

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE JOINT
APPLICATION OF UTILITY PIPELINE, LTD.,
COBRA PIPELINE COMPANY, LTD., AND
KNOX ENERGY COOPERATIVE
ASSOCIATION, INC. TO SUBSTITUTE
NATURAL GAS SERVICE AND TRANSFER
ASSETS AND CUSTOMERS.

CASE NO. 21-803-GA-ATR

ENTRY

Entered in the Journal on February 22, 2022

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

{¶ 2} On September 25, 2019, Cobra filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code as Case No. 19-15961 in the United States Bankruptcy Court, Northern District of Ohio.

{¶ 3} On July 16, 2021, Cobra, Utility Pipeline, Ltd. (UPL), and Knox Energy Cooperative Association, Inc. (Knox) (jointly, Joint Applicants) filed a joint application to substitute natural gas service and transfer assets and customers. Contemporaneously, the Joint Applicants filed the direct testimonies of three individuals, each of whom is an official with one of the above respective entities, to support the application. According to the application, Cobra is currently in Chapter 11 bankruptcy, and the United States Bankruptcy Court for the Northern District of Ohio has approved Cobra's sale of the Holmesville, North Trumbull, and Churchtown natural gas pipeline systems (collectively, Systems) and natural gas taps for certain rural farms and a nursery (collectively, Taps), along with substantially all of its other assets used in operation of its business, to UPL and has approved UPL's subsequent assignment of these Systems and Taps to Knox, pending any required regulatory approval by the Commission. Consequently, the joint application requests that the Commission authorize the transfer of assets and customers from Cobra to UPL, to approve UPL's subsequent assignment of the assets and customers to Knox, and to approve

the substitution of natural gas service by UPL and Knox for Cobra. Joint Applicants explain that UPL is a limited liability corporation engaged in the business of providing natural gas distribution management and operations services to natural gas utilities and natural gas cooperatives providing services in several states, including Ohio. Knox is a member-owned, not-for-profit corporation that is operated exclusively for its members and is engaged in the business of supplying natural gas to its members within Ohio. Therefore, Joint Applicants assert that, in accordance with R.C. 4905.02 and 4905.04, the Commission does not have jurisdiction over UPL or Knox except for gas pipeline safety purposes. Generally, the Joint Applicants describe that Knox will own the Systems and Taps, while UPL will manage and operate the Systems and Taps on Knox's behalf, pursuant to a management agreement between the two entities. According to Joint Applicants, this situation is not an abandonment of service by Cobra under R.C. 4905.20 and 4905.21, because cessation of service by Cobra is synchronously accompanied with uninterrupted and adequate service by UPL and Knox, nonregulated entities.

{¶ 4} R.C. 4905.20 provides that no public utility furnishing services within this state shall abandon any gas line or any portion thereof, or the service rendered thereby that has once been used for public business, except as provided in R.C. 4905.21. R.C. 4905.21 provides that any public utility wishing to abandon all or any part of its lines must file an application with the Commission and obtain authorization to abandon service prior to such abandonment.

{¶ 5} The Commission has previously found that transactions where customers move from service by a regulated utility to service by a nonregulated entity are not tantamount to an abandonment of service or facilities and are not subject to Commission review under R.C. 4905.20 and 4905.21. *In re Northern Industrial Energy Development, Inc. and Knox Energy Cooperative Association, Inc.*, Case No. 05-1267-GA-ATR, Finding and Order (Dec. 14, 2005); *In re Columbia Gas of Ohio, Inc.*, Case No. 04-1417-GA-ATR, Finding and Order (Feb. 2, 2005). In such cases, the Commission has found it appropriate to exercise its authority pursuant to R.C. 4905.05 and 4905.06 to ensure that the proposed transfer results

in uninterrupted and adequate service to the utility's existing customers. *In re Ohio Edison Co.*, Case No. 99-955-EL-ATR, Finding and Order (Nov. 18, 1999).

{¶ 6} On July 20, 2021, Northeast Ohio Natural Gas Corp. (NEO) filed a motion to intervene in this proceeding.

{¶ 7} By Entry dated July 26, 2021, the attorney examiner directed Cobra to send a letter of notice with an attached copy of the July 26, 2021 Entry, by August 6, 2021, to all of its customers of the proposed transfer to UPL and Knox and to file confirmation of the mailing of the letter of notice and attached Entry to customers, along with a list of the customers to which the notice was provided. In addition, the attorney examiner also solicited comments from interested persons or entities regarding the joint application and instructed interested parties to file their comments by August 20, 2021.

{¶ 8} On July 28, 2021, Stand Energy Corporation (Stand) filed a motion to intervene in this proceeding.

{¶ 9} On July 30, 2021, Joint Applicants filed a joint motion for a supplemental procedural schedule and also requested expedited treatment. In the joint motion, Joint Applicants requested that the procedural schedule be expanded to allow for reply comments or supplemental testimony to be filed by August 27, 2021, and requested that any hearing be set no later than September 3, 2021. In support of their request, Joint Applicants argued that such a procedural schedule would assist parties in presenting the issues in an efficient fashion, which would help avoid financial and operational concerns associated with extending the case beyond August 2021.

