

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Duke)
Energy Ohio, Inc., for a Certificate of)
Environmental Compatibility and Public) Case No. 16-0253-GA-BTX
Need for the C314V Central Corridor)
Pipeline Extension Project.)

**REPLY BRIEF
OF
DUKE ENERGY OHIO, INC.**

I. INTRODUCTION

In this proceeding before the Ohio Power Siting Board (Board), Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) seeks permission to improve its natural gas distribution system for the benefit of residents, businesses, and governments throughout the Company’s service area. The proposed Central Corridor Pipeline (CCP) would allow the Company to begin the process of retiring its outdated propane-air facilities, to improve the balance of supply into its system, and to more efficiently upgrade and replace other aging distribution infrastructure.

As demonstrated in its Merit Brief (Company’s Brief), filed on May 13, 2019, pursuant to the Administrative Law Judges’ order, Duke Energy Ohio has met its burden of proof under Ohio law. Staff of the Board agrees and recommends certification on the alternate route.¹ The Board should, therefore, grant the requested certificate of environmental compatibility and public need.

¹ Staff Post-Hearing Brief, pg. 45 (May 13, 2019) (Staff Brief); Staff Exhibit 1, Amended Staff Report.

II. APPLICABLE LAW AND PROCEDURAL HISTORY

As discussed in the Company's Brief, the Board must consider applications for the siting of major utility facilities pursuant to criteria that are spelled out in statute.² Staff's and intervenors' arguments concerning each of these criteria, together with the evidence supporting it, will be addressed below.

The adjudicatory hearing on the siting of CCP was held on April 9-11, 2019. At the termination of that hearing, the Administrative Law Judges established a briefing scheduling, requiring any initial briefs to be filed no later than May 13, 2019, and any reply briefs no later than June 10, 2019.

In response to that order, initial briefs were filed on May 13, 2019, by Staff of the Board (Staff), Neighbors Opposed to Pipeline Extension (NOPE), the City of Cincinnati and Board of County Commissioners of Hamilton County (Cincinnati and Hamilton County), the City of Reading (Reading), the City of Blue Ash and Columbia Township (Blue Ash and Columbia), the Chairman of the Board of Township Trustees of Sycamore Township and Sycamore Township (Sycamore), and the Jewish Hospital – Mercy Health (Hospital). Initial briefs were filed out of time, on May 14, 2019, without any motion for acceptance, by the City of Madeira (Madeira) and by BRE DDR Crocodile Sycamore Plaza and Kenwood Mall (Sycamore/Kenwood). The Company will address the two late-filed briefs, together with those that were timely filed, leaving to the Board the determination of what weight should be accorded to them.

² R.C. 4906.10; O.A.C. 4906-5.

III. CONSIDERATION OF STATUTORY CRITERIA

As noted above, in order for the Board to grant an applicant a certificate under R.C. 4906.10, it must consider and determine each of the eight statutory criteria.³ Those criteria will be discussed below, to the extent argued by Staff or intervenors.

A. Basis of Need – R.C. 4906.10(A)(1)

As the Company has explained since the outset of this project, CCP will benefit customers of Duke Energy Ohio in three identifiable, important ways: (1) Construction of CCP will allow the Company to retire its propane-air peaking facilities, while maintaining safe and reliable service to customers. (2) The addition of CCP to Duke Energy Ohio's distribution system will help the Company to improve the balance of supply between providers north of the Cincinnati area and those located south of Cincinnati. (3) The Company's use of CCP will allow for the efficient replacement of aging infrastructure in the area. All three of these goals are important and all three will be benefitted by the approval and ultimate construction of CCP. Nevertheless, several of the intervenors disagree and claim that the Company has not satisfactorily demonstrated its need for CCP.

1. System Capacity and Load Projections.

As indicated in the Company's application, its system is currently able to supply up to 43,000 thousand cubic feet per hour (Mcfh).⁴ The Company's load modeling is based on peak demand of 45,500 Mcfh.⁵ NOPE claims that this figure is inflated and invalid, based on the testimony of its witness, Dr. Jean-Michel Guldman.⁶ However, a careful reading of the Lummus

³ R.C. 4906.10. Note that R.C. 4906.10(A)(4) relates only to electric facilities and therefore will not be discussed.

⁴ Duke Energy Ohio Ex. 3, pg. 3-1.

⁵ *Id.*, pp. 3-7, 3-9.

⁶ NOPE Brief, pp. 10, *et seq.*

Report, Dr. Guldmann’s written testimony, and the cross-examination of Dr. Guldmann leads to a very different conclusion.

At the outset, it should be understood that no party – and certainly not Dr. Guldmann – questioned the expertise or reliability of Lummus Consultants. “Q. Do you have any reason to doubt the expertise of the Lummus Consultants? A. No.”⁷ And the Lummus Report itself forecasts the peak hourly flow for 2014 and forward, with a one percent probability of exceedance, at more than 45,000 Mcfh.⁸

- The Lummus Report starts its analysis with the usage on the coldest day in the preceding five winters, that being January 6, 2014.⁹ The Lummus Report indicates that the actual, observed peak day flow on that date was 926,842 thousand cubic feet per day (Mcf). However, it also notes that its analysis of the daily consumption per customer on the coldest 100 days in the preceding five years indicates an expectation that the demand could be higher than that, leading Lummus to anticipate a peak day flow of 956,726 Mcfd.
 - On the other hand, Dr. Guldmann, in his pre-filed direct testimony, stated that the highest daily flow the Company had experienced was 956,726 Mcfd.¹⁰
 - He confirmed this statement in his sworn deposition, using daily flow figures rather than hourly ones. “Question: so it’s your testimony that that

⁷ Tr. Vol. III, pg. 520:20-22.

⁸ NOPE Ex. 19, Ex. JMG-7, pg. 48.

⁹ *Id.*, pp. 46-47.

¹⁰ NOPE Ex. 19, pg. 11.

45,578 is less than the actual peak hour flow experienced on that date January 6, 2014, correct? Answer: Correct.”¹¹

- In his live direct testimony at the hearing, Dr. Guldmann stated that there were no corrections to be made to his testimony, other than one change in a portion unrelated to this issue.¹² Under cross-examination, however, Dr. Guldmann disagreed with his own direct testimony:

- He testified that his own testimony was “**somewhat inaccurate**” where he had stated that 956,726 Mcfd was reported by Lummus as the actual daily flow.¹³
- He also testified that another spot in his testimony was “**wrong**,” where he had stated that the calculated firm peak-hour gas flow at one percent exceedance was “less than the actual peak-hour flow experienced on Jan. 6, 2014 . . .”¹⁴

- Lummus then moves to a discussion of its calculation of a peak-hour factor, which is “a ratio used to describe the relationship between a daily-average gas demand and a peak-hour gas demand.” The Lummus Report explains that this additional calculation is necessary because “[p]eak hour gas demand typically occurs on a very cold day when only firm gas supplies are flowing. Lummus Consultants uses this factor to calculate the peak hour flow on the peak day.” Looking back at the ten days over the preceding five winters on which the highest daily flows were

¹¹ Tr. Vol. III, pg. 564:6-9.

