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Case No. 14-1754-GA-BEN **PUCO**

Mike Tillers Motion to Compel Discovery
Pursuant to OAC 4901-1-23

COMES NOW, MICHAEL TILLER, a landowner whose real property is effected by the Oregon Lateral Gas Pipeline and whom petitioned for a rehearing in the above encaptioned matter and whose petition for rehearing in this matter was approved for review by the Ohio Power Siting Board (hereinafter referred to as the OPSB) by order dated March 3, 2015, to propose discovery directed to NORTH COAST GAS TRANSMISSION LLC. (hereinafter referred to as NCGT) pursuant to Ohio Administrative Code 4901-1-23 (which administrative code governs Ohio Public Utility Commission matters) regarding Motions to compel discovery and to request that OPSB the approve the following discovery and compel North Coast Gas Transmission LLC (hereinafter referred to NCGT) to answer said discovery before further consideration of this matter, a brief explanation of the reason for this request follows: to wit;

- a. THAT NCGT has refused/failed to provide pertinent information to the OPSB despite having ample opportunity to do so from October 7, 2014 when they filed their Letter of Notification concerning the OLGP and January 6, 2014 when they received approval of the OLGP from the OPSB thereby demonstrating the need for this tribunal to compel NCGT to provide the information which was deliberately omitted in the OPSB approval process. It is clear from the NCGT omission that they must be compelled to provide the information. Said pertinent information is briefly detailed under sections b and c and further expanded upon in the discovery being proposed below.
- b. THAT two of the areas of review which concern Michael Tiller's request for rehearing on the "automatic" approval of the Oregon Lateral Gas Pipeline on January 6, 2015 by the

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Ohio Power Siting Board are that NCGT failed to offer into evidence the "alternative" possibility of using an existing 10" gas pipeline and/or the easement/right away containing said natural gas pipeline that NCGT owns and operates which runs 37.5 miles between Toledo's BP Refinery and Fostoria, Ohio, a natural gas pipeline and easement which comes within 750 yards of intersecting with the proposed single-end-users property (the Oregon Clean Energy Center), a power plant which was approved by this administrative agency pursuant to Case no. 12-2959-EL-BGN. In the case of the OPSB, the failure to consider the alternative gas line in existence, the failure is NCGT's and the expedited process which was employed to gain approval of the OLGP. In the case of NCGT the omission is clearly deliberate and designed to make it look like a pipeline was needed when maybe that is not the case. In any event the OPSB approval process was denied information that was germane to the decision making process. As proof that this pipeline exists please see the following news article which was published on May 22, 2006 in the Natural Gas Intelligence which announces NCGT's acquisition of the Toledo-Fostoria gas pipeline.

[//www.naturalgasintel.com/articles/14710-north-coast-acquires-ohio-pipeline-assets-to-relieve-gulf-coast-supply-dependence](http://www.naturalgasintel.com/articles/14710-north-coast-acquires-ohio-pipeline-assets-to-relieve-gulf-coast-supply-dependence)

- c. Secondly, the fact that NCGT had to have specified only one end user or specified end users in order to use the expedited approval process was also contrived and the evidence submitted shows that there are many spurs to the proposed pipelines as well as evidence that the pipeline itself has a capacity to supply four (4) times or more the requirements for the OCEC. It is clear that the pipeline is designed to attract multiple users.

Concluding, the record in this matter is devoid of any reference to these matters and it is incumbent upon the OPSB to consider these matters prior to approval of the OLGP.

PROPOSED DISCOVERY

This document contains Requests for Admission, Interrogatories and Requests for Production of Documents and things.

APPLICANT, MICHAEL J. TILLER'S, FIRST REQUESTS FOR ADMISSION DIRECTED AT NORTH COAST GAS TRANSMISSION.

Pursuant to Ohio Administrative Code 4901-1-22 you are requested to answer the following requests for admissions under oath.

Definitions: "NCGT" refers to North Coast Gas Transmission LLC.

