

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of Joint Application of Utility)
Pipeline, Ltd., Cobra Pipeline Company,)
Ltd., and Knox Energy Cooperative) Case No. 21-0803-GA-ATR
Association, Inc. to Substitute Natural Gas)
Service and Transfer Assets to Customers)
)

**NORTHEAST OHIO NATURAL GAS CORP.’S REPLY IN SUPPORT OF MOTION TO
INTERVENE**

Knox Energy Cooperative Association, Inc. (“Knox”), and Utility Pipeline, Ltd., (“UPL”) (hereinafter “Joint Movants”) are requesting that Northeast Ohio Natural Gas Corporation’s (“NEO”) participation as intervenor, if permitted, be limited to “determining whether the transfer of assets belonging to Cobra Pipeline Company, Ltd., (“Cobra”) will result in adequate and uninterrupted service.”¹

Under R.C. §§ 4905.05 and 4905.06, the Commission has authority to determine: (1) that the transaction is reasonable and protects the public interest; and (2) that the transferee has the requisite financial and managerial abilities to ensure uninterrupted and adequate gas service to the former public utility customers.² As noted in NEO’s Motion to Intervene, in deciding whether to permit intervention in this case, the Commission shall consider: (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; (4) whether the prospective intervenor

¹ Joint Movants’ Response to Motion to Intervene, p. 1.

² See, e.g., *In re Columbia Gas of Ohio, Inc. and Consumers Gas Cooperative*, Pub. Util. Comm. No. 08-740-GA-ATR, 2009 Ohio PUC Lexis 756 (September 23, 2009); *In re Eastern Natural Gas Company and Village Energy Cooperative Association, Inc.*, Pub. Util. Comm. No. 18-369-GA-ATR, 2020 Ohio PUC LEXIS 1688 (September 23, 2020).

will significantly contribute to full development and equitable resolution of the factual issues; and (5) the extent to which the person's interest is represented by existing parties.³

Joint Movants do not contest that NEO meets the standards for intervention. Instead Joint Movants' assert that the Commission should, pursuant to § 4901-1-11(D)(1), "[g]rant limited intervention, which permits a person to participate with respect to one or more specific issues, if the person has no real and substantial interest with respect to the remaining issues or the person's interest with respect to the remaining issues is adequately represented by existing parties."⁴ It is Joint Movants' position that the existing service agreement between Cobra and NEO, which affects thousands of customers, is merely a "private contractual commitment" that "should not be an issue in this proceeding."⁵ Thus, the Joint Movants request the scope of intervention be limited in order to prevent the introduction of "irrelevant and collateral issues."⁶

NEO is not requesting the Commission supplant the authority of the United States Bankruptcy Court, as indicated in Joint Movant's Response.⁷ However, Ohio law does not condition intervention on the proposed intervenor agreeing to only raise issues agreed to by the applicant. This Application was silent as to key issues like: (1) the pricing which would take effect if the transaction were to be approved; (2) the terms and conditions of service; (3) how price and service terms could change, both immediately and in the future, if the transaction were to be approved; (4) how the purchase price being paid by UPL relates to the rates to be charged by Knox; (5) whether Knox is financially capable of making the required payments to UPL or will be dependent on NEO customers to do so; and (6) how all of this will impact the NEO customers

³ O.A.C. § 4901-1-11(B).

⁴ *Id.*, pp. 3, 5.

⁵ *Id.*, p. 5.

⁶ *Id.* p. 2.

⁷ Joint Movants' Response, p. 1.

whose service is reliant on this intrastate pipeline. It is entirely appropriate for NEO to raise these issues in order for the Commission to determine whether this transaction could harm Ohio customers.

Joint Movants, in effect, seek a premature ruling on the scope of the hearing and the admissibility of evidence before such evidence has been developed, much less proffered at hearing. This line of argument has been expressly rejected by the Commission in *In re Application of Republic Wind, LLC*. “The ALJ finds that the question of admissibility of evidence is premature at this point in the proceeding. Therefore, scope of intervention will not be limited at this time.”⁸

Joint Movants may not unilaterally determine the scope and relevancy of the issues before the Commission. While the assignment of existing service agreements may be within the jurisdiction of the United States Bankruptcy Court, it is within the jurisdiction of the Commission, and is the heart of this matter, to determine whether the transfer Joint Movants propose is appropriate under R.C. §§ 4905.05 and 4905.06. Any disputes about specific evidence should be addressed when that evidence has been presented rather than by limiting intervention.

Therefore, NEO respectfully requests the Commission deny the request to limit the scope of NEO’s intervention.

⁸ *In re Application of Republic Wind, LLC*, Pub. Util. Comm. No. 17-2295-EL-BGN, 2018 Ohio PUC LEXIS 841, at *12 (August 21, 2018).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 11th day of August, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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Summary: Reply in Support of Motion to Intervene electronically filed by Sarah Siewe on behalf of Northeast Ohio Natural Gas Corp.