

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-40, SUB 160

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Joint Application of Frontier Natural Gas Company and Ullico Infrastructure Hearthstone Holdco, LLC, for Approval of the Sale and Transfer of Stock	)	ORDER SCHEDULING HEARING, ESTABLISHING PROCEDURAL DEADLINES AND REQUIRING PUBLIC NOTICE

BY THE COMMISSION: On January 27, 2021, Frontier Natural Gas Company (Frontier) and Ullico Infrastructure Hearthstone Holdco, LLC (UIHH) (collectively, the Applicants), filed an application pursuant to N.C. Gen. Stat. § 62-111 for (1) approval of a transaction whereby Hearthstone Utilities Inc. (HUI) and its subsidiaries, including Frontier, will become wholly owned subsidiaries of UIHH, and (2) authorization and/or waiver as is necessary and appropriate to effect the proposed transaction. Attached to the application are the following exhibits: the Stock Purchase and Sales Agreement (SPSA); financial statements for Frontier as of September 30, 2020; an organizational chart; and a cost-benefit analysis. The Applicants also filed direct testimony with the application.

In the application, the Applicants state the following: (1) Frontier is a wholly owned subsidiary of PHC Utilities, Inc. (PHC), which is wholly owned by HUI; (2) HUI is owned by GEP Bison Holdings, Inc. (GBH), which is owned by an infrastructure fund managed by an investment management subsidiary of BlackRock, Inc.;<sup>1</sup> (3) UIHH, a special purpose entity established for the purpose of acquiring GBH and its subsidiaries, is a wholly-owned subsidiary of Ullico Infrastructure Master Fund, L.P., which, along with its general partner UIF GP, LLC, are referred to as Ullico Infrastructure Fund (UIF or the Fund); (4) UIF has experience owning and financing a mixture of energy related firms, including investments in regulated utility assets; (5) UIF's investment vehicle is an open-ended investment fund that makes investments in infrastructure businesses that provide essential services to communities, governments, and businesses; (6) UIF made its first equity investment in November 2012 and has since secured more than \$3 billion in commitments from investors; (7) UIF has made 18 investments across the transportation, energy, and utilities sectors, providing geographic and sector diversification, including ownership in a water and wastewater utility, a high-voltage submarine transmission cable, four combined-cycle generation plants, several solar and wind farms, and a natural gas transmission pipeline system.

Additionally, the Applicants indicate that the proposed transaction would not affect the Commission's regulatory jurisdiction over Frontier, or the rates, service requirements, financing arrangements, or any orders previously issued by the Commission currently

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<sup>1</sup> GBH's current controlling owner, GEPIF II ECHO AIV, L.P., entered into the SPSA with UIHH.

applicable to Frontier. Further, the Applicants represent that the proposed transaction will not result in any changes to Frontier's rates, services, operations or regulatory policies.

The Commission's Order Requiring Filing of Analyses issued November 2, 2000, in Docket No. M-100, Sub 129 (M-100, Sub 129 Order), requires that merger applications be accompanied by a market power analysis and a cost-benefit analysis. The Applicants submitted a cost-benefit analysis. According to the application, given the relative size of Frontier's North Carolina operations and the lack of any other UIF-owned operations served by or in proximity to Frontier's service territory, there is no possibility that the proposed transaction will enhance or increase either Frontier's or UIF's market power in any relevant retail or wholesale market. Frontier, therefore, requests a waiver of the requirement to file a market power analysis.

The Public Staff presented this matter at Regular Staff Conference on March 29, 2021, and recommended that an order be issued setting the application for hearing, establishing deadlines for petitions to intervene and the filing of testimony, establishing appropriate discovery rules, and requiring public notice. The Public Staff further recommended that the order grant the waiver of the requirement to file a market power analysis, and state that the application satisfies the requirements of the M-100, Sub 129 Order.