¹² Tr. Vol. III, pg. 511:8-25.

¹³ Tr. Vol. III, pp. 558:17-20, 559:4-7.

¹⁴ Tr. Vol. III, pg. 563:8-13 (referring to NOPE Ex. 19, pg. 11).

recorded, Lummus found that the average ratio of average hourly flow compared to peak hour flow was 1.15. Thus, Lummus applied a peaking factor of 1.15.¹⁵

- Dr. Guldman did not disagree with either the concept of the peaking factor, the rationale behind it, or the actual calculation being 1.15.
- Both the Lummus Report and Dr. Guldman used these figures to arrive at a peak hourly flow that the Company should be prepared to serve, by dividing the daily flow on the chosen date by 24 (to arrive at the average hourly flow on that date), and multiplying the quotient by 1.15 (the peaking factor).¹⁶
 - Using the actual, observed flow of 926,842 Mcfd on the coldest identified date, this methodology would forecast peak hourly flow with a one percent exceedance at 44,411 Mcfh.¹⁷
 - Using the Lummus Report's "smoothed" figure¹⁸ of 956,726 Mcfd and the same methodology would forecast peak hourly flow with a one percent exceedance at 45,843 Mcfh.¹⁹

The peak hourly flow that the Company used for modeling is 45,500 Mcfh.²⁰ Not only is that figure reasonable, it is between the two forecasts calculable through a methodology the NOPE's witness supported.

2. The Company's Propane-Air Peaking Facilities Must Be Retired.

As discussed in the Company's Brief, the distribution system in southwestern Ohio relies on the injection of a mixture of propane and air into the system in order to have both sufficient

¹⁵ NOPE Ex. 19, Ex. JMG-7, pp. 47-48.

¹⁶ NOPE Ex. 19, Ex. JMG-7, pg. 48; NOPE Ex. 19, pg. 11; Tr. Vol. III, pg. 561:13-18.

¹⁷ $926,842 \text{ Mcfd} \div 24 \times 1.15$

¹⁸ NOPE Ex. 19, Ex. JMG-7, pg. 47.

¹⁹ $956,726 \text{ Mcfd} \div 24 \times 1.15$

²⁰ Duke Energy Ohio Ex. 3, pp. 3-7 and 3-9.

capacity and sufficient pressure to serve customers on cold, winter days. This propane-air is provided by two plants, both of which rely on the storage of propane in manmade, unlined caverns lying deep within bedrock. Although the above-ground portions of the peaking facilities have been inspected, repaired, and maintained through the years, the ability for the Company to continue relying on the storage caverns themselves is unpredictable. The caverns cannot be inspected and, if a leak in the containment of the propane were to occur, they cannot be repaired. The leaking propane cavern would simply have to be abandoned, regardless of what need there might be for additional fuel on a cold, winter day.

Staff understands and concurs with the Company's approach to the propane storage caverns. As Staff emphasized in its brief, the failure of the propane caverns on a peak day would result in lengthy service outages for tens of thousands of customers. And, although the Company could enter into peaking supply contracts with transmission suppliers, capacity restrictions in the current distribution system make it impossible for the Company to move increased amounts of gas from the northern gate stations into the core of the service area.²¹

NOPE, however, disagrees, although on the basis of erroneous facts and understandings, critical to an appropriate outcome of this proceeding:

- Citing the testimony of Duke Energy Ohio witness Adam Long, NOPE asserts that “the caverns are natural formations and do not *require* maintenance, so it is misleading to claim that maintenance can't be performed.”²² It is NOPE's statement that is misleading. First, although Mr. Long did testify that the caverns do not “need” maintenance, he followed that up with a statement that “if there is a

²¹ Staff Brief, pp. 10-12.

²² NOPE Brief, pg. 13.

problem with the cavern, there is no maintenance to correct the problem.”²³ And, subsequently, “There is not a repair method for the caverns if they fail.”²⁴ And, second, NOPE errs in stating that the caverns are natural formations. Nothing on the referenced transcript page says any such thing. Indeed, cross-examination of Mr. Long made it quite clear that the caverns were mined out of shale-limestone formations.²⁵ These are man-made structures, not natural formations.

- NOPE also points out that repairs to the propane-air facilities have always been accomplished without causing customer outages.²⁶ This assertion is entirely irrelevant. Duke Energy Ohio is not proposing to retire the propane-air plants because of any need to repair the equipment. Rather, the problem is the risk of cavern failure that is problematic.²⁷
- NOPE concludes that, while operating the plants “inconveniences Duke,” this does not rise to the level of need that would justify CCP.²⁸ While this may seem like a good sound bite, the Company has never suggested that CCP is needed because operating the propane-air plants is inconvenient. As Mr. Long testified:

When Duke Energy looks at its own caverns and takes into account, from our third-party expert, that a sustained grout leak cannot be fixed, if there is an integrity issue with the cavern that it cannot be fixed, a replacement for the cavern, such as a Central Corridor Pipeline, would take years to build. Duke is a prudent utility. We need to be proactive and look at how to serve its existing firm customers before a failure happens and look at prudent planning and prudent operation.

²³ Tr. Vol. I, 177:9-11.

²⁴ Tr. Vol. I, 195:3-4.

²⁵ Tr. Vol. I, 210:18-20.

²⁶ NOPE Brief, pg. 13.

²⁷ Tr. Vol. I, 217:6-218:13.

²⁸ NOPE Brief, pg. 13.

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If a propane – if a propane cavern failed and the plant could not operate, Duke Energy, on a high-demand day or on a day when our interstate suppliers did not have higher-than-normal pressures, would lose firm customers.²⁹

NOPE also criticized the knowledge and expertise of Mr. Long in this area. Again, however, NOPE’s interpretation of the facts and testimony is flawed. NOPE states, wrongly, that Mr. Long “was not even aware that other operators throughout the country use propane-air peaking facilities.”³⁰ This misstatement results from another instance of NOPE quoting only part of the testimony. In actuality, Mr. Long made it quite clear that “[i]t is not normal for current pipeline companies to use propane peaking”³¹ and that he was “not aware of any other LDCs [local distribution companies] that use propane-air peaking.”³² The critical point here is that, while propane-air peaking facilities might be in use by “operators,” it is not used by LDCs.

In an effort to further discredit the testimony of Mr. Long, NOPE questions his reliance on experts hired by the Company to evaluate the caverns. Claiming this to be hearsay, NOPE suggests that Mr. Long’s opinion on the caverns should be rejected. However, although NOPE cites to a few Ohio trial court opinions for the proposition that uncorroborated hearsay should be rejected, NOPE fails to reconcile such opinions with Board process.³³ Indeed, the Board, like the Public Utilities Commission of Ohio (Commission), is an administrative, quasi-judicial agency that is not obligated to follow court rules.³⁴ The Board and Commission often accept hearsay testimony, with the understanding that appropriate weight will be accorded to that testimony, through the expertise

²⁹ Tr. Vol. I, 217:21-218:13.

