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House Bill 390
House Ways and Means Committee

Patrick Moeller, Mayor of the City of Hamilton

Chairman McLain and Members of the House Ways and Means Committee:

My name is Patrick Moeller and I am the Mayor of the City of Hamilton. Thank you for the opportunity to speak to you on December 1 in support of House Bill 390. House Bill 390 will help protect the Customers of the four Municipal Natural Gas Systems in Ohio from a very costly imposition of the state sales tax on the sale of natural gas.

As a brief matter of background, Hamilton is the only City in Ohio that owns and operates all four of its major utilities, including electric, water, wastewater and natural gas systems. The City of Hamilton has owned and operated a Municipal Natural Gas Utility for more than 120 years. Hamilton's Natural Gas Utility was providing service to local citizens and businesses long before an Ohio Sales Tax existed. As a municipally-owned, not-for-profit operation, Hamilton's Natural Gas Utility has never been subject to state taxes of any kind and was, most recently, specifically excluded from legislative deliberations of natural gas industry tax reform in the early 2000s.

Hamilton owns and operates its Natural Gas Utility under the Home Rule provisions of the Ohio Constitution and is governed by a locally-elected city council, with the notable exception of pipeline safety matters, which are under the jurisdiction of the Public Utilities Commission of Ohio (PUCO). The Hamilton Natural Gas Utility operates as a not-for-profit entity for the sole benefit of its consumer-owners—the citizens of Hamilton—and has no shareholders, dividends or profits. Every cost incurred by the Natural Gas Utility is ultimately passed on directly to local customers dollar for dollar.

You can imagine my surprise when the City received a letter dated September 1, 2015, from the Ohio Department of Taxation's "Revenue Discovery Unit." This letter stated that the Department of Taxation staff had determined that the natural gas used by

Hamilton's Natural Gas Utility consumers should now, for the first time in its history, be subject to Ohio Sales Tax. Additionally, the Department of Taxation further determined that the City should retroactively collect sales tax on natural gas customers used during the three previous years. This action could cost the citizens of Hamilton as much as \$4.8 million in 2016 and nearly \$1.3 million each year thereafter. In 2016, the average Hamilton Resident would pay \$106 more to cover this new tax. Without House Bill 390, our local customers face a 20% increase in their home heating costs in 2016, and also a permanent 6.5% across the board natural gas rate increase. The administrative cost and burden of billing, assessing, compliance, auditing and record keeping for Ohio Sales Tax would also be significant. It would cost tens of thousands of dollars annually in administrative costs and would require additional base rate increases to fund—compounding the total financial impact to our citizens' pocketbooks.

It should be noted that, according to the The U.S. Census 2013 American Community Survey, approximately 51% of Hamilton residents are classified as low to moderate income. Hamilton has been categorized as a "Situational Distressed Area" by the Ohio Department of Development. Imposing Ohio Sales Tax on natural gas used by Hamilton residents and businesses would deter economic recovery, reduce disposable income and cost our community valuable jobs. Residents would have less money to spend on food, clothing, transportation and other items. We believe that Sales Tax receipts on these items would decline locally if House Bill 390 is not adopted.

On December 1, I had the pleasure of addressing the Ways and Means Committee during the first hearing on House Bill 390. Several Committee Members expressed concern as to whether codifying Hamilton's sales tax exemption would provide an unfair competitive advantage versus private natural gas providers including Duke Energy. I can personally assure each Committee Member that Hamilton's Sales Tax exemption will not impact Duke Energy in any way. Hamilton's Natural Gas System is geographically separated and independent from Duke Energy. Hamilton and Duke have separate and distinct natural gas distribution service territories (pipes in the ground) and do not compete for customers. Simply put, there are no level playing field concerns because Hamilton and Duke Energy have separate playing fields.

As important, municipal Natural Gas Utilities like Hamilton's have an inherently different business model than Ohio Investor Owned Utilities (IOUs) like Duke. Further, as a governmental entity, Municipal Natural Gas Utilities must provide reliable and

cost effective service to their consumer-owners while operating under the rules and restraints of a governmental entity. Ohio's Municipal Natural Gas Utilities must comply with many additional and costly requirements that IOUs are not subject to, such as competitive bidding and prevailing wage requirements, Civil Service rules, state pension plan funding requirements, public record requests, public budget hearings and Sunshine Law requirements, and of course election of the chief executive officer and city council members. Municipal Natural Gas Systems operate on a different playing field and play a separate game than their IOU counterparts.

Since Sales Tax has never been charged to Municipal Gas Utility customers, House Bill 390 will not negatively impact the State of Ohio budget. Adopting House Bill 390 will not require offsetting expenditure reductions. If House Bill 390 is not approved, it will cause permanent and significant economic hardship to the citizens, institutions and businesses of Hamilton, Lancaster, Verona and Williamsburg, Ohio. Hamilton is just beginning to recover from economic devastation suffered over the last 15 years.

In closing, I urge the Committee's support of House Bill 390. I would like to thank the Chairman and all Committee Members again for providing me with the opportunity to speak on behalf of our citizens. A special thanks to Representatives Retherford and Schaffer for their sponsorship of House Bill 390.

Sincerely Yours,



Patrick Moeller

Mayor, City of Hamilton

cc: Hamilton City Council
Representative Wes Retherford
Representative Tim Schaffer
Senator Bill Coley
Mayor-Elect Brian Kuhn, City of Lancaster