{¶ 10} On August 5, 2021, Joint Applicants filed a memorandum contra the motions to intervene in this proceeding, specifically arguing that, while they do not oppose intervention, the scope of the intervention, if granted, should be expressly limited to matters relevant to the issues that are determinative and relevant to the questions presented in the proceeding. On August 11, 2021, NEO filed a reply in support of its motion to intervene.

{¶ 11} On August 6, 2021, NEO filed a memorandum in opposition to the joint motion for a supplemental procedural schedule. NEO requested that the Commission adopt a procedural schedule to allow intervenors to file their comments after Joint Applicants' proposal is complete, considering NEO believes Joint Applicants' application does not provide sufficient information on how NEO would be served under the proposal. NEO also argued that it would be prejudicial to intervenors to adopt a procedural schedule that allows supplemental testimony to be filed without providing intervenors the opportunity to pursue appropriate discovery in response to such testimony.

{¶ 12} On August 10, 2021, the attorney examiner granted the Joint Applicants' motion for a supplemental procedural schedule, in part, and denied the motion, in part. To help further develop the facts and issues surrounding this matter, the attorney examiner allowed reply comments regarding the joint application to be filed by August 27, 2021. Also, the attorney examiner acknowledged the Joint Applicants' request for urgency but emphasized that review and consideration of the filed comments is appropriate before possibly setting this matter for hearing; therefore, the attorney examiner denied Joint Applicants' request to set a deadline to file supplemental testimony and to set a date for hearing.

{¶ 13} On August 17, 2021, Cobra filed correspondence noting that it had complied with the directives in the July 26, 2021 Entry by mailing a letter of notice with an attached copy of the July 26, 2021 Entry to all of its customers of the proposed transfer to UPL and Knox, and it included the list of customers to whom the letter was sent.

{¶ 14} On August 20, 2021, NEO and Stand filed their respective comments.

{¶ 15} On August 27, 2021, Joint Applicants filed reply comments.

{¶ 16} On the same date, Joint Applicants filed a motion for protective order regarding portions of their reply comments. On September 13, 2021, NEO filed a

memorandum contra the motion for protective order. Joint Applicants filed their reply on September 20, 2021.

{¶ 17} On November 18, 2021, Joint Applicants filed a supplement to the joint application to add Northern Industrial Energy Development, Inc. (NIED) as a Joint Applicant and to amend the joint application to substitute natural gas service and transfer assets and customers. On the same date, NIED filed testimony in support of the amended application. According to the amended application, after the Systems and Taps are sold to UPL, UPL will assign the Taps to Knox, as initially planned; however, UPL will now assign the Systems to NIED instead of Knox. Joint Applicants assert that NIED is a public utility, as defined in R.C. 4905.02, and began sales service in 1987 in Ohio. In 2002, UPL purchased NIED and began operating it as a stand-alone natural gas utility, when in 2006, NIED sold all of its residential pipeline systems and customers to Knox in a transaction approved by the Commission in Case No. 05-1267-GA-ATR. After that transaction, NIED served approximately 10 commercial transportation customers, and three of those customers were eventually transferred to Dominion East Ohio in 2007 after approval of such transfer by the Commission in Case No. 07-633-GA-ATR. NIED continues to provide transportation services to commercial customers through pipelines in Wyandot, Stark, and Medina counties. Joint Applicants assert that NIED has operated its natural gas pipeline systems safely and reliably for over 35 years without any formal complaint to the Commission by any customer of NIED. Joint Applicants also note that, concurrently with this application supplement, and in support of the proposed transfer, NIED has filed an application for authority to convert to a pipeline company and for approval of an amended transportation tariff in Case No. 21-1186-PL-ATA.

{¶ 18} At this time, the attorney examiner believes it is appropriate for the parties to provide a status update regarding this case, including an update on the progress of any potential settlement negotiations. Accordingly, the parties are directed to attend a virtual status conference on March 9, 2022, at 10:00 a.m. via Webex. The Commission will email

instructions to the parties at their e-mail addresses on record for participation in the status conference prior to the event.

{¶ 19} Although only parties will be able to actively participate, a non-party may attend the status conference by accessing the Webex event by internet at <https://bit.ly/21-803-PHC> and entering PUCO as the password or dialing 1-408-418-9388 and entering 2331 477 8686 as the event number. Additional information is available by contacting the Commission's Consumer Call Center at 1-800-686-7826.

{¶ 20} Counsel should join the Webex event through internet access and must have a computer or smart device with a camera, microphone, and speakers; an e-mail address; and reliable internet service.

{¶ 21} It is, therefore,

{¶ 22} ORDERED, That a status conference be scheduled in accordance with Paragraph 18. It is, further,

{¶ 23} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Matthew J. Sandor

By: Matthew J. Sandor
Attorney Examiner

GAP/kck

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Case No(s). 21-0803-GA-ATR

Summary: Attorney Examiner Entry ordering that a status conference be scheduled in accordance with Paragraph 18. electronically filed by Kelli C. King on behalf of Matthew Sandor, Attorney Examiner, Public Utilities Commission of Ohio