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Via Electronic Filing

The Honorable Kerry Sheets
Attorney Examiner
Legal Department
Public Utilities Commission of Ohio
180 East Broad Street, 12th Floor
Columbus, Ohio 43215

**Re: *Larry Sturgill and Patricia Gilgenbach vs. Northeast Ohio
Public Energy Council, Case No. 17-2127-GA-CSS***

Dear Attorney Examiner Sheets:

Northeast Ohio Public Energy Council (“NOPEC”) respectfully renews its motion to dismiss the complaint of Larry Sturgill and Patricia Gilgenbach (“Complainants”) for failure to prosecute. As discussed below, Complainants’ actions demonstrate that they have no interest in prosecuting this case.

On October 16, 2017, Complainants filed a complaint with the Public Utilities Commission of Ohio Commission (“Commission”) regarding natural gas aggregation services provided by NOPEC. On November 6, 2017, NOPEC timely filed its answer to the complaint in which NOPEC generally denied the allegations set forth in the complaint. On December 1, 2017, the Attorney Examiner issued an Entry which scheduled a settlement conference for December 18, 2017. (December 1 2017 Entry at ¶ 10.) The Attorney Examiner’s Entry expressly stated that “**failure to attend the scheduled settlement conference in this case may result in dismissal of the complaint by the Commission.**” (December 1 2017 Entry at ¶ 8.) (emphasis added).

The Complainants failed to attend the December 18, 2017. In addition, it is NOPEC’s understanding that the Complainants failed to inform the Attorney Examiner that they could not attend the December 18, 2017 settlement conference. On December 18, 2017, NOPEC filed a motion to dismiss for failure to prosecute due to Complainants’ failure to attend the December 18, 2017 settlement conference.

On February 23, 2018, the Attorney Examiner issued an entry scheduling another settlement conference for March 30, 2018. (February 23, 2018 Entry at ¶¶ 10 and 12.) For the second time, the Attorney Examiner

warned the Complainants that failure to attend the settlement conference could result in dismissal of the complaint. (*Id.* at 9.) And, yet again, Complainants failed to attend the settlement conference.

Complainants have failed to attend settlement conferences on two separate occasions. As the Commission is well aware, the Complainants have the burden of proving all the allegations in its complaint. *Grossman v. Pub. Util. Comm.*, 5 Ohio St.2d 189, 214 N.E. 2d 666 (1966); December 1 2017 Entry at ¶ 8. The Complainants' repeated failure to attend settlement conferences and refusal to comply with Attorney Examiner entries indicate that Complainants do not intend to prosecute this case. For the above reasons and for the reasons set forth in NOPEC's December 18, 2017 motion to dismiss, the Commission should dismiss the complaint **with prejudice**.

If you have any questions concerning this matter, please do not hesitate to contact me.

Sincerely,



Devin D. Parram

cc: Larry Sturgill and Patricia Gilgenbach, 814 Lake Breeze Road, Sheffield Lake, Ohio 44054 (*via* U.S. regular mail service)

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Summary: Correspondence Letter to Attorney Examiner Sheets regarding NOPEC's renewal of its motion to dismiss for failure to prosecute electronically filed by Mr. Devin D. Parram on behalf of Northeast Ohio Public Energy Council