³⁰ NOPE Brief, pg. 13.

³¹ Tr. Vol. I, 173:9-10.

³² Tr. Vol. I, 173:21-22.

³³ NOPE Brief, pg. 14.

³⁴ See, e.g., *In the Matter of the Complaint of S.G. Foods, Inc., et al.*, Case No. 04-28-EL-CSS, *et al.*, Entry, pg. 29 (March 7, 2006).

of the agency.³⁵ Here, Mr. Long is responsible for the propane caverns and reasonably relied on the expert opinion of the Company's contractor – a contractor tasked with the job of inspecting and reporting on the current state of those caverns.

NOPE's discussion of the need to retire the propane plants continues with an evaluation of the recommendations made in the "Gas System Master Plan" (Master Plan)³⁶ and the so-called "2015 audit report" (Audit Report).³⁷ With regard to the Master Plan, NOPE correctly quotes the recommendation made by Lummus Consultants (Lummus) that the Company should "evaluate" the need to decommission the plants, but misses the point in two regards:

- Lummus was hired by the Company to provide recommendations, not to determine and dictate the Company's future course of action.³⁸ Lummus, true to that direction, provided its recommendation and the rationales therefor. The intent of Lummus's recommendation should not be misunderstood simply because it suggested evaluation of decommissioning rather than suggesting decommissioning.
- In claiming that the Master Plan does not support the need for cavern retirement, NOPE entirely ignored the numerous bases for the Lummus recommendation:
 - The caverns have been encroached upon, thereby increasing the risk.
 - The caverns would likely not be permitted if built today.
 - PHMSA defines "high-risk infrastructure" in part on the basis of age and promotes its replacement.
 - Rock-mined storage caverns are not a standard means of propane storage.

³⁵ See, e.g., *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company for Authority to Merge and Related Approvals*, Case No. 10-2376-EL-UNC, Opinion and Order, pg. 33 (December 14, 2011).

³⁶ NOPE Ex. 19, Ex. JMG-7.

³⁷ *In the Matter of the Regulations of the Purchased Gas Adjustment Clauses Contained Within the Rate Schedules of Duke Energy Ohio and Related Matters*, Case No. 15-218-GA-GCR.

³⁸ NOPE Ex. 19, Ex. JMG-7, pg. 1.

- The caverns are showing signs of nearing the end of their useful life.
- Propane is a more serious safety hazard than natural gas.
- An earthquake could damage the caverns with no forewarning.

These points, justifying the Lummus recommendation, make it quite clear to the reader of the Master Plan that Lummus believes the caverns must be retired. Indeed, the witness for both NOPE and Cincinnati and Hamilton, Dr. Guldman, could not disagree with any of the bases that Lummus cited with regard to the retirement of the caverns.³⁹

With regard to the Audit Report, NOPE appears to place some significance on the fact that the auditor “made no finding and conducted no analysis on the issue of whether the propane-air plants should be, or need to be, retired.”⁴⁰ The Audit Report was produced in the course of a review by the Commission of the Company’s gas cost recovery rider. There was no need for the auditor to evaluate the integrity or longevity of the propane storage caverns.

Finally, NOPE proposes that there must be no real need to retire the propane-air plants, as the Company will not retire them until several years after CCP is in operation.⁴¹ NOPE apparently does not understand that it would be imprudent to retire the plants immediately upon CCP’s completion. As a prudent operator, the Company would test the system with CCP providing peak-day supply and pressure from the north, and without using the propane plants, for several seasons, so as to ensure that CCP is adequate for winter reliability. While so testing the new system, the propane plants would remain in existence, just in case they were needed. This careful approach does not reflect any lack of need to retire the caverns.

³⁹ Tr. Vol. III, pg. 524:19 through pg. 527:6.

⁴⁰ NOPE Brief, pg. 15.

⁴¹ NOPE Brief, pg. 16.

In summary, Duke Energy Ohio’s goal, as a responsible operator, is to ensure that it will be able and ready to safely deliver natural gas to all of its firm customers, on every day of the year. Although the caverns are currently safe and reliable, there is no way to confirm that they will continue in that state. Duke Energy Ohio therefore, proactively, would retire the propane-air plants and associated caverns and replace them with other infrastructure. NOPE, on the other hand, appears to want the Company to continue relying on the propane caverns until such time as they actually fail. NOPE’s witness, Dr. Jean-Michel Guldman, complained that the Company had not “clarif[ied] the storage problems” at the propane caverns.⁴² “Storage problems” cannot be clarified, as they have not yet occurred. It is the **risk** of storage problems that the Company seeks to avoid.

Cincinnati and Hamilton County also argue that retirement of the propane-air plants is unnecessary. Just like NOPE, Cincinnati and Hamilton County complain that the Company expects to continue using the facilities after the construction of CCP, similarly ignoring the need to confirm the operation of the system without propane over the course of some cold winter seasons.⁴³ Even worse, Cincinnati and Hamilton County attempt to support their position by asserting that there has been no study or analysis of the number of years the plants could continue to operate.⁴⁴ What Cincinnati and Hamilton County fail to account for in this effort is that there can be no such study. There is no physical means to inspect the caverns and determine anything at all about their likely longevity.⁴⁵ And, again, although Cincinnati and Hamilton County complain that the Company is “unaware” of any “specific safety concerns, defects, or inoperable conditions” associated with the caverns, or inspections that have been failed, they are implying

⁴² NOPE Brief, pg. 16.

⁴³ Cincinnati and Hamilton County Brief, pp. 9, 10.

⁴⁴ Cincinnati and Hamilton County Brief, pg. 9; Tr. Vol. I, pg. 152:17-22.

⁴⁵ Duke Energy Ohio Ex. 8, Direct Testimony of Adam Long, pg. 14.

that there could be any inspection and that the Company could be aware of a defect developing hundreds of feet underground.

Cincinnati and Hamilton County also claim that the Company's witness "candidly revealed" the retirement is not an urgent concern.⁴⁶ This mischaracterization must be seen for what it is. Counsel for Cincinnati and Hamilton County asked Mr. Long if retirement is considered an urgent matter; Mr. Long replied that it is a very important goal of the project. Counsel again asked whether Mr. Long would describe it as urgent. Mr. Long demurred, noting that the word "urgent" "gives an impending sense that something will go wrong." He said he would "hesitate" to use that term, but, again, emphasized its importance. Once again, counsel asked if Mr. Long was prepared to describe retirement as an urgent matter, and Mr. Long confirmed that he would not.⁴⁷ This is hardly a "candid revelation." And it absolutely does **not** support the contention of Cincinnati and Hamilton County that the caverns need not be retired.

