

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Northeast Ohio       )  
Natural Gas Corp. for Approval of Alternative       ) Case No. 20-1427-GA-ALT  
Regulation       )

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**STIPULATION AND RECOMMENDATION**

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**I. INTRODUCTION**

Pursuant to Ohio Adm. Code 4901-1-30, any two or more parties to a proceeding before the Public Utilities Commission of Ohio (“Commission”) may enter into a written stipulation concerning the proposed resolution of some or all of the issues in the proceeding. This Stipulation and Recommendation (“Stipulation”) sets forth the understanding of Northeast Ohio Natural Gas Corp. (“NEO” or the “Company”) and the Commission Staff<sup>1</sup> (“Staff”), each of whom is a Signatory Party, and together constitute the Signatory Parties.<sup>2</sup> The Signatory Parties recommend that the Commission approve and adopt, as part of its Opinion and Order, this Stipulation that resolves all of the issues in the above-captioned proceeding.

This Stipulation represents a just and reasonable resolution of the issues raised in this proceeding, violates no regulatory principle or precedent, and is the product of lengthy, serious bargaining among knowledgeable and capable parties representing a wide range of interests to resolve the aforementioned issues. The Stipulation is supported by adequate data and information and, as a package, benefits customers and the public interest. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission. For

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<sup>1</sup> Pursuant to Ohio Adm. Code 4901-1-10(C), Staff is considered a party to this proceeding.

<sup>2</sup> The Office of the Ohio Consumers’ Counsel is not a Signatory Party but agrees to not oppose the Stipulation.

purposes of resolving all issues raised by this proceeding, the Signatory Parties stipulate, agree, and recommend as set forth below.

## **II. RECITALS**

WHEREAS, on August 26, 2020, NEO filed its Notice of Intent to File an Application for an Increase in Rates, and its Notice of Intent to File an Application for an Alternative Rate Plan. On August 26, 2020, NEO filed a Motion to Establish a Test Period and Date Certain and for a Waiver of Certain Filing Requirements. In the Motion for Test Period, NEO requested a test period of the 12 months ending on March 31, 2021, and a date certain of June 30, 2020;

WHEREAS, on December 2, 2020, the Commission adopted NEO's requested test period and date certain and granted NEO's request for waiver of certain filing requirements;

WHEREAS, on March 30, 2021, Staff filed the Staff Report, and objections to the Staff Report were filed on April 29, 2021 by the parties;

WHEREAS, the Stipulation is the result of serious discussion and compromise of complex issues and involves substantial benefits that would not otherwise have been achievable, and is not intended to reflect the views or proposals which any individual party may have advanced in litigation or otherwise acting unilaterally; and

WHEREAS, the Signatory Parties understand and agree that the Stipulation is not binding upon the Commission. The Stipulation is, however, supported by the information provided herewith, is the result of the Signatory Parties' desire to arrive at a reasoned and reasonable result that fairly incorporates the law, facts, and circumstances involved in this proceeding. Thus, the Signatory Parties recommend that the Commission carefully consider this Stipulation.

NOW, THEREFORE, in order to resolve all of the issues raised in this proceeding, the Signatory Parties stipulate, agree, and recommend that the Commission issue an Opinion and Order in this proceeding accepting and adopting this Stipulation without modification.

### **III. JOINT RECOMMENDATION OF THE PARTIES**

#### **A. Staff Report**

1. The Signatory Parties agree that the Commission should adopt the findings and recommendations of the Staff Report, except as otherwise agreed in this Stipulation.

#### **B. True-Up Mechanism**

1. The Signatory Parties agree to adopt Staff's proposal that the Infrastructure Acquisition Adjustment Rider ("OTP Rider") be trued up on an annual basis.

2. The Signatory Parties agree and recommend that these additional clarifications about this true up process be adopted by the Commission:

- a. In order to reflect the lingering effects of the pandemic, the OTP Rider will not go into effect before September 1, 2021;
- b. The OTP Rider will be trued up annually. NEO will track revenues and expenses on a calendar year basis (the "True-Up Period"). NEO will then propose a true up to Staff by April 30th of the following year which adjusts volumetric rates as appropriate to reflect any under or over recovery in the True-Up Period;
- c. NEO's proposed true up will be based on the True-Up Period reflecting actual revenues from the OTP Rider and actual OTP expenses as formatted in schedule C-2 and C-2.1 format. OTP expenses include income tax expense calculated at statutory rates and incorporating the effect of synchronized interest. This is

compared to the revenue and expenses, including any necessary adjustments for taxes, approved and allowed in the OTP Rider approval order for the True-Up Period. Any over/under-collections will be amortized over a 12-month period without carrying charges; and

- d. The true-up filing will be submitted to the Commission via a letter submission in this docket. That letter will include the updated annual expense calculation and actual revenue collections provided in schedule C-2 and C-2.1 format, as well as the proposed rates which will be designed to recover or credit, as applicable, any under or over recovery over the following 12 months. Unless Staff requests an extension of time, the revised rates proposed by NEO in that filing will go into effect 90 days after NEO's letter has been filed in this docket. In light of the expedited review time, NEO agrees to respond to Staff data requests as well as any parties' discovery requests within ten days of receipt of such data request or discovery.

