

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

555 Walnut Street, 5th Floor, Forum Place  
Harrisburg, Pennsylvania 17101-1923  
(717) 783-5048  
800-684-6560

FAX (717) 783-7152  
consumer@paoca.org

October 12, 2018

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
Commonwealth Keystone Bldg.  
400 North Street  
Harrisburg, PA 17120

Re: Michael G. Deegan, *et. al* v. Knox Energy Cooperative Association, Inc.  
Docket No. C-2018-3004165, *et. al*

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

Copies have been served per the attached Certificate of Service.

Respectfully Submitted,

/s/Dianne E. Dusman  
Dianne E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. 38308  
E-Mail: DDusman@paoca.org

Attachment

cc: Honorable Mary D. Long, ALJ  
Certificate of Service

CERTIFICATE OF SERVICE

Michael G. Deegan	:	C-2018-3004165
Charles E. Spindler	:	C-2018-3004179
Cherie Roddy	:	C-2018-3004201
Joyce Fedusa and Thomas Fedusa	:	C-2018-3004342
Nancy R. Nail	:	C-2018-3004346
Melvin Bines	:	C-2018-3004354
Norma D. Fritz and James Leach	:	C-2018-3004411
James Hollenbaugh	:	C-2018-3004524
	:	
	:	
v.	:	
	:	
	:	
Knox Energy Cooperative Association, Inc.	:	

I hereby certify that I have this day served a true copy of the following document, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 12<sup>th</sup> day of October 2018.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

Richard A. Kanaskie, Esquire  
Bureau of Investigation & Enforcement  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2<sup>nd</sup> Floor  
Harrisburg, PA 17120

SERVICE BY EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Todd Stewart  
Hawke, McKeon & Sniscak LLP  
100 North Tenth Street  
Harrisburg, PA 17101  
*Attorneys for Respondent Knox Energy  
Cooperative Association, Inc.*

Cherie Roddy  
839 Deaver Lane  
Creve Coeur, MO 63141

James Leach  
PO Box42  
Rome, OH 44085

Charles E. Spindler  
PO Box 15  
Fisher, PA 16225

John Hollenbaugh  
2662 Gravel Lick Rd.  
Leeper, PA 16233

Joyce and Thomas Fedusa  
102 Deer Drive  
New Kensington, PA 15068

Melvin Bines  
2682 Gravelick Road  
Leeder, PA 16233

Michael Deegan  
4141 Ellwood Rd.  
New Castle, PA 16101

Nancy Nail  
137 N. Aspen Ct.  
Apt. #1  
Warren, OH 44484

Respectfully Submitted,

/s/Dianne E. Dusman

Dianne E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. 38308  
E-Mail: DDusman@paoca.org

Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. # 93682  
E-Mail: DLawrence@paoca.org

Counsel for:  
Office of Consumer Advocate

555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael G. Deegan	:	C-2018-3004165
Charles E. Spindler	:	C-2018-3004179
Cherie Roddy	:	C-2018-3004201
Joyce Fedusa and Thomas Fedusa	:	C-2018-3004342
Nancy R. Nail	:	C-2018-3004346
Melvin Bines	:	C-2018-3004354
Norma D. Fritz and James Leach	:	C-2018-3004411
James Hollenbaugh	:	C-2018-3004524
	:	
v.	:	
	:	
Knox Energy Cooperative Association, Inc.	:	

---

PREHEARING CONFERENCE MEMORANDUM  
OF THE  
OFFICE OF CONSUMER ADVOCATE

---

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Pursuant to Section 333 of the Public Utility Code, 66 Pa.C.S. Section 333, the Office of Consumer Advocate (OCA) provides the following:

**I. INTRODUCTION**

Eight members of the Knox Energy Cooperative Association, Inc. (Knox) have filed Formal Complaints against Knox in response to notification received from Knox that natural gas service to them would cease effective October 31, 2018. Knox filed Answers to the Formal Complaints, Preliminary Objections and moved to consolidate them.

The Preliminary Objections seek dismissal of the complaints on the ground that Knox is not a public utility and, therefore, the Public Utility Commission (PUC) has no jurisdiction to decide the complaints.