Once again following in the footsteps of NOPE, Cincinnati and Hamilton County seem to believe that the caverns need not be retired, because they have not failed yet.⁴⁸ Waiting for failure would be foolhardy. Once the caverns fail, they cannot be repaired and, without any alternative source, the Company would be unable to maintain service to all of its firm customers. This cannot be what Cincinnati and Hamilton County want for their residents.

Infrastructure is not intended or expected to last forever. Even Dr. Guldmann agreed that the proactive approach being used by Duke Energy Ohio is necessary:

- Q. Okay. I've just got a couple more questions about aged or old facilities. From a system-planning perspective, Professor, **does the natural gas utility have to wait until its facilities fail before it can build new infrastructure?**
- A. **No, it certainly shouldn't.**

⁴⁶ Cincinnati and Hamilton County Brief, pg. 10.

⁴⁷ Tr. Vol. I, pp. 226:18-227:9.

⁴⁸ Cincinnati and Hamilton County Brief, pg. 11.

Q. **Does Duke Energy Ohio have to wait for one of these caverns to fail before it can build new infrastructure?**

A. **No, it shouldn't.** It should constantly evaluate alternatives, options, and possibly act on them.⁴⁹

3. Other Infrastructure Is Aging and Must Be Replaced.

Another reason why CCP is necessary for the continued safe and reliable service that Duke Energy Ohio provides in southwestern Ohio is to facilitate the continued upgrading and replacement of other lines. As explained in the Merit Brief and in testimony, Duke Energy Ohio has the obligation to maintain its system such that it is safe and reliable. The Company does not dispute that certain repairs and replacements can be made without the construction of CCP and without causing heating-season outages to customers. Others, however, cannot.

Board Staff agrees that CCP is needed for the purpose of the major infrastructure work that must be done. Staff noted that major portions of the Company's system backbone were built in the 1940s, 1950s, and 1960s. "Construction of the proposed Central Corridor Pipeline would allow the Applicant to replace this aging infrastructure while maintaining service."⁵⁰

NOPE, on the other hand, does not comprehend this need, confusing maintenance and repairs with wholesale replacements and assuming the small projects and large projects can be addressed in similar manners. For example, NOPE likened the needed major infrastructure work with the Company's recent replacement of mains and services through the highly successful Accelerated Main Replacement Program.⁵¹ But these are not in the least similar. Each service line serves a single customer. The outage caused by replacing that service line affects only that

⁴⁹ Tr. Vol. III, pg. 567:4-15 (emphasis added).

⁵⁰ Staff Report, pg. 26; Staff Brief, pg. 12.

⁵¹ NOPE Brief, pp. 18-19.

single customer. The main, running down an individual street, similarly affects few customers. And this work can be accomplished in short periods of time, thus not risking winter outages.

NOPE also pointed to the fact that Duke Energy Ohio witness Hebbeler admitted that the Company has even replaced part of Line A recently, without problems.⁵² However, NOPE conveniently failed to note Mr. Hebbeler's explanation that this had been possible because the section replaced was north of Fields Ertel Road, where replacement is "much easier."⁵³ Not every part of the Company's system can be addressed in precisely the same manner, as the system differs throughout as to age, materials, geography, topography, population density, and other factors. NOPE fails to take this into account.

Next, NOPE argued that the Company has "outright admitted that it can perform maintenance, repairs, and replacements on these 'backbone' system lines, including Line A, without the proposed pipeline in operation."⁵⁴ As support for that argument, NOPE pointed to two exhibits, each of which is the Company's response to a request by NOPE for admission. In one, the Company admitted that it "can perform maintenance on existing lines in the central corridor without building the proposed pipeline."⁵⁵ Of course it can. The Company performs maintenance on existing lines on a regular basis. But that is maintenance, not replacement. And the request for admission did not ask whether the Company can perform such maintenance on **all** such lines; it just asked about lines in general. A poorly worded request leads to a response that provides no helpful information. In the other cited exhibit, the Company admitted that "Lines A, EE, and V can be upgraded and/or replaced without the proposed line."⁵⁶ Again, the question was not

⁵² NOPE Brief, pg. 19.

⁵³ Tr. Vol. I, pg. 27:14-16 (the explanation ignored by NOPE was also the subject of a motion to strike, which motion was denied).

⁵⁴ NOPE Brief, pg. 19.

⁵⁵ Cincinnati and Hamilton County, Ex. 31.

⁵⁶ Cincinnati and Hamilton County, Ex. 33.

specific. It did not ask whether those lines could be upgraded and/or replaced in the central corridor area, or whether the lines could be upgraded and/or replaced without impacting service to customers. It did not ask whether upgrading and/or replacing those lines without CCP would have to be broken into many small projects, extending over many years, in order to avoid winter outages.

NOPE's final argument on this issue is that the Company "even admits that future upgrades, replacements, or improvements of Lines A and V do not impact the need for the proposed pipeline."⁵⁷ To support this argument NOPE again relies on two exhibits. In the first of those exhibits, the Company stated that "[a]ny future upgrade, replacement, or improvement of Line A will not affect the need for the Pipeline." Of course, CCP is needed for more reasons than the replacement of Line A. The other cited exhibit relates to Line V. There, the Company was asked about the impact of upgrading Line V on the CCP project and about the impact of CCP on the need to upgrade Line V. In answer to both of those queries, the Company indicated that there would be no such impact. CCP is needed for more than just upgrading Line V. And building CCP will not change the age of Line V. The statements in these exhibits do not negate the Company's need for CCP to facilitate the replacement of aging infrastructure at all.

Cincinnati and Hamilton County also dispute that the Company needs CCP in order to allow it to efficiently and appropriately replace aging infrastructure in the central corridor area. Cincinnati and Hamilton County assert that the Company is just looking for "convenience."⁵⁸ Most of the brief discussion mirrors the arguments by NOPE and has been rebutted above. However, Cincinnati and Hamilton County do make one assertion that must be addressed. In their initial brief, Cincinnati and Hamilton County pointed out that, "when asked to identify a **single**

⁵⁷ NOPE Brief, pg. 19.

⁵⁸ Cincinnati and Hamilton County Brief, pg. 8.

instance where customers in the Central Corridor experienced lengthy outages due to Duke's repair or replacement activities in the Central Corridor, Duke could not do so."⁵⁹ That fact should come as no surprise to anyone, as it is the Company's responsibility to provide safe and reliable service. Because Duke Energy Ohio is appropriately proactive, customers have not suffered lengthy outages and the system has not been lost. However, it must be understood that it is not practical to put gas infrastructure in service quickly; appropriate planning requires deliberate focus and sufficient time.

Duke Energy Ohio has demonstrated that, although small projects can be accomplished in the central corridor area without resulting in winter outages, CCP will enable the replacement of the substantial amount of infrastructure that is reaching the end of its useful life.

