

IN THE SUPREME COURT OF OHIO

**ROVER PIPELINE LLC
c/o ENERGY TRANSFER L.P.,**

Appellant,

v.

**PATRICIA HARRIS,
TAX COMMISSIONER OF OHIO,**

Appellee.

:
: Case No. 2024-0484
:
: On Appeal from the
: Board of Tax Appeals
:
: BTA Case No. 2020-1540
:
:
:
:

BRIEF OF AMICI CURIAE NAPOLEON AREA CITY SCHOOL DISTRICT, HENRY COUNTY, OHIO; CINDY FUNK, ASHLAND COUNTY AUDITOR; CINDI HENRY, BELMONT COUNTY AUDITOR; LYNN FAIRCLOUGH, CARROLL COUNTY AUDITOR; ROBYN SHEETS, CRAWFORD COUNTY AUDITOR; JILL LITTLE, DEFIANCE COUNTY AUDITOR; BRETT KOLB, FULTON COUNTY AUDITOR; CHARITY RAUSCHENBERG, HANCOCK COUNTY AUDITOR; ALLISON ANDERSON, HARRISON COUNTY AUDITOR; ELIZABETH FRUCHEY, HENRY COUNTY AUDITOR; E.J. CONN, JEFFERSON COUNTY AUDITOR; DENISE STONEKING, MONROE COUNTY AUDITOR; RUTH HAYES, NOBLE COUNTY AUDITOR; PATRICK DROPSEY, RICHLAND COUNTY AUDITOR; JULIE ADKINS, SENECA COUNTY AUDITOR; ALAN HAROLD, STARK COUNTY AUDITOR; LARRY LINDBERG, TUSCARAWAS COUNTY AUDITOR; RUSSELL ROBERTSON, WAYNE COUNTY AUDITOR; MATT OESTREICH, WOOD COUNTY AUDITOR; BUCKEYE ASSOCIATION OF SCHOOL ADMINISTRATORS; OHIO ASSOCIATION OF SCHOOL BUSINESS OFFICIALS; OHIO SCHOOL BOARDS ASSOCIATION; OHIO PROSECUTING ATTORNEYS ASSOCIATION; OHIO TOWNSHIP ASSOCIATION; OHIO LIBRARY COUNCIL

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INTRODUCTION

Appellant Rover Pipeline LLC (“Rover”) is an approximately 700-mile-long pipeline that transports up to 3.25 billion cubic feet per day of domestically-produced natural gas from production areas in eastern Ohio, western Pennsylvania, and northern West Virginia. Rover transports natural gas to markets across the U.S. as well as into Canada for redistribution back into the U.S. or Canadian market. Rover is a “dual pipeline.” Line A was placed in-service in calendar year 2017, and Line B was placed in-service in calendar year 2018. Line A and B are parallel to one another. There are several connectors and laterals that lead into Line A and B.

Unlike the parties’ merit briefs, this brief does not discuss the legal issues presented to the Court on pipeline valuation. Instead, this brief will look at the practical impacts and effects the delay in resolution of those issues has and will continue to have on the local governments in the Rover pathway until resolved.

Rover’s appeal impacts local governments in three ways. *First*, the operating budgets of local governments—particularly school districts—are unstable since Rover tax payments have not been finalized. *Second*, construction projects that are, in part, dependent upon the property tax monies from Rover have increased in cost because the projects have been delayed. *Third*, interest rates for financing those types of projects have increased because of the delay in those projects, causing local governments to incur additional debt service expenses.

Amici curiae Napoleon Area City School District; Cindy Funk, Ashland County Auditor; Cindi Henry, Belmont County Auditor; Lynn Fairclough, Carroll County Auditor; Robyn Sheets, Crawford County Auditor; Jill Little, Defiance County Auditor; Brett Kolb, Fulton County Auditor; Charity Rauschenberg, Hancock County Auditor; Allison Anderson, Harrison County Auditor; Elizabeth Fruchey, Henry County Auditor; E.J. Conn, Jefferson County Auditor; Denise Stoneking, Monroe County Auditor; Ruth Hayes, Noble County Auditor; Patrick Dropsey,

Richland County Auditor; Julie Adkins, Seneca County Auditor; Alan Harold, Stark County Auditor; Larry Lindberg, Tuscarawas County Auditor; Russell Robertson, Wayne County Auditor; Matt Oestreich, Wood County Auditor; Buckeye Association of School Administrators; Ohio Association of School Business Officials; Ohio School Boards Association; Ohio Prosecuting Attorneys Association; Ohio Township Association; Ohio Library Council; all request that the Court resolve the pipeline valuation issues—and quickly. This will provide certainty for local government planning and budgeting.

