

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Investigation of the :  
**Northeast Ohio Natural Gas Company** : Case No. 14-1639-GA-GPS  
Relative to its Compliance with the :  
Natural Gas Pipeline Safety Standards :  
and Related Matters. :

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**STIPULATION AND RECOMMENDATION**

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Rule 4901-1-30, Ohio Administrative Code (O.A.C.), provides that any two or more parties to a proceeding may enter into a written stipulation covering the issues presented in such a proceeding. The purpose of this document is to set forth the understanding and agreement of the Northeast Ohio Natural Gas Company (NEONG) and the Staff of the Public Utilities Commission of Ohio (Staff). NEONG and Staff<sup>1</sup> are (“Parties”) to this Stipulation and Recommendation (Stipulation), and recommend that the Public Utilities Commission of Ohio (Commission) approve and adopt this Stipulation, which resolves all of the issues in this case.

This Stipulation is supported by adequate data and information; represents a just and reasonable resolution of the issues raised in these proceedings; violates no regulatory

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<sup>1</sup> Pursuant to O.A.C. 4901-1-10(C) and 4901-1-30, Staff is deemed a party for purposes of entering into this Stipulation.

principle or precedent; and is the product of lengthy, serious bargaining among knowledgeable and capable Parties to resolve the aforementioned issues. While this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For purposes of resolving certain issues raised by these proceedings, the Parties stipulate, agree and recommend as set forth below. Except for dispute resolution purposes in this proceeding, neither this Stipulation, nor the information and data contained therein or attached, shall be cited as precedent in any future proceeding for or against either Party, or the Commission itself. This Stipulation is a reasonable compromise involving a balancing of competing positions and it does not necessarily reflect the position that either Party would have taken if these issues had been fully litigated.

The Signatory Parties fully support this Stipulation and request the Commission to accept and approve the terms hereof.

WHEREAS, all of the related issues and concerns raised by the Parties have been addressed in the substantive provisions of this Stipulation and reflect, as a result of such discussions and compromises by the Parties, an overall reasonable resolution of all such issues. This Stipulation is the product of the discussions and negotiations of the Parties and is not intended to reflect the views or proposals that either Party may have advanced acting unilaterally. Accordingly, this Stipulation represents an accommodation of the diverse interests represented by the Parties and is entitled to careful consideration by the Commission;

WHEREAS, this Stipulation represents a serious compromise of complex issues and involves substantial benefits that would not otherwise have been achievable; and

WHEREAS, the Parties believe that the terms and conditions agreed to herein represent a fair and reasonable solution to the issues raised in this case;

NOW, THEREFORE, the Parties stipulate, agree and recommend that the Commission make the following findings and issue its Opinion and Order in this case approving this Stipulation in accordance with the following:

1. NEONG is a natural gas company within the meaning of R.C. 4905.02, 4905.03(E) and 4905.90(J)(1), and is therefore a public utility and an operator subject to the ongoing jurisdiction and supervision of the Commission pursuant to R.C. 4905.02, 4905.04, 4905.05, 4905.06 and 4905.90 through 4905.96, respectively. Accordingly, NEONG is required to comply with the gas pipeline safety (GPS) rules in O.A.C. Chapter 4901:1-16, which set forth the safety standards and requirements for intrastate gas pipeline facilities subject to the Commission's jurisdiction. The GPS rules incorporate by reference the United States Department of Transportation's GPS standards and requirements contained in 49 C.F.R. Parts 40, 191, 192 and 199 (the Pipeline Safety Regulations) as enabled through R.C. 4905.91 and O.A.C. 4901:1-16-03.
2. At the time of the Staff's investigation and report being filed in this case, NEONG operated and maintained approximately 9.5 miles of transmission and 791 miles of gas distribution pipeline system that provided service to 17,491 customers in Ohio.
3. The Staff conducted a pipeline safety inspection of the facilities and records at NEONG's operating center in Pleasantville, Ohio from June 2, 2014 to June 6, 2014. The purpose of the inspection was to assess compliance of NEONG with

the requirements of the Gas Transmission Pipeline Integrity Management (IM) rule, and to review their progress towards completing their initial baseline assessment, under Subpart O of 49 C.F.R. § 192. Through its investigation, the Staff determined that NEONG operated one segment of pipeline identified in a High Consequence Area (HCA), pursuant to 49 C.F.R. § 192.905, and subject to the IM requirements of Subpart O under 49 C.F.R. § 192. This pipeline segment is approximately one mile in length and supplies gas to the Richland Peaking Station in Defiance County. Companies were required to identify covered segments within an HCA and develop a written IM program to address those vulnerabilities by December 17, 2004, pursuant to 49 C.F.R. § 192.907. Operators were required to complete an initial baseline assessment of all covered segments by December 17, 2012, pursuant to 49 C.F.R. § 192.921. As a result of its investigation, the Staff issued NEONG a Notice of Probable Non-Compliance (Notice) on July 16, 2014 citing violations of 49 C.F.R. § 192 Subpart O “Gas Transmission Pipeline Integrity Management”. NEONG responded to the Notice on August 8, 2014 and did not dispute the Staff findings.

