

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Joint Application of        )  
Northeast Ohio Natural Gas Corp.,            )  
Ullico Infrastructure Master Fund, L.P.,        ) Case No. 21-0093-GA-UNC  
and Ullico Infrastructure Hearthstone         )  
Holdco, LLC for Approval of the Sale and     )  
Transfer of GEP Bison Holdings, Inc., and     )  
Request for Expedited Approval.             )

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**MOTION TO INTERVENE  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel ("OCC") moves to intervene<sup>1</sup> where Northeast Ohio Natural Gas Corp ("NEO Gas" or "Utility"), and its parent company and general partners, will be acquired and become wholly-owned subsidiaries of a holding company (Ullico Infrastructure Hearthstone Holdco, LLC). OCC is intervening on behalf of the 28,000 residential utility customers of NEO Gas who may be affected by the merger. The reasons the Public Utilities Commission of Ohio ("PUCO") should grant OCC's Motion are further set forth in the attached Memorandum in Support.

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<sup>1</sup> See R.C. Chapter 4911, R.C. 4903.221 and Ohio Adm. Code 4901-1-11.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien

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**MEMORANDUM IN SUPPORT**

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This application requests approval of a transaction where NEO Gas and its parent and general partners will be acquired by Ullico Infrastructure Hearthstone Holdco, LLC, a holding company. The application states that the transaction will provide NEO Gas with “stable financial support and managerial experience,” and also “support the continued provision of safe, reliable, and adequate utility service.”<sup>2</sup>

It is asserted in the application that the transaction “will not have an adverse impact on customers in Ohio since the operation of NEO Gas is not expected to materially change due to the transaction.”<sup>3</sup> However, OCC’s intervention should be granted for consumers to have their state advocate’s voice in the case, to help safeguard their interests. OCC has authority under law to represent the interests of the 28,000 residential utility customers of NEO Gas, under R.C. Chapter 4911.

R.C. 4903.221 provides, in part, that any person “who may be adversely affected” by a PUCO proceeding is entitled to seek intervention in that proceeding. The interests of Ohio’s residential customers may be “adversely affected” by this case, especially if the

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<sup>2</sup> NEO Gas Application (Jan. 27, 2021) at 5.

<sup>3</sup> *Id.*

consumers were unrepresented in a proceeding involving the acquisition of a local distribution company under the PUCO's jurisdiction. Customers of the utility should be protected from any adverse consequences that may result from the merger. Thus, this element of the intervention standard in R.C. 4903.221 is satisfied.

R.C. 4903.221(B) requires the PUCO to consider the following criteria in ruling on motions to intervene:

- (1) The nature and extent of the prospective intervenor's interest;
- (2) The legal position advanced by the prospective intervenor and its probable relation to the merits of the case;
- (3) Whether the intervention by the prospective intervenor will unduly prolong or delay the proceedings; and
- (4) Whether the prospective intervenor will significantly contribute to full development and equitable resolution of the factual issues.

First, the nature and extent of OCC's interest is representing the residential consumers of NEO Gas in this case involving its acquisition by a holding company. This interest is in assuring that the transaction will not adversely affect NEO and its ability to provide consumers with adequate service at a reasonable rate. The interest is different from that of any other party and especially different from that of the utility and the holding company merging with the utility whose advocacy includes the financial interest of stockholders.

Second, OCC's advocacy for residential customers will include advancing the position that consumers should not be harmed by an increase in rates or a reduction in the quality of service due to this acquisition. OCC's position is therefore directly related to

the merits of this case that is pending before the PUCO, the authority with regulatory control of public utilities' rates and service quality in Ohio.

Third, OCC's intervention will not unduly prolong or delay the proceedings. OCC, with its longstanding expertise and experience in PUCO proceedings, will duly allow for the efficient processing of the case with consideration of the public interest.

Fourth, OCC's intervention will significantly contribute to the full development and equitable resolution of the factual issues. OCC will obtain and develop information that the PUCO should consider for equitably and lawfully deciding the case in the public interest.

OCC also satisfies the intervention criteria in the Ohio Administrative Code (which are subordinate to the criteria that OCC satisfies in the Ohio Revised Code). To intervene, a party should have a "real and substantial interest" according to Ohio Adm. Code 4901-1-11(A)(2). As the advocate for residential utility consumers, OCC has a very real and substantial interest in this case where a change in ownership or merger is occurring with respect to a utility in Ohio that provides gas service to residential customers.

In addition, OCC meets the criteria of Ohio Adm. Code 4901-1-11(B)(1)-(4). These criteria mirror the statutory criteria in R.C. 4903.221(B) that OCC already has addressed and that OCC satisfies.

Ohio Adm. Code 4901-1-11(B)(5) states that the PUCO shall consider "The extent to which the person's interest is represented by existing parties." While OCC does not concede the lawfulness of this criterion, OCC satisfies this criterion in that it uniquely has been designated as the state representative of the interests of Ohio's residential utility

customers. That interest is different from, and not represented by, any other entity in Ohio.

Moreover, the Supreme Court of Ohio confirmed OCC's right to intervene in PUCO proceedings, in deciding two appeals in which OCC claimed the PUCO erred by denying its interventions. The Court found that the PUCO abused its discretion in denying OCC's interventions and that OCC should have been granted intervention in both proceedings.<sup>4</sup>

OCC meets the criteria set forth in R.C. 4903.221, Ohio Adm. Code 4901-1-11, and the precedent established by the Supreme Court of Ohio for intervention. On behalf of Ohio residential customers, the PUCO should grant OCC's Motion to Intervene.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Amy Botschner O'Brien  
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<sup>4</sup> See *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 384, 2006-Ohio-5853, ¶¶13-20.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Motion to Intervene was served on the persons stated below via electronic transmission, this 19th day of February 2021.

/s/ Amy Botschner O'Brien  
Amy Botschner O'Brien  
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Summary: Motion Motion to Intervene by Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Botschner O'Brien, Amy