STATEMENT OF INTEREST OF AMICI CURIAE

The 25 amici curiae filing this brief are a combination of a school district, county auditors located in jurisdictions through which the pipeline owned and installed by Rover runs, and local government associations. Each of the amici curiae have been affected by this appeal.

The Napoleon Area City School District, Henry County, Ohio (“Napoleon”) is a political subdivision under the laws of the State of Ohio (the “State”) with significant Rover property tax implications. R.C. 3301.16.

The amici County Auditors all have Rover running through their respective counties. Those County Auditors want to provide certainty to the local governments located within their respective counties of the property tax distributions they will receive.

The Buckeye Association of School Administrators (“BASA”) is a statewide organization representing superintendents of public educational entities in the State. BASA is a non-profit 501(c)(6) corporation dedicated to assisting its members to more effectively serve the needs of the school administrators and their school districts. BASA provides extensive informational support, advocacy, and professional development in an effort to support their professional practice.

Founded in 1936, the Ohio Association of School Business Officials is a non-profit, professional association empowering Ohio’s public school finance and operations professionals to

achieve excellence through collaboration, continuous learning, and advocacy. Its members include public school district treasurers/CFOs, business managers, transportation directors, food service supervisors, and administrative support staff.

The Ohio School Boards Association (“OSBA”) is a non-profit, 501(c)(4) corporation that engages and serves Ohio’s public school board members and the diverse districts they represent. More than 700 boards of education representing the city, municipal, local, exempted village and career technical school districts and educational service centers throughout the State are members of OSBA. OSBA’s services and programs include extensive informational support, advocacy and consulting, board development and training, legal information, and policy service and analysis.

The Ohio Prosecuting Attorneys Association is a private, non-profit association that supports the State’s 88 elected county prosecutors, who represent townships as well as other local governments.

The Ohio Township Association (“OTA”) is a statewide professional organization dedicated to the promotion and preservation of township government in Ohio. OTA, founded in 1928, is organized in 87 counties and has over 5,200 active members comprised of elected township trustees and township fiscal officers and over 3,500 affiliate and associate members from Ohio’s 1,308 townships. OTA communicates to Ohio and federal policymakers about important issues and resolutions regarding township operations and develops quality training and education programs for members.

The Ohio Library Council is a statewide association representing the interests of Ohio’s public libraries. Its membership is composed of Ohio’s 251 public library systems, library trustees, Friends of the Library groups, library staff members, and other library institutions. It is the forum

in which Ohio's public library community is strengthened through advocacy, education, collaboration, and innovation.

This brief will refer to the 25 amici curiae as the "School District, County Auditor, and Association" amici curiae.

STATEMENT OF THE CASE AND FACTS

Rover crosses 18 counties and approximately 70 school districts and career centers as well as approximately 78 townships. Rover, as with Ohio's other three large natural gas pipelines, provides significant resources to typically rural local governments that are funded largely by property taxes.

LAW AND ARGUMENT

Rover raised certain propositions of law in its direct appeal from the Board of Tax Appeals. The School District, County Auditor, and Association amici, however, are not responding to those propositions of law. Instead, this brief focuses on the financial impact the delay in establishing Rover's tax valuation has had on the 18 counties and the local governments located in its path.

I. Operating budgets are difficult to forecast and State aid delayed.

The 2024 fiscal year finished June 30. As of now, and for the past five years, the valuation of the Rover pipeline is and has been unknown (and is the core issue of this appeal). The unknown valuation, however, makes it difficult (if not impossible) for local governments that are preparing annual operating budgets and planning for large-scale construction projects that both, in part, would be based upon property-tax distributions from Rover. This difficulty for forecasting revenue occurred in three different ways.