"OLGP" refers to the "proposed" Oregon Lateral Gas Pipeline

"OPSB" refers to the Ohio Power Siting Board

"OCEC" refers to the Oregon Clean Energy Center

Request for Admission Number One :

ADMIT or DENY that NCGT is aware of a natural gas pipe line which runs from British Petroleum in Oregon Ohio located at 4001 Cedar Point Rd, Oregon, OH 43616 to Fostoria Ohio.

Answer : _____

Request for Admission Number Two :

ADMIT or DENY that on or about the year 2006 that NCGT bought the aforementioned pipeline referenced in Request number 1 as a petroleum pipeline and converted said pipeline to transport natural gas.

Answer : _____

Request for Admission Number Three :

ADMIT or DENY that NCGT failed to inform OPSB of the existence of the aforementioned natural gas pipe line which runs from British Petroleum in Oregon Ohio located at 4001 Cedar Point Rd, Oregon, OH 43616 to Fostoria Ohio during the approval process for the OLGP which pended from October 7, 2014 through January 6, 2015 when the proposed OLGP was approved by the OPSB.

Answer : _____

Request for Admission Number Four :

ADMIT or DENY that the aforementioned natural gas pipeline natural gas pipe line which runs from British Petroleum in Oregon Ohio located at 4001 Cedar Point Rd, Oregon, OH 43616 to Fostoria Ohio runs within 1000 yards of the proposed OCEC power plant located just west of 4632 Cedar point Road in Oregon, Ohio.

Answer : _____

Request for Admission Number Five :

ADMIT or DENY that the natural gas requirements for the proposed OCEC plant are less than a third of the capacity for the proposed OLGP 24 inch pipeline.

Answer : _____

Request for Admission Number Six :

ADMIT or DENY that the proposed OLGP has proposed spurs for the purpose of supplying natural gas to future end users within reach of the OLGP.

Answer : _____

PROPOSED INTERROGATORIES

NOTE: The captions, headings and admonitions are not set forth in this proposed discovery as the proposals have been incorporated into the Motion to Compel. The Movant will properly draft and serve the proposed discovery if permitted to do so.

Pursuant to Ohio Administrative Code 4901-1-19 is asked to provide answers to the following Interrogatories.

Definitions: "NCGT" refers to North Coast Gas Transmission LLC.

"OLGP" refers to the "proposed" Oregon Lateral Gas Pipeline

"OPSB" refers to the Ohio Power Siting Board

"OCEC" refers to the Oregon Clean Energy Center

Interrogatory Number One: Please provide the following information with regard to NCGT's 37.5 mile natural gas pipeline which runs from the BP in Oregon Ohio located at 4001 Cedar Point Rd, Oregon, OH 43616 to Fostoria Ohio, to wit:

- A: The date upon which NCGT acquired said pipeline;
- B: The date the pipeline was originally built;
- C: From whom the pipeline was acquired;
- D: The specifications of said pipeline
- E: The size and specifications of the easement in which the pipeline is contained;
- F: What product the pipeline was originally constructed for
- G: What modifications were made to the pipeline so that the pipeline could carry natural gas;
- H: What approvals were sought from any governmental agency for

- the modifications described under section G of this interrogatory;
- I: What approvals were granted by any governmental agency for the Modifications described under section F of this interrogatory;
- J: The distance from the OCEC to the easement within which the Toledo-Fostoria natural gas pipeline runs
- K: Whether or not there is any documentation to support any or all of the contentions made under this interrogatory and if so please state:

- i: a description of said documentation
- ii: the location of said documentation
- iii: the name of the party or parties in possession of said documentation.
- iv: where the documentation may be photocopied or reproduced

Answer: _____

Interrogatory Number Two: Please state the maximum natural gas capacity for the OLGP as proposed in the October 7, 2014 Letter of Notification filed in the above encaptioned matter.

Answer: _____

Interrogatory Number Three: Please state the natural gas requirements for the OCEC proposed plant.

Answer : _____

Interrogatory Number Four: Assuming that the maximum natural gas capacity for the proposed OLGP exceeds the natural gas requirements for the OCEC please explain the reason for the excess capacity.

Answer : _____


REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Pursuant to Ohio Administrative Code 4901-1-20 NCGT is asked to produce documents and information.

