

BEFORE

THE OHIO POWER SITING BOARD

In the Matter of the Application of NRG)
Ohio Pipeline Company LLC for Approval)
of a Letter of Notification for the Avon) Case No. 14-1717-GA-BLN
Lake Gas Addition Project in Lorain)
County, Ohio.)

ENTRY

The Board finds:

- (1) On November 27, 2013, as amended on February 12, 2014, in Case No. 13-2315-PL-ACE (*Certification Case*), NRG Ohio Pipeline Company LLC (NRG Pipeline or Applicant) filed an application before the Public Utilities Commission of Ohio (Commission), pursuant to R.C. 4905.02, 4905.03(F), and 4905.63, for authority to operate as an intrastate pipeline company in the state of Ohio, in order to transport natural gas to a facility in Avon Lake, Ohio, and possibly other commercial and manufacturing customers along the pipeline route. In the application, NRG Pipeline stated that it is a wholly-owned subsidiary of NRG Energy, Inc. (NRG). NRG Pipeline further stated that one of NRG's subsidiaries, NRG Power Midwest LP, owns a 753 megawatt coal-fired generating facility in Avon Lake, Ohio, and plans to add natural gas as a fuel source for the boilers at the facility. NRG Pipeline explained that it intends to provide the pipeline infrastructure to deliver natural gas to the facility, and plans to construct and operate approximately 20 miles of high pressure steel pipeline in Lorain County, Ohio. Additionally, NRG Pipeline noted that, at the appropriate time, it planned to file an application with the Ohio Power Siting Board (Board) for a certificate to construct and operate the proposed pipeline.
- (2) On February 26, 2014, the Commission approved the application filed by NRG Pipeline in the *Certification Case* and granted the Applicant's request for authority to operate as an intrastate pipeline company in the state of Ohio.

- (3) R.C. 4906.03(F) requires the Board to adopt rules to provide for an accelerated review of an application for a construction certificate for a gas pipeline that is not more than five miles in length or is primarily needed to meet the requirements of a specific customer or specific customers. The statute specifies that the Board must adopt rules that provide for the automatic certification of such pipelines when the application is not suspended by the Board, administrative law judge (ALJ), or chairperson or executive director of the Board for good cause shown, within 90 days of submission of the application. If an application is suspended, the Board shall approve, disapprove, or modify and approve the application not later than 90 days after the date of the suspension.
- (4) On December 19, 2014, in the above-captioned case, NRG Pipeline filed a letter of notification application, pursuant to Ohio Adm.Code 4906-11-01, for the purpose of constructing the Avon Lake Gas Addition Project (project), which consists of a proposed natural gas pipeline, metering station, and regulating station in Lorain County, Ohio. In the application, NRG Pipeline states that the proposed pipeline would extend south for approximately 20 miles from the Avon Lake power plant in the city of Avon Lake to a proposed supply tap location southwest of the village of Grafton. NRG Pipeline asserts that the project qualifies for the Board's letter of notification process, because the project is primarily needed to meet the requirements of a specific customer or specific customers and, therefore, satisfies the criteria set forth in R.C. 4906.03(F). NRG Pipeline explains that, as of the time of the filing of its application, its sole customer is the Avon Lake power plant and the primary purpose of the project is to provide natural gas as a fuel source for the plant.
- (5) NRG Pipeline published notice of its application in local newspapers of general circulation, consistent with Ohio Adm.Code 4906-5-08(C)(1) and the Board's interim process requirements. *In re 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*, Case No. 12-1981-GE-BRO, Second

Finding and Order (Dec. 17, 2012) at 3. On January 8, 2015, NRG Pipeline filed proofs of publication indicating that notice of the application was published in The Morning Journal and The Chronicle Telegram on December 22, 2014, and December 29, 2014, respectively. As required, the notice set forth the address for the Board's docketing division and stated that motions to intervene and/or comments must be filed with the Board within 10 days from the date of publication. The notice also indicated that the application was served on local public officials and that it is available for inspection at local libraries and on NRG Pipeline's website, in accordance with Ohio Adm.Code 4906-5-06.

- (6) On March 3, 2015, the ALJ granted petitions to intervene in this proceeding filed by Ohio Edison Company, The Cleveland Electric Illuminating Company, and American Transmission Systems, Inc. (collectively, FirstEnergy), as well as various property owners in Lorain County, Ohio (collectively, property owner intervenors).¹
- (7) Upon review of the letter of notification application filed by NRG Pipeline, as well as the petitions to intervene filed by FirstEnergy and the property owner intervenors, the Board finds that additional investigation is necessary to complete a thorough review of the application, particularly in light of the issues raised in this case, including NRG Pipeline's assertion in the *Certification Case* that the proposed pipeline would be used to serve an affiliate, as well as other potential commercial and manufacturing customers along the project route, and the concerns raised by the parties, FirstEnergy and the property owner intervenors. Therefore, the Board finds that good cause exists to suspend the application and the 90-day automatic certification process, pursuant to R.C. 4906.03(F), in order for the Board and Staff to further review this matter.

