

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Joint Application of :
Utility Pipeline, Ltd., :
Cobra Pipeline Company, :
Ltd., and Knox Energy : Case No. 21-803-GA-ATR
Cooperative Association, :
Inc. to Substitute :
Natural Gas Service and :
Transfer Assets and :
Customers. :

- - -

PROCEEDINGS

before Matthew Sandor, Attorney Examiner, at the
Public Utilities Commission of Ohio, conducted via
Webex video conference, called at 10:04 a.m. on
Wednesday, March 9, 2022.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215-5201
(614) 224-9481

- - -

APPEARANCES:

Baker & Hostetler LLP
By Mr. David F. Proaño
And Mr. Taylor M. Thompson
Key Tower
127 Public Square, Suite 2000
Cleveland, Ohio 44114

On behalf of Utility Pipeline, Ltd.,
Knox Energy Cooperative Association,
Inc., and Northern Industrial Energy
Development, Inc.

Benesch, Friedlander, Coplan & Aronoff, LLP
By Mr. N. Trevor Alexander
41 South High Street, Suite 2600
Columbus, Ohio 43215

On behalf of Northeast Ohio Natural Gas
Corp.

Kravitz, Brown & Dortch, LLC
By Mr. Michael D. Dortch
and Mr. Justin M. Dortch
65 East State Street, Suite 200
Columbus, Ohio 43215

On behalf of Cobra Pipeline Company, Ltd.
Dave Yost, Ohio Attorney General
Mr. John Jones, Section Chief
By Mr. Werner L. Margard, III,
Assistant Attorney General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.
Coffey Law LLC
By Mr. Thomas W. Coffey
2430 Tremont Avenue
Cleveland, Ohio 44113

On behalf of Cobra Pipeline Company, Ltd.

- - -

1 Wednesday Morning Session,
2 March 9, 2022.

3 - - -

4 EXAMINER SANDOR: Let's go on the record.
5 The Public Utilities Commission of Ohio
6 calls for a status conference at this time and place
7 in Case No. 21-803-GA-ATR which is captioned In the
8 Matter of the Joint Application of Utility Pipeline,
9 Ltd, Cobra Pipeline Company, Ltd, and Knox Energy
10 Cooperative Association, Inc. to Substitute Natural
11 Gas Service and Transfer Assets and Customers.

12 Good morning, everyone. My name is Matt
13 Sandor. I'm the Attorney Examiner assigned by the
14 Commission to this case.

15 At this time we'll take appearances of
16 the parties. First, on behalf of Utility Pipeline
17 Limited, Knox Energy Cooperative Association, Inc.,
18 and Northern Industrial Energy Development, Inc.

19 MR. PROAÑO: Good morning, Your Honor.
20 This is David Proaño from Baker & Hostetler,
21 Cleveland, Ohio. I have with me my associate, Taylor
22 Thompson, who is on the line as well. We represent
23 those three entities. Thank you.

24 EXAMINER SANDOR: Thank you.

25 Next, counsel on behalf of Cobra Pipeline

1 Company.

2 MR. DORTCH: Good morning, Your Honor.
3 Michael Dortch, Kravitz, Brown & Dortch, 65 East
4 State Street, Suite 200, Columbus, Ohio. Also with
5 me is Justin Dortch.

6 EXAMINER SANDOR: Thank you.

7 And I believe we have Mr. Coffey on the
8 line as bankruptcy counsel for Cobra.

9 MR. COFFEY: May it please the court.
10 Thomas W. Coffey, Coffey Law, LLC, Cleveland, Ohio,
11 bankruptcy counsel for Cobra Pipeline Company
12 Limited.

13 EXAMINER SANDOR: Thank you for joining
14 us this morning.

15 And then counsel on behalf of Intervenor
16 Northeast Ohio Natural Gas Corp.

17 MR. ALEXANDER: Good morning. Trevor
18 Alexander from the Benesch firm, representing
19 Northeast Ohio Natural Gas.

20 EXAMINER SANDOR: Counsel for Stand
21 Energy Corporation. I don't believe she's joining us
22 this morning.

23 And then counsel on behalf of Board
24 Staff.

25 MR. MARGARD: Thank you, Your Honor.

1 Werner Margard, Assistant Attorney General, on behalf
2 of the Commission Staff.

3 EXAMINER SANDOR: Thank you.

4 So we've had the initial application
5 filed so far in this matter, a few rounds of
6 procedural filings, and then also a supplement and an
7 amendment to the initial application. So at this
8 point I would just like to know from the parties
9 and -- or like to get from the parties an update on
10 the case. So at this time I would just like to kick
11 it back to the parties, to whomever may want to offer
12 the update, but perhaps Mr. Proaño might be the
13 appropriate person here.

