

**BEFORE THE
OHIO POWER SITING BOARD**

**In the matter of the Application of)
NRG Ohio Pipeline Co., LLC for a)
Letter of Notification to Construct,)
Own, and Operate a Natural Gas)
Pipeline to be Located in Lorain)
County, Ohio)**

Case No. 14-1717-GA-BLN

**MOTION TO INTERVENE OF THE OHIO EDISON COMPANY,
CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND
AMERICAN TRANSMISSION SYSTEMS, INCORPORATED**

Pursuant to R.C. 4906.08, Ohio Adm.Code 4906-7-04, and the interim rules set forth in the Ohio Power Siting Board’s Second Finding and Order in Case No. 12-1981-GE-BRO,¹ The Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI) and American Transmission Systems, Incorporated (ATSI), all FirstEnergy companies (collectively, “Proposed Intervenors”), respectfully move the Board for leave to intervene in this matter with all of the powers and rights granted to intervening parties. This proceeding pertains to an Application by NRG Ohio Pipeline Company, LLC (NRG) for a Letter of Notification to construct, own, and operate a new, approximately 20-mile high-pressure natural gas pipeline in Lorain County, Ohio (NRG Pipeline). The NRG Pipeline is intended to serve the Avon Lake generating plant in Avon Lake, Ohio -- a 753 MW coal-fired generating facility whose owner (NRG Power Midwest LP) intends to convert to a natural gas fuel source to facilitate continued operation.

¹ *In the Matter of the Ohio Power Siting Board’s Review of Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17 of the Ohio Administrative Code*, Second Finding and Order (Dec. 17, 2012) (refining the interim processes for applications subject to the accelerated review process under S.B. 315).

Proposed Intervenorors have compelling interests implicated by this proceeding. Proposed Intervenorors OE and CEI, for example, have significant electric transmission and distribution facilities along portions of the proposed route of the NRG Pipeline, are the record owners of multiple parcels of real estate along the NRG Pipeline Route (as depicted in Attachment B to NRG's Application), and have significant transmission and distribution right-of-way easements along portions of the proposed route of the NRG Pipeline. Proposed Intervenor ATSI, moreover, has significant electric transmission facilities located on the OE and CEI fee-owned properties and easements along portions of the proposed route of the NRG Pipeline. The proposed NRG Pipeline affects no less than thirteen 69kV, 138kV, and 345kV sub-transmission and transmission lines, crosses back and forth through the transmission corridors twenty-three times, and is adjacent to the Avon and Carlisle Substation and the potential site of a distribution substation. The area in which the proposed NRG Pipeline enters/exits the Avon Lake generating plant is also of concern, as CEI has numerous structures in the vicinity and the Avon Substation is in close proximity to the proposed NRG Pipeline. For these and other reasons described in the attached Memorandum in Support, good cause supports Proposed Intervenorors' intervention in these proceedings.

Respectfully submitted,

s/Robert J. Schmidt

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

The Ohio Revised Code and this Board’s rules anticipate that, upon a showing of good cause, leave will be granted to third parties seeking to participate in proceedings related to proposed natural gas pipelines. NRG Ohio Pipeline Co., LLC (NRG)’s proposal to construct, own, and operate a new, approximately 20-mile high-pressure natural gas pipeline in Lorain County, Ohio, impacts proposed intervenors The Ohio Edison Company (OE), The Cleveland Electric Illuminating Company (CEI), and American Transmission Systems, Incorporated (ATSI) (collectively, “Proposed Intervenors”) in multiple ways supporting their intervention in these proceedings. Proposed Intervenors’ request to intervene as parties in this proceeding will not unduly delay the proceedings or prejudice any party. For these and other reasons described below, good cause supports Proposed Intervenors’ timely request to intervene in this matter.

II. LAW AND ARGUMENT

R.C. 4906.08 provides that the parties to a certification proceeding shall include the applicant and those permitted by the Board to intervene. Ohio Adm.Code 4906-7-04 provides, in turn, that the Board “shall grant petitions for leave to intervene only upon a showing of good cause” upon consideration of the following four factors:

- (a) The nature and extent of the person's interest.
- (b) The extent to which the person's interest is represented by existing parties.
- (c) The person's potential contribution to a just and expeditious resolution of the issues involved in the proceeding.
- (d) Whether granting the requested intervention would unduly delay the proceeding or unjustly prejudice an existing party.

Ohio Adm.Code 4906-7-04(B)(1). The Board's rules also provide that limited participation may be granted, "which permits a person to participate with respect to one or more specific issues." Ohio Adm.Code 4906-7-04(D). The Board's interim rules pertaining to the accelerated review process for natural gas pipelines do not modify the factors considered for intervention.² Each of the above-listed factors supports Proposed Intervenors' participation in these proceedings.

The nature and extent of Proposed Intervenors' interests in these proceedings is significant, and no other party is in a position to adequately represent those interests. As noted above, the NRG Pipeline is being constructed to supply natural gas to the Avon Lake Generating Plant in Avon Lake, Ohio. The area that the pipeline enters and exits that facility is of particular concern to Proposed Intervenors, who have numerous structures in the vicinity, and the Avon Substation is in close proximity to the proposed NRG Pipeline. Further, NRG will need access to, and to cross, numerous existing electric transmission line easements of OE and CEI. These easements, many of which have ATSI's existing electric transmission lines and associated infrastructure, and have room for the installation of future infrastructure, will present planning and safety issues for the construction of the NRG Pipeline, and ATSI is the only party capable of