4. Improving the Balance of Supply Is Critical.

As the Company explained in its application and merit brief, it is critical to improve the current balance of natural gas supply. More than half of the supply for the Company's Ohio customers comes through a single gate station, south of Cincinnati.⁶⁰ Duke Energy Ohio's analysis of the system shows that it is necessary to move additional supplies from the north into the heart of the central corridor area.⁶¹

Staff agrees:

Staff believes that any noticeable reduction on [*sic*] the reliance to Foster Station is beneficial to Duke's overall system. The proposed pipeline project would bring increased pressure and volumes of natural gas into the system from the north. The Central Corridor Pipeline would eliminate some of the pressure limitation constraints around the WW Feed Station.⁶²

⁵⁹ Cincinnati and Hamilton County Brief, pp. 8-9.

⁶⁰ Duke Energy Ohio Exhibit 8, Direct Testimony of Adam Long, pg. 10.

⁶¹ Duke Energy Ohio Exhibit 8, Direct Testimony of Adam Long, pg. 13.

⁶² Staff Brief, pp. 9-10.

NOPE, Cincinnati, and Hamilton County all disagree, claiming that the Company is wrong in its assumptions concerning future load and that the balance change resulting from CCP would be insignificant. Cincinnati and Hamilton County stress the fact that current forecasts project a population decrease in the area, over the next twenty years. They leap from that fact to an assumption that the Company's load will not increase, apparently thinking that nonresidential uses will also not increase. There was, however, no proof offered for that conclusion. Indeed, Katie Eagan, from the Cincinnati USA Regional Chamber, testified that it is shortsighted to look only at recent population trends. Ms. Eagan pointed out that, in 2018, eight businesses considered locating in southwestern Ohio and that those eight entities would have created 2,400 jobs and would have invested about \$5.8 billion in capital projects. All of those prospects located elsewhere because of the inability to get non-interruptible gas service.⁶³

After questioning how much demand there will continue to be for natural gas, the parties turned to the impact that CCP will have on the north-south balance in the system. Both Cincinnati and Hamilton County and NOPE claim that the change from 55 percent supplied from the south to 50 percent or 45 percent, depending on which route is certificated, is insignificant. As discussed in the Company's merit brief, their error is in ignoring the additional balance change that comes from retiring the propane caverns. The propane, as was discussed by Duke Energy Ohio witness Adam Long, there must be natural gas flowing across the system, with which the propane may be mixed, in order for it to be used safely.⁶⁴ Thus, the real magnitude of change to the balance is much more substantial than is recognized by the intervenors.

⁶³ Public Hearing Tr., pp. 30-31 (April 8, 2019).

⁶⁴ Duke Energy Ohio Ex. 8, Direct Testimony of Adam Long, pg. 3.

Cincinnati and Hamilton County assert that the Company “confessed” that CCP will not **eliminate** the balance issue.⁶⁵ They misstate the goal: The Company never said that CCP is needed in order to eliminate the balance problem. The goal is to **improve** the balance.

B. The Nature of the Probable Environmental Impact – R.C. 4906.10(A)(2)

The Board, in considering an application for a certificate, must determine the nature of the probable environmental impact. In order to make this determination, the Board generally considers socioeconomic impacts as well as more traditional environmental issues. Data presented by the applicant is collated and reviewed by Staff, such that the Board can compare the two possible routes and weigh the impacts against the need for the project.

For the Board’s consideration, Duke Energy Ohio provided information concerning socioeconomic impacts, and Staff considered and addressed those impacts comprehensively.

Among Staff’s conclusions are the following:

- The population of Hamilton County is projected to decline through 2030 and then increase during the following decade.⁶⁶
- Land use impacts are largely temporary and the Company’s proposed construction techniques would limit those issues.⁶⁷
- Permanent land use impacts will be mitigated through the easement acquisition process.⁶⁸
- Regarding impacted structures, there are more residences within 100 feet of the centerline on the alternate route but more within 1000 feet on the preferred route. However, no residential structures would be removed.⁶⁹
- Staff found no local land use or development plan conflicts.⁷⁰

⁶⁵ Cincinnati and Hamilton County Brief, pg. 7.

⁶⁶ Staff Brief, pg. 18.

⁶⁷ *Id.*, pg. 19.

⁶⁸ *Id.*, pg. 19.

⁶⁹ *Id.*, pg. 19.

⁷⁰ *Id.*, pg. 19.

- The project will support development in the region.⁷¹
- No cultural or historic resources are expected to be impacted.⁷²
- Impacts to parks and recreational areas will be temporary and can be minimized through timing.⁷³
- Aesthetic impacts will primarily be at valve stations, regulating stations, and pipeline markers and can be mitigated with screening and vegetation.
- Economic impacts are positive, as a result of both increased tax revenues and facilitation of regional development.

Staff also reviewed the likely ecological impacts, as presented by the Company. These were, in Staff's words, "largely unchallenged."⁷⁴ Staff did, however, discuss the Pristine, Inc., Superfund Site, concluding that its proximity to the alternate route is not a problem. Off-property remedial components will need to be located and avoided. Contact with contaminated soil will not occur, as such contamination was limited to the actual Pristine property, and the route would not encroach on that property. Groundwater was also found by Staff not to be an issue, based on the depth of the contamination.⁷⁵

Another impact considered by Staff with regard to this criterion relates to public services and facilities. This includes matters such as road closures, access restrictions, and traffic control. Staff recommended numerous conditions that would address such matters, including the Company's coordination with local municipalities.⁷⁶ Similarly, impacts from construction noise would be limited by timing requirements in the Staff Report.⁷⁷

⁷¹ *Id.*, pg. 19.

⁷² *Id.*, pg. 20.

⁷³ *Id.*, pg. 21-22.

⁷⁴ *Id.*, pg. 23.

⁷⁵ *Id.*, pg. 24.

⁷⁶ *Id.*, pg. 25-27.

⁷⁷ *Id.*, pg. 27.

Several intervenors addressed this criterion, disagreeing with Staff's conclusions. The City of Reading pointed out impacts on its Life Science Expansion Site, as well as a mandatory sewer project that is underway.⁷⁸ However, the Company has already addressed the Life Science Expansion Site impacts, by moving the proposed centerline to the edge of the property in question, adjacent to existing railroad tracks.⁷⁹ And the sewer project can and will be avoided, just as other underground utilities are addressed.

Reading also points to the Company's constructability review, expressing substantial concern about the disruption that would be engendered by construction on narrow residential street.⁸⁰ Reading states that "residents along [Third Street] will be displaced from their homes for a month during construction."⁸¹ However, the section of the constructability review discussing Reading specifically states otherwise: "The street is narrow, and conventional construction would restrict some access to the houses. However the street could be kept open."⁸² So, in the opinion of the firm that provided the report, the street could remain open, although there might be some restrictions on access to homes, **if** conventional construction techniques are used. Duke Energy Ohio has not indicated any unwillingness to use unconventional techniques, where needed, and is certainly amenable to working with residents to ensure minimal disruption in their lives, by taking actions such as plating over driveways to allow for resident access.