First, Rover is making reduced property tax payments until its appeal is resolved. This directly affects the local governments in all 18 Rover-affected counties, disproportionately impacting the approximately 70 school districts and 78 townships located in those 18 counties

which are, in large part, funded by property taxes. For example, according to amici Henry County Auditor Elizabeth Fruchey, amici Napoleon has had the following fluctuations in its Rover property tax collections over the last five years, totaling \$10,318,399 in contested amount.

TAX YEAR 2019					
DISTRICT	LEVY RATE	LEVY NAME	ASSESSED VALUE	CONTESTED AMOUNT	ADJUSTED AV
NAPOLEON CSD			\$ 71,714,660.00	\$ 30,794,050.00	\$ 40,920,610.00
Napoleon Schools	0.0033	General	\$ 236,658.38	\$ 101,620.37	\$ 135,038.01
Napoleon Schools	0.0153	Current Expense	\$ 1,097,234.30	\$ 471,148.97	\$ 626,085.33
Napoleon Schools	0.0029	Current Expense	\$ 207,972.51	\$ 89,302.75	\$ 118,669.77
Napoleon Schools	0.0054	Current Expense	\$ 387,259.16	\$ 166,287.87	\$ 220,971.29
Napoleon Schools	0.0059	Current Expense	\$ 423,116.49	\$ 181,684.90	\$ 241,431.60
Napoleon Schools	0.0079	Current Expense	\$ 566,545.81	\$ 243,273.00	\$ 323,272.82
Napoleon Schools	0.002	Perm Improv	\$ 143,429.32	\$ 61,588.10	\$ 81,841.22
Napoleon Schools	0.0079	Current Expense	\$ 566,545.81	\$ 243,273.00	\$ 323,272.82
Napoleon Schools	0.0054	Bond 31,500,000	\$ 387,259.16	\$ 166,287.87	\$ 220,971.29
Napoleon Schools	0.0029	Current Expense	\$ 207,972.51	\$ 89,302.75	\$ 118,669.77
	0.0589		4,223,993.47	1,813,769.55	2,410,223.93

TAX YEAR 2020					
DISTRICT	LEVY RATE	LEVY NAME	ASSESSED VALUE	CONTESTED AMOUNT	ADJUSTED AV
NAPOLEON CSD			\$ 66,136,150.00	\$ 35,647,740.00	\$ 30,488,410.00
Napoleon Schools	0.0033	General	\$ 218,249.30	\$ 117,637.54	\$ 100,611.75
Napoleon Schools	0.0153	Current Expense	\$ 1,011,883.10	\$ 545,410.42	\$ 466,472.67
Napoleon Schools	0.0029	Current Expense	\$ 191,794.84	\$ 103,378.45	\$ 88,416.39
Napoleon Schools	0.0054	Current Expense	\$ 357,135.21	\$ 192,497.80	\$ 164,637.41
Napoleon Schools	0.0059	Current Expense	\$ 390,203.29	\$ 210,321.67	\$ 179,881.62
Napoleon Schools	0.0079	Current Expense	\$ 522,475.59	\$ 281,617.15	\$ 240,858.44
Napoleon Schools	0.002	Perm Improv	\$ 132,272.30	\$ 71,295.48	\$ 60,976.82
Napoleon Schools	0.0079	Current Expense	\$ 522,475.59	\$ 281,617.15	\$ 240,858.44
Napoleon Schools	0.0054	Bond 31,500,000	\$ 357,135.21	\$ 192,497.80	\$ 164,637.41
Napoleon Schools	0.0029	Current Expense	\$ 191,794.84	\$ 103,378.45	\$ 88,416.39
	0.0589		3,895,419.24	2,099,651.89	1,795,767.35