4. Staff alleges in its Report of Investigation<sup>2</sup> that NEONG failed to comply with the following sections of the Minimum Federal Safety Standards Part 192:

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<sup>2</sup> *In re the Investigation of Northeast Ohio Natural Gas Company*, Case No. 14-1639-GA-GPS (Staff Report of Investigation) (September 23, 2014). The Staff Report of Investigation will be identified and admitted into evidence as Staff Exhibit 1. The “Discussion of Violations” contained in the Staff Report of Investigation is fully incorporated herein by reference. *Id.* at 3-4.

- a. 49 C.F.R. § 192.907: “No later than December 17, 2004, an operator of a covered pipeline segment must develop and follow a written integrity management program that contains all the elements described in 192.911 and that addresses the risks on each covered transmission pipeline segment.” NEONG did not follow its written IM program other than identifying HCAs. NEONG did not: (1) develop a baseline assessment plan; (2) identify potential threats to each of their covered pipeline segments; and (3) address the risks on their covered pipeline segments.
- b. 49 C.F.R. § 192.915: “What knowledge and training must personnel have to carry out an integrity management program?” The IM program must provide that each supervisor whose responsibilities relate to the IM program possesses and maintains a thorough knowledge of the IM program and of the elements for which the supervisor is responsible. The IM program must also provide for the minimum qualifications of all personnel tasked with conducting, reviewing or making decisions during implementation of the program or who implements preventive and mitigative measures to carry out the program. NEONG does not have trained supervisory personnel and/or staff qualified to carry out an IM program.
- c. 49 C.F.R. § 192.921(d): “An operator must prioritize all the covered segments for assessments in accordance with 192.917 (c) and paragraph (b) of this section. An operator must assess at least 50% of the covered

segments beginning with the highest risk segments, by December 17, 2007.

An operator must complete the baseline assessment of all covered segments by December 17, 2012.” NEONG does not have records to demonstrate that it has conducted a baseline assessment.

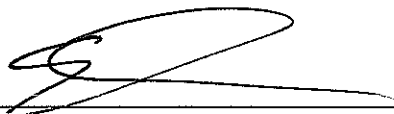
5. In its Report, the Staff made several recommendations to the Commission as a result of its investigation. However, the Staff recently received email confirmation from the U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) that ownership of the affected section of Transmission piping was transferred to Richland Stryker Generation, LLC who will operate the piping and bear the responsibility for developing an Integrity Management plan as of December 4<sup>th</sup>, 2014. After discussions between NEONG and Staff regarding Staff’s recommendations, in combination with PHMSA’s confirmation that NEONG is no longer the operator/owner of this facility, the Parties agree to the following condition and recommendation:
  - a. NEONG agrees to a civil forfeiture of \$5,000 which is payable within ten (10) business days of the Commission Order adopting this Stipulation, payable by certified check to the “Treasurer State of Ohio” and will be deposited in the State Treasury to the Credit of the General Revenue Fund.
6. The Parties agree that this Stipulation establishes no precedent to be relied upon in any manner in any other proceeding except any proceeding that may be necessary to enforce the provisions of this Stipulation.

7. The Staff Report of Investigation filed with the Docketing division of the Commission on September 23, 2014 should be identified and admitted into evidence as Staff Exhibit 1.
8. This Stipulation shall be designated as Joint Exhibit 1 and admitted into evidence in this proceeding.
9. This Stipulation constitutes a compromise resolution by the Parties of all issues raised by the Parties in this case. The Parties agree that if the Commission rejects all or any part of this Stipulation, or otherwise materially modifies its terms, either Party shall have the right, within thirty (30) days after the date of the Commission's order, either to file an application for rehearing or to terminate and withdraw from the Stipulation by filing a notice termination and withdrawal with the Commission in this proceeding. If an application for rehearing is filed and if the Commission does not, on rehearing accept the Stipulation without material modification, either Party may terminate and withdraw from the Stipulation by filing a notice of termination and withdrawal with the Commission in this proceeding within ten (10) business days after the date of the Commission's Entry on Rehearing. Upon filing of a notice of termination and withdrawal by either party, the Stipulation shall immediately become null and void. In such event, a hearing shall go forward and the Parties shall be afforded the opportunity to present evidence through witnesses, to cross-examine all witnesses, to present rebuttal testimony, and to file briefs on all issues, and to have this proceeding decided on the record and brief as if the Stipulation had never been executed.

10. The Parties understand and agree that this Stipulation is not binding on the Commission; however, the Stipulation is entitled to the Commission's careful consideration, the Parties agree that the Stipulation is in their best interest, and the public interest, and urge the Commission to adopt the same.

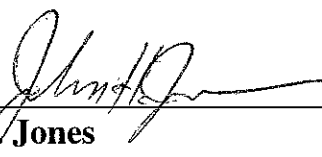
The undersigned hereby stipulate and agree and each represent that it is authorized to enter into this Stipulation and Recommendation this 3<sup>rd</sup> day of February 2015.

**On behalf of the Northeast Ohio  
Natural Gas Company**



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**On behalf of the Staff of the Public  
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**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 14-1639-GA-GPS**

Summary: Stipulation and Recommendation submitted by Assistant Attorney General John Jones. electronically filed by Kimberly L Keeton on behalf of Public Utilities Commission of Ohio