### **C. End Date**

1. The Signatory Parties agree that the OTP Rider shall remain in effect until the earlier of: (1) a Commission Order requiring the OTP Rider to be modified or removed; (2) NEO's next base distribution rate case has been approved by the Commission and the Commission orders termination of the OTP Rider; or (3) June 30, 2026 if NEO has not filed an application for an increase in base distribution rates on or before that date. If NEO has filed an application for an

increase in base distribution rates on or before June 30, 2026 then the OTP Rider shall remain in effect until the earlier of (1) or (2).

#### **IV. PROCEDURAL MATTERS**

This Stipulation addresses a variety of complex issues that, absent this agreement, would have been resolved through complex, protracted, and expensive litigation. This Stipulation contains the entire agreement among the Signatory Parties and reflects a complete settlement of all proposals, issues, comments, and objections in this proceeding. The Signatory Parties will support this Stipulation, if it is contested, and no Signatory Party shall oppose an application for rehearing designed to defend the terms of the Stipulation. The Signatory Parties agree that this Stipulation advances the public interest and urge the Commission to adopt it.

1. Except for purposes of enforcing the Stipulation or establishing that its terms and conditions are lawful, neither the Stipulation nor the information and data contained therein or attached hereto shall be cited as precedent in any proceeding for or against a Signatory Party, if the Commission approves this Stipulation. The Stipulation is submitted for the purpose of resolving only the proceeding identified herein and does not reflect the position that any individual Signatory Party may take as to any individual provision of the Stipulation, standing alone. Rather, the Stipulation reflects a compromise and balancing of competing interests and does not reflect the position that any one of the Signatory Parties would have taken on any individual issue. As such, acceptance of any provision within this Stipulation shall not be cited by any party or the Commission in any forum to state or imply that any Signatory Party agrees with any specific provision of the settlement.

2. This Settlement is conditioned upon adoption of the Settlement by the Commission in its entirety and without material modification. Each Signatory Party has the right, in its sole discretion, to determine whether the Commission's approval of this Settlement constitutes a "material modification" thereof. If the Commission rejects or materially modifies all or any part of this Settlement, any Signatory Party shall have the right to apply for rehearing. If the Commission does not adopt the Settlement without material modification upon rehearing, or if the Commission makes a material modification to any Order adopting the Settlement pursuant to any reversal, vacation and/or remand by the Supreme Court of Ohio, then within thirty (30) days of the Commission's Entry on Rehearing or Order on Remand any Signatory Party may withdraw from the Settlement by filing a notice with the Commission ("Notice of Withdrawal"). No Signatory Party shall file a Notice of Withdrawal without first negotiating in good faith with the other Signatory Parties to achieve an outcome that substantially satisfies the intent of the Settlement. If a new agreement achieves such an outcome, the Signatory Parties will file the new agreement for Commission review and approval. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are unsuccessful, and a Signatory Party files a Notice of Withdrawal, then the Commission will convene an evidentiary hearing to afford that Signatory Party the opportunity to contest the Settlement. If the discussions to achieve an outcome that substantially satisfies the intent of the Settlement are successful, then some or all of the Signatory Parties shall submit the amended Settlement to the Commission for approval after a hearing if necessary.

3. Unless a Signatory Party exercises its right to withdraw from the Stipulation and terminate its status as a Signatory Party, each Signatory Party agrees to and will support the reasonableness of the Stipulation before the Commission, and to cause its counsel to do the same,

and in any appeal from the Commission's adoption or enforcement of the Stipulation in which it participates.

4. The Signatory Parties agree that the settlement and resulting Stipulation are a product of serious bargaining among capable, knowledgeable parties. This Stipulation is the product of an open process in which all parties were represented by able counsel and technical experts. The Stipulation represents a comprehensive compromise of issues raised by parties with diverse interests. The Signatory Parties believe that the Stipulation that they are recommending for Commission adoption presents a fair and reasonable result. The Signatory Parties acknowledge that the costs approved herein result from settlement discussion and do not reflect any agreement with individual objections raised by the parties or the Staff Report.

5. The Signatory Parties agree that the settlement, as a package, benefits NEO's customers and is in the public interest. The Signatory Parties agree that the settlement package does not violate any important regulatory principle or practice.

IN WITNESS THEREOF, the undersigned Signatory Parties agree to this Stipulation as of this 13th day of July, 2021. The undersigned Signatory Parties respectfully request the Commission issue its Opinion and Order approving and adopting this Stipulation.

**STIPULATING PARTIES:**

On Behalf of Northeast Ohio Natural  
Gas Corp.:

/s/ N. Trevor Alexander

N. Trevor Alexander  
Steven D. Lesser  
Mark T. Keaney  
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On Behalf of Staff of the Public Utilities  
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/s/ Werner L. Margard

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Summary: Stipulation and Recommendation electronically filed by Mr. Trevor Alexander on behalf of Northeast Ohio Natural Gas Corp.