TAX YEAR 2021					
DISTRICT	LEVY RATE	LEVY NAME	ASSESSED VALUE	CONTESTED AMOUNT	ADJUSTED AV
NAPOLEON CSD			\$ 64,218,060.00	\$ 38,891,240.00	\$ 25,326,820.00
Napoleon Schools	0.0033	General	\$ 211,919.60	\$ 128,341.09	\$ 83,578.51
Napoleon Schools	0.0153	Current Expense	\$ 982,536.32	\$ 595,035.97	\$ 387,500.35
Napoleon Schools	0.0029	Current Expense	\$ 186,232.37	\$ 112,784.60	\$ 73,447.78
Napoleon Schools	0.0054	Current Expense	\$ 346,777.52	\$ 210,012.70	\$ 136,764.83
Napoleon Schools	0.0059	Current Expense	\$ 378,886.55	\$ 229,458.32	\$ 149,428.24
Napoleon Schools	0.0079	Current Expense	\$ 507,322.67	\$ 307,240.80	\$ 200,081.88
Napoleon Schools	0.002	Perm Improv	\$ 128,436.12	\$ 77,782.48	\$ 50,653.64
Napoleon Schools	0.0079	Current Expense	\$ 507,322.67	\$ 307,240.80	\$ 200,081.88
Napoleon Schools	0.0054	Bond 31,500,000	\$ 346,777.52	\$ 210,012.70	\$ 136,764.83
Napoleon Schools	0.0029	Current Expense	\$ 186,232.37	\$ 112,784.60	\$ 73,447.78
	0.0589		3,782,443.73	2,290,694.04	1,491,749.70

TAX YEAR 2022					
Column1	Column2	Column3	Column4	Column5	Column6
DISTRICT	LEVY RATE	LEVY NAME	ASSESSED VALUE	CONTESTED AMOUNT	ADJUSTED AV
NAPOLEON CSD			\$ 61,851,620.00	\$ 36,551,170.00	\$ 25,300,450.00
Napoleon Schools	0.0033	General	\$ 204,110.35	\$ 120,618.86	\$ 83,491.49
Napoleon Schools	0.0153	Current Expense	\$ 946,329.79	\$ 559,232.90	\$ 387,096.89
Napoleon Schools	0.0029	Current Expense	\$ 179,369.70	\$ 105,998.39	\$ 73,371.31
Napoleon Schools	0.0054	Current Expense	\$ 333,998.75	\$ 197,376.32	\$ 136,622.43
Napoleon Schools	0.0059	Current Expense	\$ 364,924.56	\$ 215,651.90	\$ 149,272.66
Napoleon Schools	0.0079	Current Expense	\$ 488,627.80	\$ 288,754.24	\$ 199,873.56
Napoleon Schools	0.002	Perm Improv	\$ 123,703.24	\$ 73,102.34	\$ 50,600.90
Napoleon Schools	0.0079	Current Expense	\$ 488,627.80	\$ 288,754.24	\$ 199,873.56
Napoleon Schools	0.0054	Bond 31,500,000	\$ 333,998.75	\$ 197,376.32	\$ 136,622.43
Napoleon Schools	0.0029	Current Expense	\$ 179,369.70	\$ 105,998.39	\$ 73,371.31
	0.0589		3,643,060.42	2,152,863.91	1,490,196.51

TAX YEAR 2023					
DISTRICT	LEVY RATE	LEVY NAME	ASSESSED VALUE	CONTESTED AMOUNT	ADJUSTED AV
NAPOLEON CSD			\$ 61,851,620.00	\$ 36,551,170.00	\$ 25,300,450.00
NAPOLEON CSD	0.0033	GENERAL	\$ 196,429.70	\$ 113,158.85	\$ 83,270.85
NAPOLEON CSD	0.0153	1976 CURRENT EXP	\$ 910,719.50	\$ 524,645.57	\$ 386,073.93
NAPOLEON CSD	0.0029	1977 CURRENT EXP	\$ 172,620.04	\$ 99,442.62	\$ 73,177.41
NAPOLEON CSD	0.0054	1979 CURRENT EXP	\$ 321,430.41	\$ 185,169.02	\$ 136,261.39
NAPOLEON CSD	0.0059	1990 CURRENT EXP	\$ 351,192.49	\$ 202,314.30	\$ 148,878.18
NAPOLEON CSD	0.0079	1996 CURRENT EXP	\$ 470,240.79	\$ 270,895.42	\$ 199,345.36
NAPOLEON CSD	0.002	1999 PERM IMPROVE	\$ 119,048.30	\$ 68,581.12	\$ 50,467.18
NAPOLEON CSD	0.0079	2004 CURRENT EXP	\$ 470,240.79	\$ 270,895.42	\$ 199,345.36
NAPOLEON CSD	0.0037	2012 BOND 31.5	\$ 220,239.36	\$ 126,875.07	\$ 93,364.28
NAPOLEON CSD	0.0029	2013 CURRENT EXP	\$ 172,620.04	\$ 99,442.62	\$ 73,177.41
	0.0572		3,404,781.38	1,961,420.03	1,443,361.35

From that period to now, Napoleon failed three new current expense levies and one bond issue. It is still awaiting the final results of its November 2024 emergency levy. Napoleon is not alone. The Puskarich Public Library, Harrison County, had over a \$100,000 revenue swing downward due to Rover contested amount, a huge impact for a rural library system. The delay in establishing Rover's valuation has caused fiscal uncertainty across the region.