The City of Blue Ash and Columbia Township also address this criterion. They argue that economic impacts to local communities were inaccurate and that complete information was not provided concerning emergency response plans, safety plans, easement restrictions, aesthetic

⁷⁸ Reading Brief, pp. 3, 6, 11.

⁷⁹ Duke Energy Ohio Ex.6, Supplemental Application April 2018, pg. 7.

⁸⁰ Reading Brief, pp. 6, *et seq.*

⁸¹ Reading Brief, pg. 8.

⁸² Reading Ex. 4, Western Route Constructability Review, pg. 49 of 87.

impacts, traffic impacts, or procedures to minimize probable environmental impacts. Blue Ash and Columbia believe that all such information must be provided in order for the Board to reach a decision.⁸³ These questions, however, are ones that cannot be answered until a route is chosen and next steps can be taken, such as the negotiation of easements.

Blue Ash and Columbia point to a Board proceeding that was appealed to the Ohio Supreme Court for the proposition that the certificate must be denied on the ground that Duke Energy Ohio provided insufficient information for the Board's determination.⁸⁴ They are mistaken in their reading of the case. In *Middletown Coke*, the Court reviewed a decision by the Board relating to the siting of a cogeneration facility. That facility was proposed to use the waste heat leftover from the process of manufacturing coke. The superheated gases from that process are cooled, resulting in the production of steam that can power generators.⁸⁵ The neighboring community of Monroe wanted the Board to consider not only the location of the cogeneration portion of the project, but the coke plant as well. The Board, in granting a certificate, found that its jurisdiction only covered the generating aspect of the project. The Court disagreed, concluding that the words "electric generating plant and associate facilities"⁸⁶ should be read broadly, giving the Board siting jurisdiction of the coke plant as well as the cogeneration portion of the project.

Blue Ash and Columbia seek to simplify this holding to mean only that Middletown Coke Co. failed to give enough data to the Board. That is an inappropriate and misleading assertion. There is no question here about jurisdiction of the Board. *In re Middletown Coke* is entirely irrelevant.

⁸³ Blue Ash/Columbia Brief, pp. 2-4.

⁸⁴ Blue Ash/Columbia Brief, pg. 12 (citing *In re application of Middletown Coke Co.*, 127 Ohio St.3d 348, 2010-Ohio-5725).

⁸⁵ *In re Middletown Coke Co.*, ¶6.

⁸⁶ R.C. 4906.01(B)(1).

NOPE also claims that the Company provided insufficient information to determine environmental impacts. In addition to Reading's sewer project, the Pristine site, and industrial properties, NOPE claimed that there had been no consideration of landslides or sinkholes and that subsurface drilling investigation had not yet been accomplished.⁸⁷ With regard to landslides, NOPE suggests that the Company only considered the landslide risk as it might impact construction, not operation.⁸⁸ But in making that suggestion and citing to the record, NOPE seems to have read the transcript only selectively. It is true that, on the referenced page, the Duke Energy Ohio witness Stephen Lane agreed that landslides could theoretically damage pipelines.⁸⁹ However, counsel for NOPE asked Mr. Lane a much more specific question, found on the preceding page of the transcript:

Q. So, Mr. Lane, you – discuss landslides during construction, but in your testimony is it true that you do not discuss how landslides can impact the pipeline after construction?

A. That is not true. Page 4, line 10, I discuss how the operation of the line, of gas pipelines, the soils are suitable for the installation and operation of gas pipelines throughout the project area also.⁹⁰

Sinkholes, mentioned by NOPE as well, were not raised as a possible problem until the second public hearing.⁹¹ Such issues, however, as the Board is aware, will be identified and addressed as investigation continues following certification.

C. The Minimum Adverse Environmental Impact – R.C. 4906.10(A)(3)

The Board makes its determination of whether a proposed project represents the minimum adverse environmental impact considering the technology, nature, and economics of available

⁸⁷ NOPE Brief, pg. 21.

⁸⁸ NOPE Brief, pg. 21.

⁸⁹ Tr. Vol. II, pg. 330:8-19.

⁹⁰ Tr. Vol. II, pg. 329:7-15.

⁹¹ NOPE Brief, pg. 21.

alternatives by reviewing the Applicant’s site selection study. Staff completed that review and opined that “the study area was defined using reasonable criteria to encompass all practical routes, considering the needs and context of this project.”⁹² Staff also agreed with the various categories of constraints used by the Company in its study, as well as the review of the routes that had been identified.⁹³ As a result of its analysis, Staff concluded that the alternate route represents the minimum adverse environmental impact.⁹⁴

1. No-New-Pipeline Alternatives

Several parties questioned Staff’s conclusion. NOPE starts with the argument that the Company failed to consider options other than building a new pipeline. None of these other “options” is viable.

As a first alternative, NOPE suggests that the Company should investigate the continued use of propane-air for peak needs. Citing to NOPE/Cincinnati/Hamilton County witness Dr. Jean-Michel Guldmann, NOPE states that the most economical approach – and one that was apparently not evaluated by the Company – would be to replace the propane-air plants, possibly with above-ground storage.⁹⁵ NOPE asserts that propane-air plants are still useful for peaking service on the ground that there are “approximately 56” such plants in use around the country.⁹⁶ However, Dr. Guldmann admitted that he is not a geologist, has never been involved in operating propane-air plants, and has no experience with subterranean propane caverns. He also admitted that he has no reason to doubt the expertise of Lummus Consultants, who authored the Company’s Gas System

⁹² Staff Brief, pg. 31.

⁹³ Staff Brief, pp. 32-33.

⁹⁴ Staff Brief, pg. 36.

⁹⁵ NOPE Brief, pg. 22 (*citing* NOPE Ex. 19, pg. 20).

⁹⁶ NOPE Brief, pg. 22.

Master Plan.⁹⁷ Dr. Guldman agreed that Duke Energy Ohio is “unique in having these underground caverns as storage system.”⁹⁸ Dr. Guldman testified that the Company should “assess the costs of upgrading the two [propane-air] plants with modern technology,” but does not propose how that could be accomplished.⁹⁹ NOPE has no evidence to suggest that above-ground storage would be feasible in any regard, or even possible to be sited legally. Its suggestion should be ignored.

NOPE’s second alternative to constructing a new pipeline is liquid natural gas (LNG). NOPE believes that the Company has not studied the LNG option satisfactorily, but points to no evidence that it would be possible. Indeed, as the Company’s witnesses testified, the peaking supply must be available in the central corridor area in order to provide the needed capacity and pressure to serve customers on peak days.¹⁰⁰ And LNG storage, in the vast quantity that would be needed, with a safety buffer surrounding it, would not be possible or desirable in the heart of Cincinnati.