The OCA submitted a Notice of Intervention and Public Statement on October 3, 2018, in Charles Spindler v. Knox Energy Cooperative Association, Inc., Docket No. C-2018-30044179, pursuant to 52 Pa. Code Sections 5.71-5.74. The OCA supports consolidation of all of the Formal Complaints and asks that, following consolidation, its intervention be deemed to apply to all of them. Pursuant to Administrative Law Judge (ALJ) Long's Prehearing Conference Order of October 4, 2018, the OCA intends to participate in its statutory capacity and as a signatory to the prior settlements involving Knox.

## II. ISSUES

### A. Commission Jurisdiction and Compliance with Prior Orders

Knox Energy Cooperative Association, Inc., asserts in its Answers and its Preliminary Objections to the Formal Complaints that it is a non-jurisdictional entity. The OCA submits, however, that based on the facts known to the OCA at this time, it appears that Knox has not complied with prior Commission Orders that require it to provide information to its members as cooperatives generally do.

In the matter which resulted in the approval of a Joint Petition for Approval of Application and Adoption of Settlement Agreement (Joint Petition) in Docket No. A-2015-2478270, the OCA, Knox and United Pipeline Ltd. (UPL) reached agreements on multiple terms

intended to protect the members of the cooperative. Specifically, the parties agreed to the following:

(1) Rates. Current Orwell customers will be charged the same rates for natural gas distribution service that they are charged today for a period of three (3) years after which the rates will be unified with the rates of other Knox members in the region. Current Orwell customers will also be provided the same terms of service that are provided to all Knox members in other service areas.

(2) Winter Termination Procedures. Attached as **Appendix A** to the Settlement are Knox's winter termination procedures that are applicable to all Knox members. These winter termination procedures will be included on the Knox website and will be applicable to current Orwell customers following approval of the Application by the Commission.

(3) Commission Audits/Inspections. The Commission has explicit authority to audit and inspect UPL's and Knox's operations in the Orwell service area for compliance with applicable gas safety requirements and does so on a regular basis.

(4) Member Complaint/Issue/Suggestion Procedures. Attached to the Settlement as **Appendix B** are the following documents associated with procedures for raising complaints, issues or suggestions with Knox: (1) a Complaint Resolution Process form; (2) procedures for raising issues or suggestions for consideration by the Knox Board of Trustees; and (3) an "Issues and Suggestion" form. The procedures described in these forms will be applicable to all Knox members, including new Orwell customers. Each of these forms will be available for review and download on the Knox website. In addition, each of these forms will be mailed to all Orwell customers upon approval of the Application by the Commission.

(5) Annual Report by UPL. On an annual basis for three (3) years following approval of the Application by the Commission, UPL and Knox will provide to the Commission and the OCA a report containing, at a minimum, the following information with respect to the Orwell system: (1) overall customers gained or lost; (2) an overview of customer service issues; (3) the current gas cost rate;

and (4) a list of capital investments and upgrades to the system, and a projection of the same for the following calendar year.

(6) Annual Membership Meetings. UPL will agree to recommend to the Knox Board of Trustees, reasonable and practical steps that could be taken by Knox to increase the accessibility of membership meetings to members residing in Pennsylvania, possibly including such measures as a dial-in capability, web-casting, or holding special board meetings in Pennsylvania subject to member interest in such measures and Knox Board of Trustee approval of same. UPL and Knox agree to provide progress reports to the Commission and the OCA as to these initiatives within six (6) months following approval of the Application, and to further provide updated information in each Annual Report as provided for in Paragraph 10(5), above, and Section E of the Settlement.

In the Matter of the Application of Orwell Natural Gas Company, Tentative Form

Opinion and Order of Nov. 5, 2015, at 7-8, citing Joint Petition at 5-6. Moreover, among the Findings of Fact made by the ALJ and adopted by the Commission are the following:

27. UPL and Knox have no intention or plans to abandon service to any current Orwell customers after approval of the Application by the Commission. Application at 11; ¶ 36.