Second, local governments, but especially the approximately 70 school districts, along the Rover path appear richer than they really are. This impacts their distributions from the State through the School Foundation Program—which provides funds to school districts to aid in their day-to-day operations. By statute, the Ohio Department of Education and Workforce must assume that the full Rover valuation in the Tax Commissioner's Final Determination is part of the school district's property wealth in its primary distribution formula and cannot consider the effect of any

appeals. R.C. 3317.022. This means that the 70 school districts in Rover's path are assumed to have more money than they actually received, due to the contested valuation, resulting in a lower distribution from the State. While temporary-aid guarantees and other adjustments may soften the blow, the fact remains that school districts along the Rover path are suffering from a financial unpredictability that is doubly compounded by operation of statute as long as Rover's valuation is not resolved.

Third, school districts that have emergency levies (fixed-sum) under R.C. 5705.194 did not receive the entire property tax settlement to which they were entitled. Ohio law requires that the millage to produce the fixed-dollar amount was set for all district taxpayers as if Rover was assessed at the full original valuation. Once lost, it is lost forever; there is no mechanism in Ohio law to recover that loss.

II. Construction project costs have increased and projects delayed.

It is no secret that construction costs significantly increased because of the supply-chain issues stemming from the COVID-19 pandemic.¹ This is an unfortunate reality facing local governments and school districts as they explore and embark on construction projects. But for the 70 school districts and 18 counties located along Rover's path, the delay in Rover's valuation is causing additional delays to construction projects that are leading to increased costs.

According to the Ohio Facilities Construction Commission ("OFCC"), the following Rover-affected school districts have had their OFCC match funding lapse:

Hillsdale Local School District (Ashland County)

¹ In February 2023, the overall cost of construction was 37.7% higher than it was in February 2020. See Archinect News, *Cost of construction materials remains 37% higher than pre-pandemic according to latest ABC analysis*, <https://archineccom/news/article/150339906/cost-of-construction-materials-remains-37-higher-than-pre-pandemic-according-to-latest-abc-analysis> (accessed June 7, 2023).

Arcadia Local School District (Hancock County)

Patrick Henry Local School District (Henry County)

Noble Local School District (Noble County)

The OFCC has indicated these school districts would be promised OFCC match funding in OFCC's new term if able to raise their local match—which is contingent on Rover's valuation being resolved one way or another.

III. Interest rates for financing to complete projects have risen.

Similar to the delay causing an increase in the costs of construction, the delay in Rover's valuation has led to an increase in interest rates on financing for projects. This, of course, also leads to an increase in costs to local governments.

CONCLUSION

Amici curiae Napoleon Area City School District; Cindy Funk, Ashland County Auditor; Cindi Henry, Belmont County Auditor; Lynn Fairclough, Carroll County Auditor; Robyn Sheets, Crawford County Auditor; Jill Little, Defiance County Auditor; Brett Kolb, Fulton County Auditor; Charity Rauschenberg, Hancock County Auditor; Allison Anderson, Harrison County Auditor; Elizabeth Fruchey, Henry County Auditor; E.J. Conn, Jefferson County Auditor; Denise Stoneking, Monroe County Auditor; Ruth Hayes, Noble County Auditor; Patrick Dropsey, Richland County Auditor; Julie Adkins, Seneca County Auditor; Alan Harold, Stark County Auditor; Larry Lindberg, Tuscarawas County Auditor; Russell Robertson, Wayne County Auditor; Matt Oestreich, Wood County Auditor; Buckeye Association of School Administrators; Ohio Association of School Business Officials; Ohio School Boards Association; Ohio Prosecuting Attorneys Association; Ohio Township Association; Ohio Library Council; all respectfully request that this Court resolve Rover's valuation promptly.

Respectfully submitted,

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