL
NATURAL GAS COMPANY AND BRAINARD GAS CORP.**

I. INTRODUCTION

In this proceeding, Orwell-Trumbull Pipeline Company, LLC (“OTPC”) seeks an increase in rates and charges for firm and interruptible transportation services, as well as rates for shrinkage (the “Application”). The Application will significantly impact customers through, among other things, revised rates and charges. Orwell Natural Gas Company (“Orwell”) and Brainard Gas Corp. (“Brainard”) are large customers in OTPC’s service territory. Accordingly, Orwell and Brainard have a real and substantial interest in this proceeding, and the Commission’s disposition of this proceeding may impair or impede their ability to protect that interest. Thus, Orwell and Brainard respectfully request that the Commission grant their motion to intervene in this proceeding.

II. LEGAL STANDARD

R.C. § 4903.221 provides that any “person who may be adversely affected by a public utilities commission proceeding” may intervene in the proceeding. The Commission’s own rules reinforce the right to intervene:

“Upon timely motion, any person *shall be* permitted to intervene in a proceeding upon a showing that . . . [t]he person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless

the person's interest is adequately represented by existing parties.”
O.A.C. 4901-1-11(A) (emphasis added).

“The regulation's text is very similar to Civ. R. 24 – the rule governing intervention in civil cases in Ohio – which is generally liberally construed in favor of intervention.” *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St. 3d 384, 387 (2006) (internal quotations omitted). In considering a motion to intervene, the Commission's rule directs that the Commission should consider: 1) the nature and extent of the intervenor's interest; 2) the legal position advanced by the intervenor and its probable relation to the merits of the case; 3) whether intervention will unduly prolong or delay the proceedings; 4) whether the intervenor will significantly contribute to full development and equitable resolution of the factual issues; and 5) the extent to which the intervenor's interest is represented by existing parties. *See* O.A.C. 4901-1-11(B)(1)-(5); *see also* R.C. § 4903.221(B)(1)-(4). Orwell and Brainard's Motion to Intervene satisfies each of these factors.

III. ARGUMENT

A. The Nature and Extent of Orwell and Brainard's Interest

Orwell and Brainard are directly affected by the Application as large customers in OTPC's service territory. As such, Orwell and Brainard have a substantial interest in the outcome of this proceeding and in ensuring that the rates are established appropriately. That interest cannot be represented by any other party to this proceeding, as no other party to this proceeding represents Orwell and Brainard's interest as customers.

B. The Legal Position Asserted by Orwell and Brainard

Orwell and Brainard support OTPC's goals of providing safe and reliable service. However, the specific details regarding how the Application is implemented may have a significant impact on Orwell and Brainard. As such, Orwell and Brainard seek to intervene to

ensure that OTPC's Application is implemented in an orderly manner consistent with all relevant legal principles.

C. Orwell and Brainard's Intervention Will Not Unduly Prolong or Delay The Proceeding

OTPC initially filed the Application on August 15, 2016, in response to the Commission's Opinion and Order ("Order") in Case No. 14-1654-GA-CSS, et al. In its Order, the Commission directed OTPC and any other pipeline companies owned or controlled by Richard Osborne to file applications to determine just and reasonable rates for firm and interruptible transportation services and rates for shrinkage.¹ On September 26, 2016, OTPC filed an amended abbreviated application. The Commission accepted the Application for filing as of September 26, 2016.

To date, the Attorney Examiner has not yet established an intervention deadline. As a result, Orwell and Brainard's Motion to Intervene is timely and will not prejudice any existing parties or unduly prolong or delay the proceedings.²

D. Orwell and Brainard Will Contribute To The Full Development Of Factual Issues And Orwell and Brainard's Interests Are Not Already Represented by Existing Parties.

Orwell and Brainard are large customers with extensive operations in OTPC's service territory; thus, Orwell and Brainard are uniquely situated to contribute to the full development of factual issues in this case. Orwell and Brainard have substantial experience in Commission proceedings, including experience in and involvement with the complaint cases which gave rise to the Order in Case No. 14-1654-GA-CSS directing OTPC to file the Application in this

¹ See *In re Complaint of Orwell Natural Gas Co. v. Orwell-Trumbull Pipeline Co., LLC*, Case No. 14-1654-GA-CSS, et al., Opinion and Order (June 15, 2016), at 35.

² See O.A.C. 4901:1-11(E) (providing that a motion to intervene "will not be considered timely if it is filed later than five days prior to the scheduled date of hearing or any specific deadline established by order of the commission for purposes of a particular proceeding").

proceeding. Orwell and Brainard's experience will benefit the Commission's review of the Application. In addition, Orwell and Brainard's participation will significantly contribute to the full development and resolution of the issues raised by the Application. Orwell and Brainard's interests are not already represented by existing parties, as no other party or customer is currently involved in this proceeding.

IV. CONCLUSION

WHEREFORE, Orwell and Brainard respectfully request that the Commission grant this Motion to Intervene and allow Orwell and Brainard to be made parties of record to this proceeding.

Respectfully submitted,

/s/ N. Trevor Alexander
JAMES F. LANG (0059668)
N. TREVOR ALEXANDER (0080713)
MARK T. KEANEY (0095318)
41 S. High St.
1200 Huntington Center
Columbus, Ohio 43215
Telephone: (614) 621-1500
Fax: (614) 621-0010
jlang@calfee.com
talexander@calfee.com
mkeaney@calfee.com

*Attorneys for Orwell Natural Gas Company
and Brainard Gas Corp.*

CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 13th day of September, 2017. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander

One of Attorneys for Orwell Natural Gas
Company and Brainard Gas Corp.

This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 16-1726-PL-AIR

Summary: Motion Motion to Intervene and Memorandum in Support of Orwell Natural Gas Company and Brainard Gas Corp. electronically filed by Mr. Trevor Alexander on behalf of Orwell Natural Gas Company and Brainard Gas Corp.