

BEFORE THE  
OHIO POWER SITING BOARD

In the Matter of:	:	CASE NO. 16-0253-GA-BTX
	:	
The Duke Energy Ohio Application for a	:	
Certificate of Environmental Compatibility	:	<b><u>AMBERLEY VILLAGE STATEMENT OF</u></b>
and Public Need for the C314V Central	:	<b><u>SPECIFIC CONCERNS PERTAINING TO</u></b>
Corridor Pipeline Extension Project	:	<b><u>CROSS-EXAMINATION</u></b>
	:	

Amberley Village, Ohio, by and through counsel, hereby provides the following statement of specific concerns about which the Village may be interested in pursuing cross-examination of witnesses at the evidentiary hearing.

First, the Village received an initial response to its discovery requests from Duke on June 9, with supplementary responses under a protective order on June 14. The Village requested follow-up responses from Duke due to the large number of legal objections it made to the requests, and because such little substantive information was provided by Duke. At the same time, the Village submitted a second set of discovery requests to Duke. Duke responded to the requests the day before this statement is being filed, so the Village has not yet had a chance to review the responses. Further, no party has submitted written testimony or identified witnesses. Thus, the Village may have additional areas of concern after receiving reviewing discovery responses and Duke's written testimony.

Second, the Village is coordinating its participation in these proceedings with a number of other local governmental jurisdictions in order to avoid unnecessary duplication and overlap in the presentation of evidence and cross-examination. It has not yet been determined which party will handle particular areas of interest common to the parties.

At this point, it is not likely that the Village will participate in cross-examination.

Nevertheless, the following is a good faith representation of the areas in which the Village is interested in participating in cross-examination if the Village chooses to do so:

- Any part of filed testimony, including exhibits, submitted by any party to this proceeding.
- The recommended conditions of the May 31, 2017 Staff Report of Investigation, as well as corresponding sections of said Staff Report.
- Duke's representations that the pipeline will serve the public interest, convenience, and necessity.
- Safety. Duke's application and responses to discovery questions about safety are lacking. Even if Duke complies with state and federal safety regulations, the potential for an accident, or an intentional terrorist act, and ensuing damage is present. The Village asked Duke for more information about the history of Duke's gas transmission facilities and its safety record, and plans to prevent or deal with terrorism, but Duke has thus far refused to provide information to the Village.
- What additional training may be required of Village staff and public safety personnel to deal with the pipeline, potential leaks or accidents, or acts of terrorism? The Village is a small jurisdiction with limited resources.
- Environmental impact. The pipeline will run through a number of sensitive environmental habitats that will impact vegetation, animals, people, and institutions. The Village has a robust storm water management system to handle significant runoff, which will be impacted by the project. A number of trees and vegetation will be removed, which will further impact the storm water system, and the overall environment and beauty of the Village.
- Need. Duke has not demonstrated a clear need for the new pipeline. Duke has issued conflicting statements, such as representing that the existing A-Line (part of the "backbone" of the system) cannot be replaced without the new pipeline being in place, and that the A-Line is necessary to accommodate the gas capacity of the proposed pipeline, yet Duke maintains that there is no connection between Duke's need for the new pipeline and the A-Line. In other words, because the existing A-Line pushes gas north, the new pipeline is not needed to balance the system; an updated of the A-Line is needed to balance the system. Without the A-Line, the gas transmitted by the new pipeline will have nowhere to go but south to Kentucky, which brings into question the OPSB's jurisdiction. There has been no population growth in the area for some time, so new customers cannot be an underlying reason for the new pipeline. Moreover, Duke has stated the new pipeline is needed in order to retire older propane plants, but Duke's self-supporting and conclusory statements do not demonstrate that retiring the plants is necessary or would help the system. Duke's assertion that the new pipeline would avoid reliance on the Foster station by about 10 percent for Ohio customers does not demonstrate that a new pipeline through

densely populated areas is necessary or prudent.

- The exact location of the pipeline. The maps provided in Duke's application are inexact. When the Village asked in discovery for Duke to identify the exact location of the proposed pipeline as it passes through Amberley Village, Duke was unable to, or refused to, answer. Instead, Duke responded that the exact location depended on a number of factors, and that the location would be negotiated between Duke and the landowners, which leaves the location to substantial speculation. It is unknown what public facilities the pipeline will impact (roads, sidewalks, utilities, storm water facilities), how the pipeline will impact existing businesses along the route, and how the pipeline will limit development of property on or adjacent to the pipeline. For instance, there is a property located at 2100 Section Road that was recently purchased by the Port Authority of Greater Cincinnati in order to redevelop it into a light industrial facility. The Port Authority invested \$13 Million into the project. Significant storm water and grading work has already taken place on site. The topography of the site is such that the only current access is along the western edge of the property, which happens to be exactly where Duke's maps indicate the pipeline will run. In addition, Duke stated that the necessary easement for the pipeline could be up to 50 feet (at least 30 feet), but Duke has thus far refused to identify the centerline of the proposed pipeline. It is impossible to evaluate the potential impact on development of this property, including potential uses which would be precluded or limited by the presence of the pipeline. The redevelopment of this particular parcel is vital to the future well-being of the Village and its residents. The Village needs more information about the exact location and the impact of the pipeline on this property. This parcel and the other nearby businesses comprise almost the entirety of the business sector in the Village. These businesses are vital to the health, safety, and welfare of the Village, its residents, and people working in the Village. Tax revenue (including income taxes, payroll taxes, and property taxes) are an important source of funds to the Village. The Village provides safety services (police patrols, fire services, maintenance) to these properties. All of these things will be affected in some manner by the proposed pipeline.
- The extent to which interference of the pipeline with existing structures and uses of property, and anticipated development and use of property, can be avoided or eliminated along the route through the Village, including setbacks or other limitations on existing or new structures or property uses near the pipeline.
- Duke's plans to coordinate construction and installation of the pipeline with the Village's storm water management system.
- The extent to which Duke's construction plans and activities will be coordinated with the Village and property owners, such as construction plans identifying specific locations of laydown areas and adverse impacts they can create by pursuing the Alternative ("Green") route preferred by OPSB staff.
- The extent to which Duke may use disruptive construction activities such as impact pile driving, hoe ram operations, rock drilling, blasting, and the like, and their impact on

existing and planned structures and property uses.

- The extent to which Duke will compensate property owners for damage to persons or property caused by construction or maintenance of the pipeline.
- Duke's plans for replacement, repair, or improvement of the A-Line.
- The flow of gas through the A-Line and the system as a whole, as it relates to the need for the new pipeline.
- Impact on public services, including traffic control, and public safety services such as fire, police, and EMT.

Respectfully submitted,

/s/ Kevin K. Frank

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Amberley Village Statement Of Specific Concerns Pertaining To Cross-Examination was served on all parties who have electronically subscribed to this case through the Docketing Information System of the Public Utilities Commission of Ohio and the OPSB on this 18th day of August, 2017. The docketing division's e-filing system will electronically serve notice of the filing of this document on the following parties:

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The following parties have not been served via the email notice and have been served by regular U.S. Mail on the same date indicated above:

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**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 16-0253-GA-BTX**

Summary: Notification Amberley Village Statement of Specific Concerns Pertaining to Cross Examination electronically filed by Mr. Kevin K. Frank on behalf of Amberley Village