14 MR. PROAÑO: Vern, do you want to provide
15 the update or do you want me to?

16 MR. MARGARD: It matters not. I will
17 tell you, Your Honor, that the parties have been
18 engaging in discussions to try to resolve issues
19 between them with respect to terms and conditions of
20 service, including rates to be charged for those
21 services. We have had difficulty reaching that
22 divide. We have ongoing discussions. I do not know
23 that we are necessarily at an impasse but we have had
24 great difficulty reaching an agreement among the
25 parties.

1 We have recently involved the Commission
2 Rates Analysis Staff which has submitted data
3 requests to the principal parties here who have
4 responded. We have had conversations with each of
5 them this week and anticipate discussions following
6 this status conference to continue exploring whether
7 a resolution of the case by agreement remains
8 possible. And I'll go that far and toss it back to
9 the parties to amplify.

10 EXAMINER SANDOR: Feel free, anyone else,
11 who would like to provide any further update.

12 MR. ALEXANDER: Yeah, I guess I will,
13 Your Honor. I think Mr. Margard outlined where we
14 are correctly. The only thing I would add is that
15 Northeast Ohio Gas' hope is that we're able to
16 resolve this case without having to go forward
17 through additional discovery and a hearing, that
18 would be the goal. But to remind the Bench an entry
19 was issued last year, stating that, if needed, there
20 would be an additional procedural schedule issued
21 with time for discovery, the ability for Intervenors
22 to respond, you know, things have changed, there's
23 been a supplemental application since this happened,
24 but the ability to respond to the supplemental
25 application, Intervenor testimony regarding that

1 supplemental application, if needed, and a hearing.
 2 Those issues were all put off and I think
 3 appropriately so, but if we are unable to reach an
 4 agreement, we would need to have those scheduled.

5 EXAMINER SANDOR: Right. And of course
 6 I'll take that under advisement if we do indeed reach
 7 an impasse. Obviously some type of procedural
 8 schedule, including a hearing, would need to be
 9 scheduled so everyone would be given the appropriate
 10 due process at that point.

11 And then to step back just a second.
 12 When we were speaking about a resolution, I want to
 13 confirm, are we talking about a stipulation in front
 14 of the Board? Is that what you --

15 MR. ALEXANDER: That's correct.

16 MR. MARGARD: Yes, yes.

17 EXAMINER SANDOR: Okay. Is there any
 18 other updates beyond that from the parties?

19 MR. ALEXANDER: We do have a pending
 20 motion for protective order. I don't know that needs
 21 to be resolved as part of the settlement discussions
 22 in light of the change in the application, but that
 23 is also out there.

24 EXAMINER SANDOR: Okay. And that's
 25 needed as well. So obviously, too, if we reach a

1 full resolution in this, we would expect -- or would
2 hope or ask the parties to address that as well in
3 some type of separate filing. I would appreciate it.

4 Okay. So --

5 MR. MARGARD: The only thing I would
6 note, Your Honor, is that obviously there remains a
7 bankruptcy proceeding pending with respect to Cobra
8 Pipeline. Mr. Coffey is present. He is counsel for
9 the debtor in that proceeding. I don't know if
10 there's anything that you need to or wish to know
11 about the status of that particular proceeding but
12 I'm certain he can fill you in.

13 We have had an auction process and bids,
14 and we have tentative purchase agreements which have
15 resulted in the filings before the Commission and,
16 otherwise, I think the bankruptcy proceeding is kind
17 of waiting on us for the time being, but I'll let
18 Mr. Coffey address anything in that proceeding that
19 you may wish to know.