NOPE’s third option, rather than a new pipeline, is “increasing pipeline peaking services.”¹⁰¹ Company witness Hebbeler explained that “[i]t is not possible to draw additional supply through the Foster Station, based on capacity available and pressure requirements to that point, and additional supply from north of our system is impossible under the current configuration of pipelines.”¹⁰² Increased peaking services that might be available from interstate transmission lines are of no help, if the capacity and pressure cannot be moved to the area in need.

⁹⁷ Tr. Vol. III, pp. 516:2-11, 517: 5-6, 520:20-22.

⁹⁸ *Id.*, pg. 523:2-3.

⁹⁹ NOPE Ex. 19, pg. 21.

¹⁰⁰ Duke Energy Ohio Ex. 8, Direct Testimony of Adam Long, pg. 12.

¹⁰¹ NOPE Brief, pg. 23.

¹⁰² Duke Energy Ohio Ex. 7, Direct Testimony of Gary Hebbeler, pp. 9-10.

NOPE's final option is that other system upgrades, currently in planning stages, may suffice, claiming that the Company has not evaluated this possibility.¹⁰³ NOPE is incorrect. In cross-examination of Duke Energy Ohio witness Long, NOPE explored this issue. Mr. Long explained that the alternative projects mentioned by counsel (Line C365 and Line A) don't come anywhere near the capacity and pressure of CCP and the propane-air plants. Thus, if the Synergi model were run with neither CCP nor the propane-air plants in the model, the model would result in an error – meaning that customers, in a real-life situation, would have experienced an outage.¹⁰⁴

2. Route Selection Study Area Arguments

NOPE claims that the Company failed to evaluate all practical routes or other possible sites for the project, alleging that the study area for the Route Selection Study (RSS) was arbitrary.¹⁰⁵ NOPE questioned the statement that routes outside the study area would necessitate a high-pressure lateral to be similarly constructed into the central corridor.¹⁰⁶ Although NOPE attempts to make much of this argument, the actual facts are clear: As discussed above, the capacity and pressure needs in the central corridor, where customers are dense and usage is high, are such that the increased capacity and pressure that CCP would provide need to be provided in a particular physical area. The hydraulics of the current situation require this capacity and pressure to be available at Line V, in the central corridor. Thus, if a new line were to be built outside this area, it is indisputable that another new line would also have to be built, bringing that capacity and pressure into the central core. NOPE, and Cincinnati and Hamilton County as well,¹⁰⁷ points to

¹⁰³ NOPE Brief, pg. 23.

¹⁰⁴ Tr. Vol. I, 180:9-181:23.

¹⁰⁵ NOPE Brief, pg. 24.

¹⁰⁶ *Id.*

¹⁰⁷ Cincinnati/Hamilton Brief, pp. 13-14.

the inability of Company witness Dr. James Nicholas to explain this need, but he is a routing expert, not a system design expert.

3. Other Lummus Report Options

Dr. Guldmann, in testimony, recommended that Duke Energy Ohio construct a different pipeline: one identified as W-1 Expansion in the Lummus Report (or its “minor variant,” W-2), claiming that it was more highly ranked in the Lummus Report than was the C-1 Expansion (essentially equal to CCP).¹⁰⁸ NOPE claims that “virtually every route alternative that was discussed by Dr. Guldmann would represent significantly fewer impacts to residential environments and the communities surrounding the two proposed routes.”¹⁰⁹ However, under cross-examination, the fallacies in Dr. Guldmann’s analysis became apparent. Approximately half of the Expansion W-1 route – the one favored by Dr. Guldmann and NOPE – is in Kentucky.¹¹⁰ Dr. Guldmann had no idea what impact this fact would have on the Board’s jurisdiction, guessing that a “corresponding authority in Kentucky” might need to approve that portion.¹¹¹ He similarly guessed, when he was asked about the Federal Energy Regulatory Agency (FERC), that FERC might have to be “an intervenor or an approver of the project.”¹¹² After recognizing these jurisdictional issues, he offered relocating the line to the Ohio side of the river without much of a difference.¹¹³ Critically, however, Dr. Guldmann performed absolutely no analysis of the impact of such a line on the Ohio side of the river.¹¹⁴ NOPE, therefore, cannot be heard to say that this

¹⁰⁸ NOPE Ex. 19, pg. 28. *See also* Sycamore Brief, pg. 5.

¹⁰⁹ NOPE Brief, pg. 27.

¹¹⁰ Tr. Vol. III, pg. 548:10-15.

¹¹¹ Tr. Vol. III, pp. 548:18-549:1.

¹¹² Tr. Vol. III, pg. 549:18-25.

¹¹³ Tr. Vol. III, pg. 549:2-6.

¹¹⁴ Tr. Vol. III, pg. 549:7-10.

alternative would represent fewer impacts to residential environments and the communities than would CCP.

NOPE also suggests that the C-1 Expansion option (CCP) “ranked” more poorly than did the western options, W-1 and W-2.¹¹⁵ Dr. Guldmann’s testimony on this point noted that “Lummus **proposed** an evaluation scheme”¹¹⁶ However, even a cursory reading of the Lummus Report itself reveals a quite different story. Lummus Consultants suggested a number of possible expansion scenarios, but they left the ranking up to Duke Energy Ohio. Although they provided suggestions concerning how the Company might choose to rank the options, they did not reach a conclusion:

The selection of an appropriate expansion would necessarily consider numbers aspects, to include not only reliability, flexibility and cost, but also such factors as accessing regional growth, synergies with planned pipeline upgrades, safety (i.e., traversing of HCA), and ROW issues, etc. **Table 20 is an example suggestion of how Duke Energy might envision a ranking scheme of the expansion options presented. Duke Energy should find consensus on which ranking categories are relevant and assign ranking weights to each category.** Table 20 is only an example of how such a ranking scheme would indicate the relative weight of each option. For the assigned values below, expansion option W-2 would be the preferred choice, with the C-2 option showing a close second preference.¹¹⁷

It is absolutely untrue that Lummus Consultants ranked the options and found central options wanting.

Cincinnati and Hamilton County contend that the Company simply disregarded the other route options proposed by Lummus Consultants, based on the fact that the parameters provided to Dr. Nicholas were directed at the central corridor only.¹¹⁸ But Cincinnati and Hamilton County

¹¹⁵ NOPE Brief, pg. 27.

¹¹⁶ NOPE Ex. 19, pg 25.

¹¹⁷ NOPE Ex. 19, Ex. JMG-7, pg. 91.

¹¹⁸ Cincinnati/Hamilton Brief, pp. 12-13.

do not have any knowledge or evidence concerning what the Company considered before finalizing those parameters for the siting study. This accusation is simply a guess.

NOPE's last idea is to pursue the possibility of "looping" the system which, as Dr. Guldmann agreed, comprises "the laying of another pipeline, presumably a higher-pressure, higher-capacity pipeline, right next to Line A."¹¹⁹ Although the Application clearly delineated the route of Line A on its path through dense residential areas,¹²⁰ Dr. Guldmann and NOPE both argue that there are not "structures in any significant concentration along the line that prohibit expansion of the right of way."¹²¹ However, as a cursory glance at the path of Line A¹²² shows, it also travels through the heart of the central corridor, roughly paralleling the third route (the so-called pink route) that was initially presented to the public, moving through backyards, under storage buildings, and next to customers' swing sets.

