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Rocco O. D'Ascenzo
Senior Counsel

VIA OVERNIGHT MAIL

June 23, 2008

Public Utilities Commission of Ohio
Docketing Division
13th Floor
180 East Broad Street
Columbus, OH 43215-3716

Re: Case No. 08-581-GE-ORD

Dear Sir or Madam:

Enclosed please find an original and 12 copies of the Comments of Duke Energy Ohio, Inc. in the above-referenced cases.

Please return two file-stamped copies to me in the overnight mail envelope provided.

Sincerely,

Rocco O. D'Ascenzo
Senior Counsel

Enclosures
ROD/bsc

cc: All parties of record (w/encl.)

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business
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BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)	
Chapters 4906-1, 4906-5, 4906-7,)	Case No. 08-581-GE-ORD
4906-9, 4906-11, 4906-13 and 4906-15)	
of the Ohio Administrative Code.)	

**COMMENTS OF
DUKE ENERGY OHIO, INC**

INTRODUCTION:

Pursuant to Ohio Revised Code (R.C.) § 119.032, the Public Utilities Commission of Ohio (Commission) conducted a review of the current rules contained in Ohio Administrative Code (O.A.C.) Chapters 4906-1 through 4906-15. In its Entry dated June 2, 2008, the Commission proposed revisions and amendments to O.A.C. Chapters 4906-1-01 through 4906-1-15 and sought comments from interested parties concerning its recommendations. Duke Energy Ohio, Inc (DE-Ohio) appreciates the opportunity to comment upon these rules and regulations of the Ohio Power Siting Board (Board). Accordingly, DE-Ohio respectfully submits the following comments to the proposed rule amendments for consideration.

COMMENTS:

1. Proposed Changes to Chapter 4906-1-01

The proposed revision to O.A.C. 4906-1-01, Appendix A, *Application Requirement Matrix for Electric Power Transmission Lines*, amends the Application filing requirements for very short connections. DE-Ohio supports this amendment. The proposed revision would require a Construction Notice Application for lines over 300 Kilovolts (kV) but no greater than 0.1 miles in length, and for lines over 125 kV, but less than 300 kV and not greater than .02 miles in

length. This revision reduces the reporting requirements for the smaller connections making the process more streamlined and less onerous.

Similarly, the proposed revision to O.A.C. 4906-1-01, Appendix B, *Application Requirements Matrix for Gas Transmission Lines* should be adopted. This proposed revision is a clarification to the existing rules, indicating that a Construction Notice Application is required for the replacement of an existing gas transmission line with a like facility that is less than one mile in length. DE-Ohio supports this revision because it clarifies existing requirements. However, to the extent the project includes a replacement in kind for any size and length, greater than or equal to one mile in length but not greater than five miles in length, DE-Ohio respectfully submits that it should only be required to provide a Construction Notice Application. The remaining proposed amendments to 4906-01 are clarifications to the existing rules, and DE-Ohio is supportive of the revisions.

2. Proposed Changes to Chapter 4906-5

The proposed revisions to O.A.C. 4906-5-02(A)-(B), among other things, amend the timing for the filing of letters of notification, including the addition of an expedited process. The proposed changes which reduce review time are reasonable and adequately balance the applicant's interest in completing a project in the most expeditious manner and the Staff's need for adequate time to review the case. However, DE-Ohio respectfully suggests that clarification be added to the use of the phrase "continuous course of construction" as used in subsections (A)(4) and (B)(4). The expiration of the Board's approval after a period of time is a reasonable addition. However, there should be an objective standard triggering the expiration of the Board's approval. At a minimum "continuous course of construction should be further defined.

DE-Ohio recommends a change to O.A.C. 4906-5-04(B) to expressly state that for good cause shown, the board or administrative law judge may waive the requirement for no more than 20% commonality between a preferred and alternative route. There may be instances where it is necessary to have more than 20% commonality between the two routes. This need may arise in a number of instances including, lack of cooperation from property owners, or topography. If an applicant demonstrates that good cause exists for more than 20% commonality between the preferred and alternative routes, the requirement should be waived.

Amendments to O.A.C. 4906-05-08 propose a process for public notice for informational meetings prior to the filing of an application. DE-Ohio is not opposed to the requirement to publish notice of the informational meetings. However, the suggested timing of the notice publication as currently stated, no more than 10 days and no fewer than 7 days prior to the meeting, is unreasonable and in many instances would be impossible to achieve. DE-Ohio's experience with smaller local newspapers that typically publish once per week indicates that publishing in such a small window is unreasonably difficult. More time is needed to be certain of proper publication. DE-Ohio respectfully suggests that the proposed timing in the amended 4906-05-08(B) be changed to state that publication be no more than 14 days or no fewer than 7 days before the date of the meeting.

The amendment to O.A.C. 4906-5-08(C)(3) proposes an expansion to the requirement for applicants to notify nearby property owners and residences of possible construction projects. The amendment includes a clarification that applicants must notify "each residence within and contiguous to the planned site or potential routes of the proposed facility..." DE-Ohio suggests that the word *and* should be replaced with the word *or* in the quoted section. If the intent of the revision is to notify all land owners who are adjacent to the proposed facility, the use of the word

“and” in the sentence would actually limit the notification to only those land owners who are within and contiguous to the property. It seems proper that landowners who are either within or adjacent to the proposed facility should receive the notification. In the alternative, the deletion of the word “contiguous” would address the same problem.

Provisions in O.A.C. Chapter 4906-5-11 address fees and expenses for the Board and require applicants to bare responsibility for the expenses incurred by the board in reviewing an application. This process is reasonable, as are the majority of the revisions proposed to this section in the above styled proceeding. However, DE-Ohio respectfully suggests that the proposed revision to O.A.C. 4906-05-11 (I) be amended such that the expenses for an expedited processing request be invoiced in accordance with proposed section (H), rather than in addition to. DE-Ohio does not oppose the Board’s charging a fee of \$2,000 for expedited processing. Indeed, such requests do create additional expenses for the board and require a redistribution of work load. Applicants should be responsible for bearing those costs. From an administrative standpoint however, requiring an upfront payment creates unnecessary additional accounting paperwork, both for the Board and for the Applicant. Applicants must process an additional payment, creating additional expense. The Board must create an additional process to verify that the fee is paid at the time of the request. Simply including the fee as part of the regular invoicing for expenses is reasonable and does not impose additional processes. DE-Ohio recommends that proposed O.A.C. 4906-05-11(I) be amended to state “An Applicant requesting expedited processing of a letter of notification or construction shall be assessed an additional fee of \$2,000.00.”

3. Proposed Changes to 4906-15

The proposed amendments to O.A.C. 4906-15-02(A) include an amendment to subsection (4) requiring diagrams showing that the electric transmission current system fails to meet mandated reliability standards, as well as diagrams of the proposed facility. DE-Ohio believes the same intent can be accomplished in a more concise manner and at the same time provide clarity to the existing requirements in O.A.C. 4906-15-02(A). DE-Ohio proposed the rule be amended as follows:

4906-15-02 Review of need for proposed project.

- (A) The applicant shall provide a statement explaining the need for the proposed facility, including a listing of the factors upon which it relied to reach that conclusion and references to the most recent long-term forecast report (if applicable). The statement shall also include but not be limited to, the following:
- (1) A statement of the purpose of the proposed facility. IF THE PROPOSED FACILITY IS A BULK ELECTRIC TRANSMISSION FACILITY, THE APPLICANT SHALL STATE WHETHER THE PURPOSE OF THE PROPOSED FACILITY IS TO ENABLE THE ELECTRIC TRANSMISSION SYSTEM TO MEET MANDATORY RELIABILITY STANDARDS FOR THE BULK ELECTRIC POWER SYSTEM.
 - (2) Specific projections of system conditions, ~~or~~ local requirements OR ANY OTHER PERTINENT FACTORS that impacted the applicant's opinion on the need for the proposed facility.
 - (3) Relevant load flow studies and contingency analyses, if appropriate, identifying the need for system improvement. LOAD FLOW DATA SHALL BE PRESENTED IN THE FORM OF TRANSCRIPTION DIAGRAMS DEPICTING SYSTEM PERFORMANCE WITH AND WITHOUT THE PROPOSED FACILITY.
 - (4) ~~For electric power transmission facilities, one copy of the relevant power flow base case model data, including "East Central Area Reliability Coordination Agreement" equivalents, in "General Electric (Positive Sequence Load Flow), Power Technology Incorporated", or common raw data format on diskette, with appropriate directions to recover data if compressed~~ TRANSCRIPTION DIAGRAMS THAT SHOW THE TRANSMISSION SYSTEM FAILS TO MEET THE MANDATORY RELIABILITY STANDARDS FOR THE BULK ELECTRIC POWER SYSTEM AND ONE COPY OF TRANSCRIPTION DIAGRAMS WITH THE PROPOSED FACILITY.

- (5) (4) For gas or natural gas transmission projects, one copy in electronic format of the relevant base case system data on diskette, IN A FORMAT ACCEPTABLE TO THE BOARD STAFF, with a description of the analysis program and the data format.

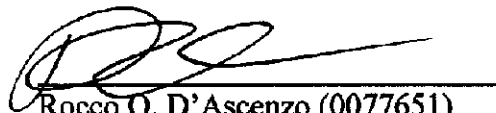
DE-Ohio believes the suggested revision makes the Board's intent clear and the requirement to submit the additional diagrams more concise.

Proposed amendments to OAC 4906-15-06(B)(1) suggests that Applicants include a centerline for each transmission line, on maps of not less than 1:24,000 scale. DE-Ohio respectfully submits that a pencil line on a map of this scale would represent a width of approximately fifty to one hundred feet. As a result, this should be understood to be an *approximate* centerline. The Rule should have the word "approximate" inserted between proposed and centerline.

CONCLUSION

DE-Ohio appreciates this opportunity to provide comments related to the Commission's proposed modification to Chapters 4906-1 through 4906-15 of the Ohio Administrative Code. For all the foregoing reasons, DE-Ohio respectfully requests that the Commission revise its Proposed Rules in accordance with DE-Ohio's suggestions herein and clarify each of the provisions as identified by DE-Ohio.

Respectfully submitted,



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Senior Counsel

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Associate General Counsel

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via first class U.S. Mail, postage prepaid, this 25th day of June, 2008 upon the following:

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