Based upon a review of the application and the Public Staff's recommendations, the Commission finds good cause to set the application for hearing, establish deadlines for petitions to intervene and the filing of testimony, establish appropriate discovery rules, and require public notice. Further, the Commission grants a waiver of the requirement to file a market power analysis, and finds and concludes that the application satisfies the requirements of the M-100, Sub 129 Order.

The guidelines regarding discovery in this docket, subject to modification for good cause shown, are as follows:

1. Any deposition shall be taken before the deadline for the filing of Public Staff and other intervenor testimony. A notice of deposition shall be served on all parties at least seven calendar days prior to the taking of the deposition.
2. Any motion for subpoena of a witness to appear at the expert witness hearing shall be filed with the Commission before the deadline for the filing of the Public Staff and other intervenor testimony, shall be served by hand delivery or facsimile to the person sought to be subpoenaed at or before the time of filing with the Commission, and shall make a reasonable showing that the evidence of such person will be material and relevant to an issue in the proceeding. N.C.G.S. § 62-62. Unless an objection is filed, the Chief Clerk shall issue the requested subpoena within one business day after the filing of such motion.
3. Formal discovery requests related to the application and the Applicants' prefiled direct testimony shall be served on the Applicants by hand delivery, facsimile, or electronic delivery (with the Applicants' agreement) no later than 14 calendar days prior to the filing of Public Staff and intervenor testimony. The party served shall have up to ten

calendar days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days prior to the deadline for the filing of Public Staff and other intervenor testimony.

4. Formal discovery requests of the Public Staff or other intervenors shall be served by hand delivery, facsimile, or electronic delivery (with the agreement of the receiving party) no later than four calendar days after the filing of that party's testimony. The party served shall have up to three business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than ten calendar days after the filing of that party's testimony.

5. Formal discovery requests related to prefiled rebuttal testimony shall be served by hand delivery or facsimile no later than two calendar days after the filing of such testimony. The party served shall have up to two business days to file with the Commission objections to the discovery requests on an item-by-item basis, but in no event shall objections be filed later than four business days after the filing of such rebuttal testimony. Discovery related to rebuttal testimony shall be limited to new material introduced in such rebuttal testimony and will be carefully scrutinized upon objection that such discovery should have been sought during the initial period of discovery.

6. Discovery requests need not be filed with the Commission when served; however, any party filing objections shall attach a copy of the relevant discovery request to the objections. Each discovery request, or part thereof, to which no objection is filed shall be answered by the time objections are due, subject to other agreement of the affected parties or other order of the Commission. Upon the filing of objections, the party seeking discovery shall have two business days to file with the Commission a motion to compel, and the party objecting to discovery shall have one business day thereafter to file a response. All objections, motions to compel, and responses shall be served on the other affected party by hand delivery, facsimile, or electronic delivery (with the agreement of the receiving party) at or before the time of filing with the Commission.

7. A party shall not be granted an extension of time to pursue discovery because of that party's late intervention or other delay in initiating discovery.

The Commission urges all parties to work in a cooperative manner to accommodate discovery within the time available. The Commission recognizes that in the past most discovery has been conducted in an informal manner without the need for Commission involvement or enforcement, and that such discovery has been generally successful. The above guidelines are without prejudice to the parties conducting informal discovery or exchanging information by agreement at any time with the understanding that such will not be enforceable by the Commission if outside the guidelines.

IT IS, THEREFORE, ORDERED as follows:

1. That a public witness hearing on the application of Frontier and UIHH shall be, and is hereby, scheduled for Tuesday, June 22, 2021, at 1:30 p.m., and shall be held remotely via Webex. A link to view the hearing will be available at [www.ncuc.net](http://www.ncuc.net). Members of the public that would like to testify must register in advance of the hearing,

no later than 5:00 p.m. on Monday, June 14, 2021, by contacting the Public Staff via email at FrontierPublicHearing@psncuc.nc.gov or by calling 919-733-6110. Individuals registering to testify must provide their name, the docket number (G-40, Sub 160), the telephone number they will use to participate in the hearing, and the topic of their testimony.