Interested party, Michael Tiller hereby requests the following documentation and information relevant to the above Requests for Admissions and Interrogatories

1. Copies of any schematics, easement diagrams, maps, blue prints or site plans which show the existing 10" natural gas pipeline and/or the right away for that 10" line which runs 37.5 miles between Toledo's BP Refinery and Fostoria, Ohio.
2. Copies of all approvals for the modification of said pipeline from a petroleum pipeline to a natural gas pipeline
3. Copies of any studies, surveys, or proposals that concerned using said pipeline as the fuel source for the OLGP.
4. Copies of any studies, surveys, proposals or solicitations which concern potential customers or end users for the OLGP other than OCEC.

Propounded by Michael Tiller



MEMORANDUM IN SUPPORT OF THIS MOTION

This Motion is brought under the auspices of Ohio Administrative Code 4901-1-23 which is specifically pertinent to the Ohio Public Utilities Commission and provides:

4901-1-23 Motions to compel discovery.

(A) Any party, upon reasonable notice to all other parties and any persons affected thereby, may move for an order compelling discovery, with respect to:

(1) Any failure of a party to answer an interrogatory served under rule 4901-1-19 of the Administrative Code.

(2) Any failure of a party to produce a document or tangible thing or permit entry upon land or other property as requested under rule 4901-1-20 of the Administrative Code.

(3) Any failure of a deponent to appear or to answer a question propounded under rule 4901-1-21 of the Administrative Code.

(4) Any other failure to answer or respond to a discovery request made under rules 4901-1-19 to 4901-1-22 of the Administrative Code.

(B) For purposes of this rule, an evasive or incomplete answer shall be treated as a failure to answer.

(C) No motion to compel discovery shall be filed under this rule until the party seeking discovery has exhausted all other reasonable means of resolving any

differences with the party or person from whom discovery is sought. A motion to compel discovery shall be accompanied by:

(1) A memorandum in support, setting forth:

(a) The specific basis of the motion, and citations of any authorities relied upon.

(b) A brief explanation of how the information sought is relevant to the pending proceeding.

(c) Responses to any objections raised by the party or person from whom discovery is sought.

(2) Copies of any specific discovery requests which are the subject of the motion to compel, and copies of any responses or objections thereto. OAC 4901-1-23

NCGT has already refused to provide the information. Under the Ohio Administrative Code there is authority to reopen this matter for the inclusion of pertinent evidence when the facts indicate that NGCT failed to provide the evidence of an alternative pipeline/easement which they own and control.

4901-1-34 Reopening of proceedings.


(A) The commission, the legal director, the deputy legal director, or an attorney examiner may, upon their own motion or upon motion of any person for good cause shown, reopen a proceeding at any time prior to the issuance of a final order.

(B) A motion to reopen a proceeding shall specifically set forth the purpose of the requested reopening. If the purpose is to permit the presentation of additional evidence, the motion shall specifically describe the nature and purpose of such evidence, and shall set forth facts showing why such evidence could not, with reasonable diligence, have been presented earlier in the proceeding. OAC 4901-1-34

In conclusion, it would be futile for Mike Tiller to seek this discovery directly from NCGT because NCGT has already demonstrated that they are unwilling to provide this information despite being compelled to do so by the rules and laws surrounding OPSB and their approval process for building natural gas pipelines. In addition, NCGT refuses to recognize Mr. Tiller's right to be in these proceedings; therefore, Mr. Tiller seeks approval from the OPSB to direct this discovery and supplement the record with relevant evidence that the OPSB was denied the

opportunity to review..

Respectfully Submitted,


Michael Tiller
7559 Summerfield Road
Lambertville, Michigan 48144
(419) 466-6296

PROOF OF SERVICE

hereby certify that a copy of the foregoing Mike Tillers Motion to Compel Discovery pursuant to OAC 4901-1-23 was served upon the following persons by mailing a copy, postage prepaid, on February 21, 2015 addressed to:

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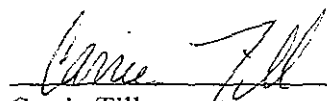
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