



Todd S. Stewart
Office: 717 236-1300 x242
Direct: 717 703-0806
tsstewart@hmslegal.com

100 North Tenth Street, Harrisburg, PA 17101 Phone: 717.236.1300 Fax: 717.236.4841 www.hmslegal.com

December 4, 2018

VIA ELECTRONIC FILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

RE: Michael Deegan, et al. v. Knox Energy Cooperative Association, Inc.;
Docket Nos. C-2018-3004165, C-2018-3004179, C-2018-3004201, C-2018-
3004342, C-2018-3004346, C-2018-3004354, C-2018-3004411, C-2018-
3004524; **ANSWER OF KNOX ENERGY COOPERATIVE AND UTILITY
PIPELINE, LTD. TO OFFICE OF CONSUMER ADVOCATE'S MOTION
FOR CORRECTION OF CAPTION**

Dear Secretary Chiavetta:

Enclosed please find the Answer of Knox Energy Cooperative and Utility Pipeline, LTD.
to Office of Consumer Advocate's Motion for Correction of Caption in the above-captioned
proceedings. Hard copies will be provided as indicated on the Certificate of Service.

If you have any questions, please do not hesitate to contact my office.

Very truly yours,

Todd S. Stewart
Counsel for
Knox Energy Cooperative Association, Inc.
and Utility Pipeline Ltd.

TSS/jld

Enclosure

cc: Per Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA FIRST CLASS MAIL

Charles E. Spindler
PO Box 15
Fisher, PA 16225

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

Cherie Roddy
839 Deaver Lane
Creve Coeur, MO 63141

Melvin Bines
2682 Gravelick Road
Leeder, PA 16233

James Leach
PO Box 42
Rome, OH 44085


Michael Deegan
4141 Ellwood Rd.
New Castle, PA 16101

John Hollenbaugh
2662 Gravel Lick Rd.
Leeper, PA 16233

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

Dianne E. Dusman
Senior Assistant Consumer Advocate
Commonwealth of Pennsylvania
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

DATED: December 4, 2018



Todd S. Stewart

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael G. Deegan	:	Docket Nos. 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.	:	

**ANSWER OF KNOX ENERGY COOPERATIVE
AND UTILITY PIPELINE, LTD.
TO OFFICE OF CONSUMER ADVOCATE'S MOTION
FOR CORRECTION OF CAPTION**

TO HONORABLE MARY D. LONG, PRESIDING ADMINISTRATIVE LAW JUDGE

Now Comes Knox Energy Cooperative (“Knox”) and Utility Pipeline, Ltd. (“UPL”) and hereby Answers and opposes the Motion of the Office of Consumer Advocate (“OCA”) captioned “Motion to Correct Caption” filed November 15, 2018 at the above captioned Dockets. Knox/UPL submit that while the OCA’s Motion may be captioned as a simple request to add UPL to the caption of this case, its intent is far from simple. The Motion cites to allegations made by the OCA in its unverified prehearing memorandum as a basis for granting the motion and would seek to enshrine these allegations into the record when none of the individual complaints mentions anything in that regard. This effort is inappropriate and should not be permitted to continue. For this reason and those stated below, Knox requests that the Motion be denied. Knox answers the specific arguments below:

1. ADMITTED. By way of further answer, none of the Formal Complaints alleges that Knox has failed to comply with the requirements of any settlement.

2. ADMITTED.

3. ADMITTED in Part, DENIED in Part. It is admitted that the Complaint filed by James Leach lists Utility Pipeline in several places as a respondent, however the Complaint speaks for itself and any characterization of the Complaint is Denied.

4. ADMITTED. The Joint Petition for Settlement in the Application proceeding, and the Commission's Order¹ and Secretarial Letter approving the Settlement speak for themselves. By way of further answer, it is clear from the Settlement that it makes no representation with regard to Knox or UPL making any financial commitment to members who choose to voluntarily leave the Association. It also is clear that while the Commission's Order approving the Application and grant of a Certificate of Public Convenience ("CPC") does recite the representations made in the Application, it does not expressly condition the grant of the Certificate on compliance with any such representation. The Commission's Order did expressly condition the CPC on the appropriate refund of any overcollection, which was completed, but no other conditions were attached. In fact, the Commission's Order made it clear that Knox would continue to be subject to the Commission's gas safety jurisdiction – but no other jurisdiction (Order at 17). In short, there is no basis stated in the Order that the Commission has any regulatory authority over Knox other than safety.

5. DENIED. It is Denied that there exists a private cause of action under Act 127 such that the Commission is authorized to entertain complaints regarding pipeline safety against non-public utility operators of pipeline systems. It is Denied that the Commission has jurisdiction to entertain a Complaint under 66 Pa. C.S. § 701 against an entity that is not a public utility; which

¹ *In the Matter of the Application of Orwell*; Docket No. A-2015-2478270 (Order entered November 23, 2015)("Order")

precludes Knox and UPL from Commission jurisdiction under that section. It is Denied that there is any allegation in any of the Complaints that Knox or UPL have violated any express condition of the Settlement or Order and it is denied that Knox or UPL have abandoned service to any of the Complainants. Finally, the OCA proposes no legal foundation for including UPL on the caption of the consolidated case, when only one of six Complainants saw fit to identify them, and the Commission's own Secretary's Bureau did not include UPL on the caption of any of the Complaints. This effort is the akin to the proverbial "tail wagging the dog." Accordingly, it is denied that neither Knox nor UPL are appropriate parties to this proceeding and Knox and UPL respectfully request that the OCA's Motion for Correction of Caption to add UPL be denied.

Respectfully submitted,



Todd S. Stewart (PA ID No. 75556)
Hawke, McKeon & Sniscak LLP
100 North Tenth Street
Harrisburg, PA 17101
Tel: (717) 236-1300
tsstewart@hmslegal.com

*Counsel for Respondent
Knox Energy Cooperative Association, Inc.
and Utility Pipeline Ltd.*

Dated: December 4, 2018