

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
ORWELL NATURAL GAS COMPANY,**

COMPLAINANT,

CASE NO. 16-2419-GA-CSS

V.

**ORWELL-TRUMBULL PIPELINE
COMPANY, LLC,**

RESPONDENT.

ENTRY

Entered in the Journal on November 17, 2017

{¶ 1} Orwell-Trumbull Pipeline Company, LLC (OTP) is a pipeline company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 2} Orwell Natural Gas Company (Orwell) is a natural gas company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 3} Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory.

{¶ 4} On December 20, 2016, Orwell filed a complaint against OTP. Orwell states that, on July 8, 2008, Orwell entered into a 15-year, natural gas transportation service agreement with OTP. The agreement was a reasonable arrangement as defined by R.C. 4905.31 and approved by the Commission on December 19, 2008, in Case No. 08-1244-PL-AEC. Orwell avers that, according to the terms of the agreement, the rates would adjust every five years to reflect current market conditions. Orwell contends that, after the parties

were unable to successfully negotiate a rate adjustment, in March 2015, OTP unilaterally raised Orwell's rates. At that time, Orwell filed a complaint with the Commission in Case No. 15-637-GA-CSS. Thereafter, on June 15, 2016, the Commission issued an Opinion and Order modifying the reasonable arrangement and resolving the contract dispute.¹ *In re Complaint of Orwell Natural Gas Co. v. Orwell-Trumbull Pipeline Co., LLC*, Case No. 14-1654-GA-CSS, et al. (*First Complaint Case*), Opinion and Order (June 15, 2016). Since that time, according to Orwell, OTP has been charging Orwell at a rate that does not comply with the Commission's Order. Orwell maintains that it continues to pay OTP on a monthly basis at an amount that is in line with the Commission's directives. Since then, according to Orwell, on October 20, 2016, OTP filed a complaint against Orwell in Lake County Common Pleas Court seeking payment for the disputed amount.

{¶ 5} On March 8, 2017, OTP filed its answer to the complaint. In its answer, Orwell denied many of the allegations and asserted several affirmative defenses, including that the Commission lacks jurisdiction to hear the case. Thereafter, on July 7, 2017, OTP filed a motion to dismiss Orwell's complaint.

{¶ 6} On August 1, 2017, the attorney examiner issued an Entry that, among other things, scheduled a settlement conference for August 11, 2017. Thereafter, on August 11, 2017, the attorney examiner granted Orwell's motion for continuance and rescheduled the settlement conference for August 21, 2017. However, due to scheduling conflicts, the conference did not take place.

{¶ 7} At this time, the attorney examiner finds that the settlement conference should be rescheduled. Accordingly, the settlement conference will convene on December 5, 2017, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 12th Floor, Conference Room 1247, Columbus, Ohio 43215-3793. If it becomes apparent that the parties are not

¹ An application for rehearing was filed by OTP in the *First Complaint Case* on July 15, 2016. On August 3, 2016, the Commission issued an Entry on Rehearing granting the application for rehearing for the limited purpose of further consideration of the matters specified in the application.

likely to settle this matter, the parties should be prepared to discuss a procedural schedule to facilitate the timely and efficient processing of this complaint.

{¶ 8} Pursuant to Ohio Adm.Code 4901-1-26(F), the representatives of the public utility shall investigate the issues raised in the complaint prior to the settlement conference, and all parties attending the conference shall be prepared to discuss settlement of the issues raised and shall have the authority to settle those issues. In addition, parties attending the settlement conference should bring with them all documents relevant to this matter.

{¶ 9} As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St.2d 189, 214 N.E.2d 666 (1966).

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the settlement conference be rescheduled in accordance with paragraph 7. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Nicholas Walstra

By: Nicholas Walstra
Attorney Examiner

jrj/vrm

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in

Case No(s). 16-2419-GA-CSS

Summary: Attorney Examiner Entry rescheduling the settlement conference to convene on December 5, 2017, at 10:00 a.m.; electronically filed by Vesta R Miller on behalf of Nicholas Walstra, Attorney Examiner, Public Utilities Commission of Ohio