**Only individuals registered with the Public Staff by 5:00 p.m. on Monday, June 14, 2021, will be allowed to testify at the hearing.**

2. That the remote hearing will resume on Wednesday, June 23, 2021, at 10:00 a.m., and will continue as required for testimony and cross-examination of witnesses for the Applicants, the Public Staff, and other intervenors.

3. That a waiver of the requirement to file a market power analysis is granted and the application satisfies the requirements of the M-100, Sub 129 Order.

4. That the Public Staff and other intervenors shall file their testimony not later than May 24, 2021.

5. That petitions to intervene in the proceeding shall be filed pursuant to Commission Rules R1-5 and R1-19 not later than May 24, 2021.

6. That rebuttal testimony of the Applicants shall be filed not later than June 9, 2021.

7. That the parties shall comply with the discovery guidelines established in this Order.

8. That Frontier shall, at its expense, publish in newspapers having general coverage in its North Carolina service territory the Notice attached hereto as Appendix A once a week for two consecutive weeks, with the first publication occurring not later than 20 days after the date of this Order. The published notice shall cover no less than one fourth of a page. Frontier shall file affidavits of publication with the Commission prior to the scheduled hearing.

9. That Frontier shall mail the attached notice to its customers, as a bill insert or by separate mail, in conjunction with its next billing cycle and shall file a certificate of service prior to the scheduled hearing.

10. That the Applicants shall consult with all other parties and file, not later than June 16, 2021, a joint list and order of witnesses to be called to testify at the hearing and estimated times for cross-examination of those witnesses. If the parties cannot reach agreement, the remaining parties shall, no later than June 18, 2021, make a filing indicating their points of disagreement with the Applicants' filing.

11. That the parties participating in the expert witness portion of the remote hearing will be subject to the following conditions:

- (1) On or before Tuesday, June 8, 2021, all parties shall file a statement consenting to hold the hearing by remote means, or a statement objecting to the same;
- (2) On or before Friday, June 11, 2021, each party shall send the name, phone number, and email address of each attorney and witness that will participate in the hearing on the party's behalf directly to the Commission via email at [ncucwebex@ncuc.net](mailto:ncucwebex@ncuc.net);
- (3) On or before Wednesday, June 16, 2021, parties shall file a list of potential cross-examination exhibits and provide copies of the exhibits, pre-marked but not numbered, to the other parties and to the Commission via email at [ncucexhibits@ncuc.net](mailto:ncucexhibits@ncuc.net);
- (4) On or before Friday, June 18, 2021, the parties shall file a list of potential redirect examination exhibits and provide copies of the exhibits, pre-marked but not numbered, to the other parties and the Commission via email at [ncucexhibits@ncuc.net](mailto:ncucexhibits@ncuc.net);
- (5) On or before Friday, June 18, 2021, the parties shall provide a copy of witness testimony summaries to the other parties and the Commission via email at [ncucexhibits@ncuc.net](mailto:ncucexhibits@ncuc.net);
- (6) Within two business days after the expert hearing, parties shall file their cross-examination and redirect exhibits used in the hearing marked as indicated during the hearing; and
- (7) Parties and witnesses will be required to refrain from disclosing confidential information during the hearing, including during direct examination, cross examination, and redirect examination. If a party believes that this requirement will materially affect the party's presentation of evidence or examination of a witness, the party shall bring this to the attention of the Presiding Commissioner at the beginning of the hearing.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of March, 2021.

NORTH CAROLINA UTILITIES COMMISSION

Handwritten signature of Kimberley A. Campbell in black ink.