¹ The property owner intervenors are Wesley Parker; Brandon and Mary Thorne; Charles Borling; Samuel Dennis; Carlos and Sonia Llado; Edmund and Angie Carter; Gary and Kathleen Conlin; Stephanie K. Unger; Edward Kurianowicz; Lawrence R. Plas; Mary B. Miller; Richard and Carol Petersen; Richard and Ellen Braatz; Thomas and Johanna Julius; Louis and Gale Betzel; Fathers of St. Joseph Church; and K. Hovnanian Oster Homes, LLC.

- (8) At this time, the Board, pursuant to Ohio Adm.Code 4906-5-02(A)(3)(a), directs NRG Pipeline to provide additional information regarding the project. In the *Certification Case*, NRG Pipeline provided a map that depicts the corridors of two potential pipeline routes. As a supplement to its letter of notification application in this case, NRG Pipeline should provide a detailed explanation of the route selection process it used to determine the proposed route and the reasons why the proposed route is best suited for the pipeline, as well as descriptions of the major alternatives considered, addressing both of the corridors depicted in the application in the *Certification Case* and any other alternatives that were evaluated. The supplement should be filed no later than March 20, 2015. The Board notes that we do not expect NRG Pipeline to undertake any new analysis of the proposed route or alternatives; rather, the Applicant should provide a detailed explanation of the siting evaluation process that it has already completed, as addressed above. Further, under Ohio Adm.Code 4906-5-02(A)(4), NRG Pipeline may not commence construction on the proposed project, including any clearing of land or other preparation activities, without the Board's approval of the letter of notification application.
- (9) Additionally, pursuant to Ohio Adm.Code 4906-5-02(A)(3)(c), a local public hearing and an adjudicatory hearing will be held in this matter. The adjudicatory hearing will commence on April 14, 2015, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-D, Columbus, Ohio 43215-3793. The local public hearing will be scheduled, and publication of notice of both hearings required, by subsequent entry. The purpose of the local public hearing is to allow interested persons in the local community affected by the project, who are not parties to the case, to provide written or oral testimony regarding the project. The purpose of the adjudicatory hearing is for the Applicant, Staff, FirstEnergy, and the property owner intervenors to provide evidence regarding the project.

- (10) Although the intervention deadline has already passed, the Board finds it necessary to establish a number of other deadlines for this proceeding. Accordingly, the following process should be implemented:
- (a) Staff shall file its report of investigation on or before March 27, 2015.
 - (b) On or before April 1, 2015, each party shall file a list of issue(s) citing specific concerns about which they may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.
 - (c) All expert and factual testimony to be offered by the Applicant shall be filed by April 6, 2015.
 - (d) All expert and factual testimony to be offered by intervenors and Staff shall be filed by April 10, 2015.
 - (e) The parties are encouraged to arrange for electronic service of testimony and other pleadings among themselves. If electronic service is agreed to, the parties are also directed to provide electronic copies to the ALJ.

It is, therefore,

ORDERED, That NRG Pipeline's letter of notification application be suspended in accordance with finding (7). It is, further,

ORDERED, That NRG Pipeline file a supplement to its letter of notification application in accordance with finding (8). It is, further,


ORDERED, That hearings in this matter be scheduled, consistent with finding (9). It is, further,


ORDERED, That Staff file its report of investigation pursuant to finding (10). It is, further,

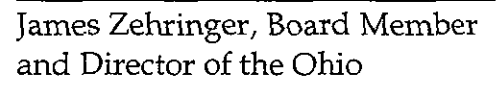
ORDERED, That all parties file their issue(s) lists and expert and factual testimony in accordance with finding (10). It is, further,

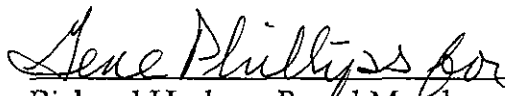
ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

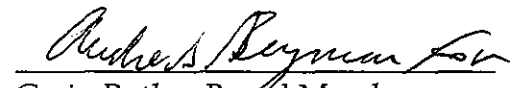
THE OHIO POWER SITING BOARD

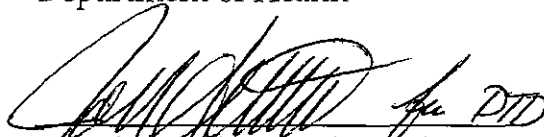

Thomas W. Johnson, Chairman
Public Utilities Commission of Ohio


David Goodman, Board Member
and Director of the Ohio
Development Services Agency


James Zehringer, Board Member
and Director of the Ohio
Department of Natural Resources


Richard Hodges, Board Member
and Director of the Ohio
Department of Health


Craig Butler, Board Member
and Director of the Ohio
Environmental Protection Agency


David Daniels, Board Member
and Director of the Ohio
Department of Agriculture


Jeffrey J. Lechak, Board Member
and Public Member

SJP/sc

Entered in the Journal

MAR 09 2015



Barcy F. McNeal
Secretary