

**BEFORE  
THE OHIO POWER SITING BOARD**

<b>In the Matter of the Application of NRG Ohio</b>	)	
<b>Pipeline Company, LLC, for a Letter of</b>	)	
<b>Notification to Construct, Own, and Operate</b>	)	<b>Case No. 14-1717-GA-BLN</b>
<b>a Natural Gas Pipeline to be Located in Lorain</b>	)	
<b>County, Ohio</b>	)	

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**OBJECTION TO AND MOTION TO QUASH NRG OHIO PIPELINE  
COMPANY LLC’S NOTICE OF DEPOSITION DUCES TECUM  
BY  
LORAIN COUNTY PROPERTY OWNERS**

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For the reasons set forth in the accompanying Memorandum, Lorain County Property Owners<sup>1</sup>(“Property Owners”) respectfully object to and move to quash NRG Ohio Pipeline Company LLC’s (“NRG”) Notice of Deposition Duces Tecum (“Notice”), filed with the Ohio Power Siting Board (“Board”) in this matter on April 16, 2015.

Respectfully submitted,

GOLDMAN & BRAUNSTEIN, LLP

/s/ Michael Braunstein

Michael Braunstein (0060898)

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/s/ William A. Goldman

William A. Goldman (0031362)

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<sup>1</sup> The Lorain County Property Owners that have been made parties to this matter are: Wesley Parker; Brandon & Mary Thorne; Charles Borling; Samuel Dennis; Carlos & Sonia Llado; Edmund & Angie Carter; Gary & Kathleen Conlin; Stephanie K. Unger; Edward Kurianowicz; Lawrence R. Plas; Mary B. Miller; Richard & Carol Petersen; Richard & Ellen Braatz; Thomas & Johanna Julius; Louis & Gale Betzel; Fathers of St. Joseph Church; and K. Hovnanian Oster Homes, LLC.

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**MEMORANDUM IN SUPPORT OF OBJECTION TO NRG OHIO PIPELINE  
COMPANY LLC’S NOTICE OF DEPOSITION DUCES TECUM  
BY  
LORAIN COUNTY PROPERTY OWNERS**

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**I. Facts in Support**

The Property Owners respectfully object to NRG’s Notice for the following reasons:

First, NRG’s Notice is overly broad and improperly fails to describe which person(s) NRG seeks to examine as required by the Ohio Administrative Code (“Rules”). Rule 4906-7-07(E)(2) requires that the deposing party either state the name and address of each “person” (defined by Rule 4906-1-01(M), which includes each of the Property Owners) to be examined, and if that information is not known to provide a “general description sufficient for identification.” Id. NRG knows the identity and address of each of the Property Owners. Nonetheless, NRG’s Notice fails to provide not only a specified list of deponents; it also fails to provide the required description(s) sufficient to identify any deponent(s) as required by the Rules. NRG’s Notice is therefore overly broad in violation of the Rules and attempts to unnecessarily burden Property Owners that NRG has not demonstrated a specific intention to depose.

Second, NRG’s Notice improperly attempts to unnecessarily burden all of the Property Owners who either filed testimony pursuant to the Board’s March 9 Order

(“Order”) in this matter, or who might otherwise wish to appear and testify before the Board. Neither the Order nor the Rules impose a requirement that persons who file testimony pursuant to the Order or Rule 4906-7-01(B)(7), or who choose to testify at the April 23, 2015 evidentiary hearing (“Hearing”) give prior notice of their appearance at the Hearing. Similarly, there is no requirement that such persons be subject to depositions as a prerequisite to either filing testimony or to testifying before the Board. It has not yet been determined who of the Property Owners will be present and testify at the Hearing.

Third, NRG’s Notice does not provide reasonable notice as required by Rule 4906-7-07(E)(2), prescribes an unfeasible location and improperly attempts to unnecessarily burden the Property Owners or otherwise discourage them from participating in this proceeding. All of the Property Owners are located in Lorain County, as their captioned title indicates. NRG’s Notice attempts to summon the Property Owners to Columbus on Monday, April 20—with less than 3 business days’ notice, which is insufficient to enable these individuals, most of who are employed and work full-time on weekdays, to make the necessary arrangements to travel to Columbus. Additionally, the Notice places an unreasonable and unnecessary burden on those Property Owners who wish to appear before the Board at the Hearing on April 23 by requiring those individuals to make two trips to Columbus in the same five day work-week. This would inhibit these individuals’ ability to adequately prepare for the Hearing and would potentially have the effect of denying certain individuals the opportunity to participate in this proceeding and be heard by the Board.

As a demonstration of good faith and with the aim of avoiding such unreasonable requests as NRG’s, the Property Owners’ counsel recently accommodated NRG’s request

to take the depositions of NRG's witnesses in Lorain County on Wednesday, April 15, 2015. It is undisputed the project and the center of gravity of evidence and witnesses in this matter are located in Lorain County. NRG's Notice to depose the Lorain County Property Owners in Columbus on Monday, April 20 is unreasonable, and attempts to either unnecessarily burden the Property Owners or improperly discourage them from participating in this proceeding.

Fourth, NRG's Notice improperly attempts to obtain privileged materials, including communications between the Property Owners and their counsel, and voluminous and duplicative materials already in NRG's possession. This includes proposed easements, written offers and materials made public by NRG in this matter. No other materials responsive to NRG's Notice Duces Tecum exist.

## **II. Conclusion**

For the foregoing reasons, the Property Owners respectfully object to and move to quash NRG's Notice of Deposition Duces Tecum.

Respectfully submitted,

GOLDMAN & BRAUNSTEIN, LLP

/s/ Michael Braunstein

Michael Braunstein (0060898)

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/s/ William A. Goldman

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### **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing *OBJECTION* has been filed with the Ohio Power Siting Board and has been served upon the following parties via electronic mail this 17<sup>th</sup> day of April 2015.

/s/ Michael Braunstein  
Michael Braunstein (0060898)

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Summary: Objection TO AND MOTION TO QUASH NRG OHIO PIPELINE COMPANY LLC'S NOTICE OF DEPOSITION DUCES TECUM BY LORAIN COUNTY PROPERTY OWNERS electronically filed by Mr. MICHAEL BRAUNSTEIN on behalf of Parker, Wesley A. and Thorne, Brandon & Mary and Borling, Charles & David and Dennis, Samuel and Llado, Carlos & Sonia and Carter, Edmund & Angie and Conlin, Gary & Kathleen and Unger, Stephanie K. and Kurianowicz, Edward and Plas, Lawrence R. and Miller, Mary B. and Petersen, Richard & Carol and Braatz, Richard & Ellen and Julius, Thomas & Johanna and Betzel, Louis & Gale and Fathers of St. Joseph and K. Hovnanian Oster Homes LLC