Kimberley A. Campbell, Chief Clerk

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. G-40, SUB 160

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Joint Application of Frontier Natural Gas Company and Ullico Infrastructure  
Hearthstone Holdco, LLC, for Approval of the Sale and Transfer of Stock )  
NOTICE OF HEARING ON APPLICATION TO ENTER INTO A BUSINESS COMBINATION )  
)

NOTICE IS HEREBY GIVEN that on January 27, 2021, Frontier Natural Gas Company (Frontier) and Ullico Infrastructure Hearthstone Holdco, LLC (UIHH) (collectively, the Applicants), filed an application pursuant to N.C. Gen. Stat. § 62-111 for (1) approval of a transaction whereby Hearthstone Utilities Inc. (HUI) and its subsidiaries, including Frontier, will become wholly owned subsidiaries of UIHH, and (2) authorization and/or waiver as is necessary and appropriate to effect the proposed transaction.

The application, as well as prefiled testimony and exhibits of the parties, hearing transcripts, post-hearing briefs and proposed orders, may be viewed as they become available on the Commission's website at [www.ncuc.net](http://www.ncuc.net), by clicking on "Docket Search" and typing in Docket No. G-40, Sub 160.

The Commission has instituted an investigation into the application, and has scheduled the matter for a public witness hearing for Tuesday, June 22, 2021, at 1:30 p.m. The hearing will be conducted remotely via Webex with telephonic access. A link to the Webex hearing for public viewing will be available at [www.ncuc.net](http://www.ncuc.net).

The hearing on June 22, 2021, will be solely for the purpose of receiving the testimony of public witnesses in accordance with Commission Rule R1-21(g). The Commission reserves the right to limit testimony at the public witness hearing pursuant to Commission Rule R1-21(g)(5).

Members of the public that would like to testify must register in advance of the hearing, no later than 5:00 p.m. on Monday, June 14, 2021, by contacting the Public Staff via email at [FrontierPublicHearing@psncuc.nc.gov](mailto:FrontierPublicHearing@psncuc.nc.gov) or by calling 919-733-6110. When registering, provide your name, docket number (G-40, Sub 160), telephone number you will use to participate in the hearing, and the topic of your testimony.

**Only individuals registered with the Public Staff by 5:00 p.m. on Monday, June 14, 2021, will be allowed to testify at the hearing.**

The remote hearing will resume on Wednesday, June 23, 2021, at 10:00 a.m., and will continue as required for testimony and cross-examination of witnesses for the Applicants, the Public Staff, and other intervenors.

Persons having an interest in this matter and desiring to intervene as formal parties of record may file their motions to intervene not later than May 24, 2021, and in accordance with Rules R1-5 and R1-19 of the Commission's Rules and Regulations. These motions should reference Docket No. G-40, Sub 160, and should be filed with the Chief Clerk of the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300. All intervenors who wish to present testimony in the proceeding must prefile their testimony not later than May 24, 2021.

Persons desiring to send written statements to inform the Commission of their positions in the matter should address their statements to the North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4300 and reference Docket No. G-40, Sub 160. However, such written statements cannot be considered competent evidence unless those persons appear at the hearing and testify concerning the information contained in their written statements. Persons can also email the Commission a statement about the application via the Commission's website at [www.ncuc.net/contactus.html](http://www.ncuc.net/contactus.html). In either case, consumer statements will be placed in Docket No. G-40, Sub 160, and may be accessed by searching that docket number via the Commission's website.

The Public Staff is authorized by statute to represent the using and consuming public in proceedings before the Commission. Written statements to the Public Staff should be addressed to Mr. Christopher J. Ayers, Executive Director, Public Staff – North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326.

The Attorney General is also authorized by statute to represent the using and consuming public in proceedings before the Commission. Written statements to the Attorney General should be addressed to The Honorable Josh Stein, Attorney General, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001.

***The Commission may cancel the public witness hearing if no substantial written statements regarding the application are received by the Commission's Chief Clerk on or before Monday, June 14, 2021, and if no substantial registrations to provide testimony at the public witness hearing are received by Monday, June 14, 2021.***

This the 31st day of March, 2021.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive style with a large initial 'K'.

Kimberley A. Campbell, Chief Clerk

NOTE TO THE PRINTER: Frontier shall pay advertising costs. It is required that the affidavit of publication be filed with the Commission by Frontier.