20 MR. COFFEY: I would confirm what's just
21 been summarized very aptly by Mr. Margard. The
22 bankruptcy process has gone through very smoothly and
23 has approved a proposed sale to UPL or its designee.
24 We have been waiting for the PUCO process to work its
25 way through. We've been waiting I would say fairly

1 patiently because we're patient people by nature, but
 2 in terms of how bankruptcy cases proceed,
 3 particularly those under Chapter 11, this delay has
 4 seemed like a long time. There are certain financial
 5 exigencies here, there are certain pressure points
 6 coming at the debtors from other parties, right now
 7 we've banked those to the extent that we can and held
 8 them off, but from the bankruptcy point of view
 9 there's a certain degree of urgency now toward
 10 getting this resolved one way or the other.

11 EXAMINER SANDOR: So two things on that
 12 point is that we intend to also continue pressing to
 13 kind of get to the point of whether -- in this case
 14 whether we can reach a full resolution or, you know,
 15 if need be, take this beyond that.

16 On top of that, I do remember in previous
 17 filings a reference to Huntington Bank and a
 18 collateral cash order and that having some, as you
 19 aptly put, pressure points on this case. Is there
 20 any update on that in terms of timing?

21 MR. COFFEY: We have had a couple of
 22 extended telephone conferences with Tim Palmer. Tim
 23 Palmer is the attorney at Buchanan Ingersoll in
 24 Pittsburgh who represents Huntington Bank.
 25 Mr. Palmer and the bank understand what's -- what's

1 being processed here at the PUCO level. They have
 2 been suitably eager to have this thing resolved from
 3 a commercial banking perspective. From a commercial
 4 banking and bankruptcy perspective, they've been what
 5 I might describe as incredibly patient with the
 6 process. I think it might be fair to say that their
 7 patience is wearing thin, but because they've gotten
 8 a lot of information, they've had calls where
 9 Mr. Proaño and his team, and Mr. Dortch and his team
 10 have been on there together with me and at times
 11 other parties too, and understanding what the process
 12 is has helped a lot to keep their confidence in place
 13 for now, but it's something, operating a large
 14 commercial bankruptcy case with this particular
 15 environment and the bank with its position is a
 16 little bit like operating with assorted panoplies
 17 hanging over our head.

18 EXAMINER SANDOR: Okay. Thank you,
 19 Mr. Coffey.

20 MR. PROAÑO: Your Honor, David Proaño,
 21 counsel for the Joint Applicants. I want to echo
 22 what everyone said. I think that's an accurate
 23 recitation.

24 We filed this case back in, you know, the
 25 summer of 2021. And in July, on July 30th, 2021, we

1 sought an expedited schedule. That wasn't granted at
2 the time. But I do think there is a sense of urgency
3 to this proceeding that we've been trying to push
4 from the beginning of the case. Those issues are
5 that much more urgent now because of the delay. And
6 we've been trying to find a resolution to this case
7 for months, and we sent, you know, a stipulated
8 settlement months ago to the parties and we have been
9 negotiating that.

10 But I do think that we should operate
11 under a fairly tight timeline here. You know, we
12 have to also keep in mind that these are operating
13 pipeline systems that have received a minimal amount
14 of attention during the bankruptcy process and the
15 years preceding it, so there are very necessary
16 maintenance and upgrade issues that have to be
17 addressed by the new owner and they have to be
18 addressed in the near term. The construction season
19 is coming up this year. If you want to get the
20 upgrades this year, this transaction needs to close
21 fairly soon.

22 So I think, Your Honor, as you consider
23 what further deadlines to put on the parties, we are
24 anxious and eager to get this matter resolved either
25 through a stipulation or through a hearing process.

1 We just need, I think, kind of the pressure of some
2 tight deadlines to make this happen. I'm hopeful
3 that we will be able to resolve the outstanding
4 issues with all the parties. I think the outstanding
5 issues are very focused and very narrow. It's just a
6 matter of getting to that point.

7 So, with that, Your Honor, I hope you
8 understand that perspective of the pipeline system,
9 and I thought it would be helpful to provide you that
10 information.

11 EXAMINER SANDOR: Okay. Thank you.

12 Anything else?

13 MR. DORTCH: Your Honor, this is Michael
14 Dortch on behalf of Cobra Pipeline. I would
15 echo Mr. Proaño in his request for a sense of urgency
16 at this point in time. This matter has been pending
17 for a while. I'm less familiar with the bankruptcy
18 process, of course, than Mr. Coffey is, but I have
19 certainly sat through meetings where I sense that the
20 patience of the lender and its bankruptcy counsel is
21 now being tested. I think that getting a procedural
22 schedule and to a hearing date, particularly one
23 closer rather than far away, may do a good deal to
24 assuage some of the concerns that those folks have
25 expressed.

