

**BEFORE  
THE OHIO POWER SITING BOARD**

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

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**NRG OHIO PIPELINE COMPANY LLC’S REPLY TO MOORE ROAD LLC’S  
RESPONSE IN OPPOSITION TO NRG’S MOTION TO EXTEND THE DURATION OF  
THE CERTIFICATE FOR THE CONSTRUCTION, OPERATION AND  
MAINTENANCE OF A NATURAL GAS PIPELINE, METERING STATION, AND  
REGULATING STATION IN LORAIN COUNTY, OHIO**

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**I. INTRODUCTION**

Pursuant to Ohio Administrative Code (“OAC”) Rule 4906-2-27(B)(2), NRG Ohio Pipeline Company LLC (“NRG”) respectfully submits a reply to the Ohio Power Siting Board (“OPSB” or “Board”) in response to Moore Road LLC’s (“Moore Road”) Response in Opposition to NRG’s Motion to Extend the Duration of the Certificate.

Moore Road’s response should be stricken as Moore Road does not have standing to file a response in opposition to NRG’s motion. Even if the Board were to consider the substance of Moore Road’s response, the response lacks any merit and should be denied accordingly.

**II. ARGUMENT**

**A. Moore Road lacks standing to object to NRG’s motion.**

Moore Road lacks the proper party status to file a response in opposition to NRG’s motion and for this reason alone, Moore Road’s response should not be considered by the Board. The Board’s rules could not be clearer: “Any *party* may file a memorandum contra [to a motion] within fifteen days . . . .”<sup>1</sup> Emphasis added. And, “[f]or purposes of this rule, the term “party”

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<sup>1</sup> OAC Rule 4906-2-27(B)(1).

includes all persons who have filed notices or petitions to intervene which are pending at the time a motion or memorandum is to be filed or served.”<sup>2</sup>

Moore Road never obtained party status and has not filed a notice or petition to intervene.

**B. Moore Road’s objections to NRG’s motion lack merit.**

Even if the substance of Moore Road’s objections were to be considered by the Board, these objections lack all merit and should be rejected. Moore Road’s objections stem from the ongoing eminent domain proceedings in the Lorain County Court of Common Pleas.<sup>3</sup> Moore Road is attempting to use the Board’s proceeding to litigate issues squarely in the purview of the Lorain County Court of Common Pleas. Indeed, Moore Road’s complaints to the Board involve procedural, discovery, mediation, and compensation issues arising in the ongoing eminent domain proceedings.

The Board has indicated in multiple cases that issues concerning monetary compensation, the valuation of property, and other contractual terms for easements are not within the scope of the Board’s proceedings.<sup>4</sup> Moore Road, nonetheless, now asks the Board to involve itself in the eminent domain proceedings and make a determination as to the progress of those proceedings. To apparently assist the Board in this effort, Moore Road included with its response over 300 pages of court filings from the eminent domain proceedings for the Board to analyze.

The Board should not allow this proceeding to become a forum for disputes that are presently and properly being litigated in other courts. The sole issue raised in NRG’s motion is an extension of time before its certificate expires. Issues relating to the ongoing eminent domain

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<sup>2</sup> OAC Rule 4906-2-27(E).

<sup>3</sup> Response in Opposition at 2.

<sup>4</sup> *In the Matter of the Application of NRG Ohio Pipeline Company LLC for Approval of a Letter of Notification for the Avon Lake Gas Addition Project in Lorain County, Ohio*, Case No. 14-1717-GA-BLN, Opinion, Order and Certificate (June 4, 2015) at 16; see also, *North Coast Gas Transmission, LLC*, Case No 14-1754-GA-BLN, Entry (April 6, 2015) at 10.

proceedings are completely outside the scope of this proceeding. Therefore, to the extent that the Board even considers the substance of Moore Road's objections, Moore Road's response should be rejected.

### III. CONCLUSION

For the reasons given above, the Moore Road's response in opposition should be stricken.

Respectfully submitted on behalf of  
NRG OHIO PIPELINE COMPANY LLC



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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Reply has been served upon the following parties listed below via electronic mail, this 27<sup>th</sup> day of October 2016.



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Summary: Reply of NRG Ohio Pipeline Company LLC to Moore Road LLC's Response in Opposition electronically filed by Teresa Orahod on behalf of Dylan F. Borchers