² *In the Matter of the Ohio Power Siting Board's Review of Chapters 4906-1, 4906-5, 4906-7, 4906-9, 4906-11, 4906-13, 4906-15, and 4906-17 of the Ohio Administrative Code*, Second Finding and Order (Dec. 17, 2012) (refining the interim processes for applications subject to the accelerated review process under S.B. 315)

representing its interests concerning such issues in this proceeding. As NRG itself notes in its Letter of Notification, “[t]he Project will also require the crossing of existing overhead electrical facility ROWs owned and operated by a subsidiary of FirstEnergy Corporation. A total of 19 crossings are required. NRG Ohio Pipeline is working with FirstEnergy to secure the necessary rights associated with these crossings.” (Letter of Notification at 6.) In fact, the proposed NRG Pipeline affects no less than thirteen 69kV, 138kV, & 345kV lines of CEI, OE, and ATSI, and the route crosses back and forth through the transmission corridors some twenty-three times. To date, although Proposed Intervenor are in receipt of the proposed route for the NRG Pipeline, Proposed Intervenor have not been supplied with detailed drawings showing distances to structures. Thus, although Proposed Intervenor do not have specific and identifiable concerns at this time regarding the distances between the NRG Pipeline and Proposed Intervenor’s facilities, based upon the route Proposed Intervenor anticipate areas of concern once more detailed drawings are produced.

Moreover, as indicated by Attachment B to NRG’s Letter of Notification, OE and CEI are the owners of record of the following four (4) separate parcels of real estate affected by the proposed NRG Pipeline:

Parcel Identification Number	Owner Name	Easement Received
0400002101045	CEI	No
0400001101014	CEI	No
700043101001	OE	No
0700047000062	OE	No

(Letter of Notification, Attachment B. at 1-2.) As the owners of these parcels, OE and CEI have compelling interests in the route presented with this LON, the route's impacts on ecology, land uses, and public safety, and any conditions that may be imposed upon the NRG Pipeline's construction, maintenance, and operation.

Finally, although Proposed Intervenor have been working and will continue to work cooperatively with NRG to negotiate agreements concerning access to OE, CEI, and/or ATSI property that NRG seeks for the pipeline project, Proposed Intervenor understand that NRG continues to negotiate with other property owners along the proposed route. As the negotiations between NRG and other landowners are continuing, there exists a possibility that the proposed route for the gas line may change, raising the possibility that the gas line may impact other properties owned by, or subject to an existing easement in favor of Proposed Intervenor. Given that NRG's negotiations remain ongoing, Proposed Intervenor also seek to intervene in these proceedings to preserve any and all interests that they have as property owners impacted by the Project.

Proposed Intervenor will contribute to a just and expeditious resolution of the issues involved in this proceeding, and granting their request to intervene will not unduly delay the proceeding or unjustly prejudice any existing party.

The Board has recently permitted intervention in other circumstances similar to this situation by third parties satisfying the good-cause factors of Ohio Adm.Code 4906-7-04(B)(1). *E.g., In the Matter of the Application of North Coast Gas Transmission, LLC, for a Certificate Relative to the Oregon Lateral Pipeline*, Case No. 14-1754-GA-BLN (granting Toledo Edison Company and ATSI leave to intervene in LON proceeding concerning new natural gas pipeline to be constructed in Wood and Lucas Counties, Ohio, where TE owned eight parcels of real

estate adjacent to proposed route); *In the Matter of the Application of Vectren Energy Deliver of Ohio, Inc. for a Certificate of Environmental Compatibility and Public Need for the Dayton Airport Z-167 Pipeline Rerouting Project*, Case No. 13-1651-GA-BTX (granting City of Dayton's request to intervene in proceeding related to Vectren Energy's application to re-route a segment of its Z-167 gas pipeline at the Dayton International Airport in portions of the City of Vandalia and Butler Township, Ohio); *In the Matter of the Application of Columbia Gas of Ohio, Inc. for a Certificate of Environmental Compatibility and Public Need for the Construction of the Ackerman Road Natural Gas Pipeline Project*, Case No. 11-3534-GA-BTX (granting requests to intervene filed by The Ohio State University, Franklin Soil and Water Conservation District, American Chemical Society, and Sierra Club in proceeding related to Columbia Gas of Ohio, Inc.'s application to construct a natural gas pipeline in Franklin County, Ohio); *In the Matter of the Application of American Transmission Systems, Inc. for a Certificate of Environmental Compatibility and Public Need to Construct the Hayes-West Fremont 138-kilovolt Transmission Line*, Case No. 12-1326-EL-BTX (granting intervention to AMP-Ohio, the owner of the Fremont Energy Center, because of the positive impact of the preferred route for the Project on the deliverability of power from that generating station to the grid).

III. CONCLUSION

For the foregoing reasons, OE, CEI, and ATSI respectfully ask the Board for leave to intervene as parties in these proceedings pursuant to R.C. 4906.08 and Ohio Adm.Code 4906-7-04. Proposed Intervenors have significant interests in the outcome of this proceeding that are not adequately represented by the only existing party, NRG. Proposed Intervenors will contribute to a just and expeditious resolution of the issues before the Board, and their intervention will neither delay the proceeding nor prejudice any party.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to Intervene* was served upon the following persons by electronic filing and by mailing a copy, postage prepaid, on January 6, 2015 addressed to:

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s/Robert J. Schmidt

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Summary: Motion MOTION TO INTERVENE OF THE OHIO EDISON COMPANY,
CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND AMERICAN TRANSMISSION
SYSTEMS, INCORPORATED

electronically filed by Mr. Lawrence B Hughes on behalf of American Transmission Systems,
Inc. and Cleveland Electric Illuminating Company and Ohio Edison Company