1 EXAMINER SANDOR: Okay. Thank you,
2 Mr. Dortch.

3 Anything else?

4 MR. ALEXANDER: Yeah. I guess I'll put a
5 bow on this. No objection to a schedule sooner
6 rather than later. We have been holding off on
7 additional discovery, waiting on the pleasure of the
8 Bench to set that new deadline. If you'd like to
9 pursue expedited discovery to move this forward,
10 we're certainly willing to do that. And earlier I
11 think Mr. Dortch's words were sooner rather than
12 later for a hearing, certainly no objection there,
13 again so long as there's some period of time for
14 discovery and then testimony from NEO if we are
15 unable to reach agreement.

16 EXAMINER SANDOR: Okay. Thanks.

17 So -- and it's also my understanding from
18 discussions off the record that there is a scheduled
19 settlement negotiation talk today, is that correct,
20 after this?

21 MR. ALEXANDER: Yes.

22 EXAMINER SANDOR: Okay. In terms of the
23 urgency that everyone is, you know, mentioning about
24 the case and agree to want to keep shepherding this
25 along, would -- I think the way I would prefer to go

1 forward with this is perhaps by the end of this week
 2 or early next week if the parties or Mr. Proaño could
 3 file correspondence in the docket, noting whether,
 4 you know, a resolution has been reached or not, and
 5 then at that point I can rather quickly try to issue
 6 a procedural schedule for the case if there is an
 7 impasse especially. Does that -- is that fair for
 8 you all? Is that enough time? Would you like a week
 9 for that correspondence to come in, or preferences
 10 there?

11 MR. PROAÑO: Vern, what's your thinking
 12 on that?

13 MR. MARGARD: I have ducked out of one
 14 hearing in order to join this one. I anticipate
 15 being in that hearing through Tuesday and we're
 16 expected to go quite late at least a couple of
 17 evenings, so I am really quite tied up. I do have
 18 some other activities involving this case that we're
 19 trying to squeeze in during that time, but I probably
 20 can't participate much this week yet. I think next
 21 week is certainly doable from Staff's perspective,
 22 but this week my hands are pretty tied.

23 EXAMINER SANDOR: Okay. Would it be
 24 possible then for an update, you know, at the end of
 25 next Thursday? Is that pushing it for you?

1 MR. MARGARD: I think an update is
2 certainly possible. Certainly we can do that, yes.
3 I don't know how much progress we will make but we
4 will make every effort to make progress. I think
5 today will be fairly telling in terms of our
6 likelihood of being very successful. I think
7 certainly we can update you next Thursday; no
8 difficulty doing that.

9 EXAMINER SANDOR: Okay. So that will be
10 the plan then if -- please file correspondence in the
11 docket as an update on how negotiations are going by
12 next Thursday. If you do intend or would like more
13 time at that point because you really think you need
14 a few more days, just mention so, please, in the
15 correspondence and I'll hold off on issuing any type
16 of entry or further procedural schedule for that
17 moment but, otherwise, if you have reached an
18 impasse, then we'll take it from there.

19 MR. MARGARD: Okay.

20 EXAMINER SANDOR: Everyone understand?

21 MR. PROAÑO: Yes, Your Honor, it makes
22 sense.

23 EXAMINER SANDOR: All right. Thank you
24 very much. And next Thursday, just to have -- to tie
25 a bow on it, I believe is March -- March 17th,

1 St. Patrick's Day.

2 Okay. All right. Well, that's all I
3 have. Is there anything else from the parties?

4 MR. PROAÑO: Not from our clients, Your
5 Honor. Thank you.

6 EXAMINER SANDOR: Okay. Hearing none, we
7 are adjourned for today.

8 (Thereupon, the proceedings concluded at
9 10:22 a.m.)

10 - - -

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, March 9, 2022, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires July 17, 2023.

- - -

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

3/29/2022 12:14:42 PM

in

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

Summary: Transcript 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. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn