

**BEFORE  
THE OHIO POWER SITING BOARD**

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

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**NOPE - NEIGHBORS OPPOSED TO PIPELINE EXTENSION, LLC’S  
MEMORANDUM CONTRA TO THE  
MOTION FOR WAIVER BY DUKE ENERGY OHIO, INC.**

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Proposed Intervenor NOPE - Neighbors Opposed to Pipeline Extension, LLC (“NOPE”) submits this Memorandum Contra to the Motion for Waiver filed by Duke Energy Ohio, Inc. (“Duke Energy” or “the company”) on September 13, 2016. NOPE respectfully requests that the Executive Director of the Ohio Power Siting Board (OPSB or “Board”) exercise her discretion under Ohio Administrative Code section 4906-3-03(B) and require Duke Energy to conduct an informational meeting open to the public regarding the company’s Application for a Certificate of Compatibility and Public Need (“Application”) for the proposed Central Corridor Pipeline Extension Project (“Project”) in Hamilton County, Ohio.

**I. INTRODUCTION**

On March 8, 2016, Duke Energy submitted a Pre-Application Notification Letter to the Board for a proposed 12-mile long, 30-inch natural gas pipeline.

On March 22, March 23 and June 15, 2016, Duke Energy conducted three informational meetings open to the public in the area in which the Project is proposed to be located. At the public meetings, Duke Energy provided information about the Project’s design specifications – a 30-inch pipeline carrying gas at a pressure of 720 PSI. On

information and belief, there is no precedent for a pipeline of that size and at that pressure traveling through densely populated areas in the State of Ohio. At the public meetings, Duke Energy also presented three proposed alternate Project routes that transverse Hamilton County.

Subsequent to the March public meetings, a group of citizens organized NOPE, a community association that is now comprised of more than 750 individuals, many of whom own property and/or reside along or near the majority of the proposed Project route. NOPE is concerned that the Project would unnecessarily and adversely affect human health and safety, and the environment and its members' economic interests. NOPE is also concerned that Duke Energy has not adequately demonstrated the Public Need for this Project.

On September 13, 2016, Duke Energy submitted a revised Application for the proposed Project, which is now intended to carry natural gas through a 20-inch diameter pipeline from a point near the intersection of Hamilton, Warren and Butler Counties to a location in either the Village of Fairfax or the City of Norwood. The proposed 13-mile route passes through densely populated and environmentally sensitive areas in more than 11 jurisdictions within Hamilton County, including Amberley Village, the City of Blue Ash, the City of Cincinnati, the City of Deer Park, the Village of Evendale, the Village of Silverton and Sycamore Township.

Also on September 13, 2016, Duke Energy filed a Motion for Waiver of certain requirements under Ohio Administrative Code section 4906-3-03(B), which requires project applicants to conduct informational public meetings. To date, the company has

not scheduled a public meeting to discuss its revised Application, even though the revisions constitute substantial changes.

NOPE filed a Petition for Leave to Intervene in this Matter on September 28, 2016, and now submits this Memorandum Contra to Duke Energy's Motion for Waiver.

## **II. LEGAL BACKGROUND**

Ohio Administrative Code section 4906-2-27(B)(1) states that "any party may file a memorandum contra within fifteen days after the service of a motion."

Ohio Administrative Code section 4906-2-27(E) states that "the term 'party' includes all persons who have filed notices or petitions to intervene which are pending at the time a motion or memorandum is to be filed or served."

Ohio Administrative Code section 4906-3-03(B) states:

No more than ninety days prior to submitting a standard certificate application to the board, the applicant shall conduct at least one informational meeting open to the public to be held in the area in which the project is located. If substantial changes are made to the application after the informational meeting, the executive director of the board shall have the authority to require another informational meeting at his/her discretion.

NOPE is a "party" as defined by the Ohio Administrative Code, and NOPE has timely filed this Memorandum Contra. As described below, Duke Energy has not satisfied the letter or spirit of Ohio Administrative Code section 4906-3-03(B), and the Board should require the company to conduct at least one additional informational meeting to describe its Project to the public and receive questions.

### **III. ARGUMENTS**

NOPE is a “party” under Ohio Administrative Code section 4906-2-27(E), because it has filed a Petition for Leave to Intervene in this proceeding, and the Petition is currently pending before the Board.

Duke Energy filed an Application and a Motion for Waiver with the Board in the above-captioned matter on September 13, 2016, and NOPE has timely filed this Memorandum Contra within 15 days, as required by Ohio Administrative Code section 4906-2-27(B)(1).

Duke Energy was required by Ohio Administrative Code section 4906-3-03(B) to conduct at least one informational meeting open to the public to be held in the area in which the Project is to be located. Because Duke Energy has made substantial changes to the Application after the informational meeting(s), as described below, the Board should deny Duke Energy’s Motion for Waiver and require Duke Energy to conduct another informational meeting.

#### **A. The Project route has changed substantially.**

Duke Energy has modified its preferred route. Property owners and/or residents along the new route should be afforded the opportunity to receive information and ask questions about the new route and how it might affect them. Maps included in Duke Energy’s Application are difficult for the lay property owner to assess. Members of the public deserve a formal opportunity to review the new maps with Duke Energy representatives.

Moreover, the Ohio Administrative Code provides that “[a]t the **informational meeting**, the applicant shall present maps showing the proposed

facility at a scale that allows affected property owners to identify the location of their property in relation to the facility.” (Emphasis added.) Ohio Adm. Code 4906-3-03(B)(4). Thus, the requirements in the code recognize the importance of the public’s opportunity to view accurate maps reflecting the location of the proposed activity *at the informational meeting*.

**B. The Project design and risk factors have changed substantially.**

Duke Energy has modified the design of its proposed pipeline. The Application presented to the public on March 22, March 23 and June 15 described a 30-inch pipeline carrying natural gas at 720 PSI. The Application submitted by Duke Energy on September 13, 2016 describes a 20-inch pipeline carrying gas at 400 PSIG. At least one representative of Duke Energy has publicly declared that the original design for a larger (30-inch) pipeline operating at a lower than maximum pressure constituted a “safety measure.” Property owners and residents should be afforded the opportunity to receive information and ask questions about the design changes in terms of need, risk factors and potential impacts.

**C. The Application contains new information that was not addressed at a public meeting.**

In addition to the pipeline route and design modifications, Duke Energy has included new information in the Application that was not previously considered by members of the public. This new information constitutes a substantial change to the Application from what was presented at any of Duke Energy’s prior public meetings.

**(i) Project Need**

The Application filed on September 13, 2016, describes a purported need to “balance” Duke Energy’s north-south natural gas supply system. This purported need should be addressed specifically in a public meeting so as to afford members of the public an opportunity to comment and ask questions.

**(ii) The “A Line”**

The Application filed on September 13, 2016, refers to a natural gas pipeline called the “A Line” that runs through multiple jurisdictions in Hamilton County, including Amberley Village, the Village of Evendale, the City of Reading and the City of Sharonville. Property owners and residents along the A Line should be afforded the opportunity to receive information and ask questions about changes to the pipeline that would result from this Project.

**(iii) Gas Storage**

The Application filed on September 13, 2016, references natural gas storage caverns that are tied into the Duke Energy pipeline system. Property owners and residents living above or near these storage caverns should be specifically noticed and afforded the opportunity to receive information and ask questions about how the Project will affect their interests.

**IV. CONCLUSION**

Duke Energy has submitted an Application for perhaps the most controversial energy infrastructure project in the recent history of Hamilton County. Hundreds if not thousands of County residents are concerned about the environmental, health and safety

impacts of Duke Energy's proposed Project. Even jurisdictions such as the City of Cincinnati have registered objections to the Project.

The public should be afforded every opportunity to receive information and ask questions about the Project, which Duke Energy claims is in the interests of those same people.

Duke Energy's Motion for Waiver seeks an extraordinary remedy that if granted would harm the interests of NOPE, its members and the general public. The Board should exercise its discretion and protect the interests of its constituents in Hamilton County by requiring Duke Energy to schedule an informational meeting where the public can receive information and ask questions about the substantial changes to the company's Application.

NOPE respectfully requests that the Board deny Duke Energy's Motion for Waiver and require the scheduling of a public meeting.

Respectfully submitted,

/s/ James Yskamp  
James Yskamp, Esq. (Counsel of Record)  
Ohio Bar No. 0093095  
Email: [jyskamp@fairshake-els.org](mailto:jyskamp@fairshake-els.org)  
Emily A. Collins, Esq.  
Ohio Bar No. 0093202  
Email: [ecollins@fairshake-els.org](mailto:ecollins@fairshake-els.org)  
Fair Shake Environmental Legal Services  
159 S. Main Street, Suite 1030  
Akron, OH 44308  
Telephone: (234) 571-1970  
Fax: (412) 291-1197

*Attorneys for Proposed Intervenor, NOPE*

## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum was served upon the parties of record listed below on September 28, 2016, by first class U.S. mail or by electronic mail via the electronic filing system where applicable.

*Via e-filing*

Adele M. Frisch  
Duke Energy  
139 East Fourth Street  
Cincinnati, OH 45202

Felecia D. Burdett  
PUCO  
180 E Broad Street  
Columbus, OH 43215

Donielle M. Hunter  
PUCO  
180 East Broad Street, 11th Floor  
Columbus, OH 43215

Carys Cochern  
Duke Energy  
155 East Broad Street, 20th Floor  
Columbus, OH 43215

*Via U.S. Mail*

Anthony and Joan Boiano  
9528 Bluewing Terrace  
Blue Ash, OH 45241

Thomas A. and Patricia H. Kreitingner  
6150 St. Regis Drive  
Cincinnati, OH 45236

By: /s/ James Yskamp  
James Yskamp (0093095)



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Summary: Memorandum Contra to the Motion for Waiver by Duke Energy electronically filed by James Yskamp on behalf of NOPE - Neighbors Opposed to Pipeline Extension, LLC