28. UPL and Knox will guarantee that service to current Orwell customers will not be abandoned for five (5) years following approval of the Application by the Commission, or UPL will pay all reasonable conversion costs for all affected customers. Application at 11; ¶ 36.

Id., at 13. Thus, the Commission's conclusion that Knox is a bona fide cooperative was based upon its agreement to afford its members the usual benefits and degree of control offered by such cooperatives.

Indeed, the conditions imposed through resolutions of prior application cases in which Knox was involved mirror those quoted above. The objective of the detailed conditions was to ensure that Knox's members were "able to exercise an adequate degree

of control over the organization so as to protect themselves from unreasonable and arbitrary management decisions.” In re Gasco, Docket No. A-120002F2000 (Order entered March 22, 2007); *see also* In re Gasco, Docket No. A-120002F2001 (Order entered Sept. 29, 2006) and In re Sergeant Gas Co., Docket No. A-2011-2239524 (Order entered Sept. 22, 2011).

Considering these various prior Commission Orders, the August 2, 2018 letter sent by Knox informing the Formal Complainants that “natural gas service can no longer be maintained to your home” and advising them to “make arrangements for an alternative source of energy prior to October 31<sup>st</sup>, 2018” does not appear to be consistent with the letter or the spirit of Knox and UPL’s commitments to its members. Further, no mention was made in the August 2, 2018 letter as to Knox/UPL’s commitment to pay for all reasonable conversion costs for member/customers potentially being abandoned.

B. Gas Pipeline Safety.

As noted in the Prehearing Conference Order, the Commission’s decision in Laffey v. Knox Energy Cooperative Association, Inc., Docket No. C-2015-2462487 (Opinion and Order entered September 3, 2015), may apply to the present cases against Knox. The OCA will be prepared to discuss Knox’s obligation to oversee the safety of the system through which it provides service to its members.



### **III. WITNESSES**

At the present time, the OCA does not intend to present expert witnesses in this matter. If the OCA determines that an expert witness may be necessary to represent the interest of the members/consumers affected by the cessation of natural gas service, the OCA will timely notify the ALJ and all parties of record.

### **IV. SERVICE ON THE OCA**

The OCA will be represented in this proceeding by Senior Assistant Consumer Advocates Darryl A. Lawrence and Dianne E. Dusman. Copies of all documents should be served as follows:

Dianne E. Dusman  
Senior Assistant Consumer Advocate  
Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
5<sup>th</sup> Floor, Forum Place  
555 Walnut Street  
Harrisburg PA 17101-1923  
Email: [ddusman@paoca.org](mailto:ddusman@paoca.org)  
[dlawrence@paoca.org](mailto:dlawrence@paoca.org)

### **V. DISCOVERY**

To date, the OCA has served no discovery, but will participate in informal discovery conferences as may be necessary, in order to expeditiously obtain information.

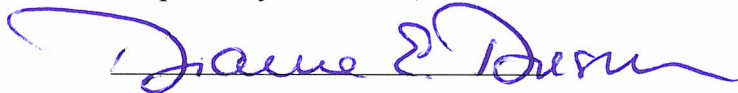
### **VI. PROCEDURAL SCHEDULE**

The OCA will cooperate with any hearing schedule the ALJ orders.

## VII. SETTLEMENT

As statutory intervenor, the OCA will participate in any future settlement discussions among the Formal Complainants and Knox. On October 11, 2018, counsel for OCA initiated discussions with counsel for Knox raising some of the issues discussed above.

Respectfully Submitted,



Darryl A. Lawrence  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #93682  
Dianne E. Dusman  
Senior Assistant Consumer Advocate  
PA Attorney I.D. #38308  
E-Mail: [DDusman@paoca.org](mailto:DDusman@paoca.org)

Counsel for:  
Tanya J. McCloskey  
Acting Consumer Advocate

Office of Consumer Advocate  
555 Walnut Street 5th Floor, Forum Place  
Harrisburg, PA 17101-1923  
Phone: (717) 783-5048  
Fax: (717) 783-7152

October 11, 2018

00260853.doc