4. The RSS Itself

The City of Reading argues about the processes used in the RSS. Reading correctly states that the Company applied a number of technical constraints in its identification of viable route segments. Reading's concern is that, for interstate highways, the pipeline could be placed no closer to the right of way than ten feet, while city streets are only to be avoided if possible. As a result of that constraint, according to Reading, the best scoring route was eliminated.¹²³ While it is true that the constraint is different for interstates than it is for other roads, that fact is not within the control of Duke Energy Ohio; nor did Reading offer any evidence to the contrary. Furthermore, Reading has not demonstrated that construction would have been feasible within the interstate right

¹¹⁹ Tr. Vol. III, pg. 552:11-16. *See also* NOPE Brief, pg. 29.

¹²⁰ Duke Energy Ohio Ex. 5, Application (March 2017), Figure 2-1.

¹²¹ NOPE Brief, pg. 29; Tr. Vol. III, pg. 554:13-21.

¹²² Duke Energy Ohio Ex. 5, Application (March 2017), Figure 2-1.

¹²³ Reading Brief, pg. 10; Tr. Vol. II, pp. 282:1-15 and 283:2-21.

of way or that other factors, such as the consequent need to be constructing a pipeline in residents' backyards, would not have also eliminated the interstate route from consideration.

5. Routing Conclusion

The intervenors have raised several arguments concerning the RSS and, thus, whether CCP represents the minimum adverse environmental impact, considering the technology, nature, and economics of available alternatives. Each of those arguments has been shown to be false. The Board should conclude, as did Staff, that this criterion is met.

D. Compliance with Laws Concerning Air, Water, Solid Waste, and Aviation – R.C. 4906.10(A)(5)

The Company has met this criterion and no intervenor has disagreed.

E. Public Interest, Convenience, and Necessity – R.C. 4906.10(A)(6)

As noted in the Company's merit brief, safety is generally considered under this criterion, as well as the need for the project and public participation in the process.¹²⁴

Staff opined that the safety of CCP "cannot be reasonably challenged" and noted that no expert testimony was presented by intervenors to demonstrate anything to the contrary. Rather, Staff pointed out the inspections that its investigators will carry out, the Company's mandated integrity management plan, the requirement for an emergency response plan, and the plan to include valve stations that will be able to isolate sections of the line. Finally, Staff pointed out that

¹²⁴ See, e.g., *In the Matter of the Application of American Transmission Systems, Incorporated and The Cleveland Electric Illuminating Company for a Certificate of Environmental Compatibility and Public Need for the Geauga County 138 kV Transmission Line Supply Project*, Case No. 07-171-EL-BTX, Opinion, Order, and Certificate, pg. 36 (Nov. 24, 2008); *In the Matter of the Application of Harrison Power Transmission, LLC for a Certificate of Environmental Compatibility and Public Need for the Harrison Power 138 kV Transmission Line Project*, Case No. 17-2084-EL-BTX, Opinion, Order, and Certificate, pp. 22-23 (November 15, 2018); *In the Matter of the Application of Columbia Gas of Ohio, Inc., for a Certificate of Environmental Compatibility and Public Need for the Construction of the Ackerman Road Natural Gas Pipeline Project*, Case No. 11-3534-GA-BTX, Opinion, Order, and Certificate, pg. 12 (March 26, 2012).

it has recommended additional conditions such that the line would be built in accordance with transmission line requirements.¹²⁵

NOPE asserts that CCP should be classified as a transmission line rather than a high-pressure distribution line and claims that to do otherwise violates the intent of pipeline safety regulations. Thus, NOPE insists, CCP is not in the public interest.¹²⁶ What NOPE fails to account for is that CCP will be constructed in accordance with transmission line requirements and it will be operated with enhanced safety practices.

NOPE also argues that this criterion is not met because the Company, as well as Staff's conditions, "do not address legitimate public concerns related to safety and impacts."¹²⁷ NOPE quibbles with various aspects of the testimony offered by Duke Energy Ohio's safety witness, Bruce Paskett, and downplays the Company's pledge to operate CCP with enhanced safety measures. But, as Staff pointed out, NOPE presented no expert testimony to indicate that the pipeline proposed by the Company would be anything other than safe. NOPE apparently forgets that the redesign of this proposal, reducing the size and pressure of the line, was a direct result of the Company listening to and addressing public concerns about safety.

Blue Ash and Columbia claim that the Company failed to meet its burden of proof with regard to safety concerns, pointing, among other things, to the fact that the Company did not provide Blue Ash with a calculation of the "potential impact radius" (PIR).¹²⁸ Although Blue Ash and Columbia claim that the distinction between transmission and distribution line is "just a distraction,"¹²⁹ that distinction is of critical importance when discussing a PIR.

¹²⁵ Staff Brief, pp. 39-40.

¹²⁶ NOPE Brief, pp. 35-39.

¹²⁷ NOPE Brief, pg. 39.

¹²⁸ Blue Ash/Columbia Brief, pp. 8-9.

¹²⁹ Blue Ash/Columbia Brief, pg. 9.

PIR is a term that is defined by federal regulations. The Code of Federal Regulations, in Title 49, Subtitle B, Chapter I, Subchapter D, Part 192, we are provided with safety rules relating to the transportation of natural gas. Part 192 is further segmented, providing safety rules for transmission lines in subpart O and safety rules for distribution lines in subpart P. The definition of PIR appears only in subpart O and has no relevance or application to subpart P. The definition section in subpart O begins with this statement: “The following definitions apply to this subpart.”¹³⁰ Nothing could be more clear. The definition of PIR, appearing in that section, does not apply to distribution lines.

Duke Energy Ohio has shown that CCP will be as safe as modern technology can make it. The Company actively works to reduce the risk of third-party damage, and will operate this pipeline in accordance with its integrity management plan.

F. Impact on Agricultural Land – R.C. 4906.10(A)(7)

The Board is required to determine the impact of the project on agricultural land. As stated by Duke Energy Ohio witness Stephen Lane, there is no active agricultural land affected by CCP.¹³¹

G. Water Conservation – R.C. 4906.10(A)(8)

As CCP would not consume water in its operations, conservation issues are irrelevant.

IV. CONCLUSION

Duke Energy Ohio respectfully requests that the Board approve its application in this proceeding and issue a Certificate of Environmental Compatibility and Public Need for the Central Corridor Pipeline, as proposed herein.

¹³⁰ 49 C.F.R. 192.903.

¹³¹ Duke Energy Ohio Exhibit 10, Direct Testimony of Stephen R. Lane, pg. 8.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 10th day of June, 2019, by U.S. mail, postage prepaid, or by electronic mail upon the persons listed below.

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