

**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)	

**NOPE - NEIGHBORS OPPOSED TO PIPELINE EXTENSION, LLC’S
MEMORANDUM IN RESPONSE TO DUKE ENERGY OHIO, INC.’s MOTION
FOR REESTABLISHMENT OF PROCEDURAL SCHEDULE**

Intervenor NOPE - Neighbors Opposed to Pipeline Extension, LLC (“NOPE”) submits this Memorandum in Response to Duke Energy of Ohio, Inc.’s (“Duke”) Motion for Reestablishment of Procedural Schedule. Due to the numerous substantial changes in the proposed Alternate Route, NOPE respectfully requests that this Board re-evaluate whether Application as amended is complete in accordance with OAC 4906-3-06, and require an additional informational meeting pursuant to OAC 4906-3-03(B) in reestablishing the procedural schedule.

On or about September 13, 2016 Duke filed an Application for authority to construct a major utility facility with the Board. On January 20, 2017 Duke filed an amended Application, proposing to construct an approximately 14-mile, 20-inch natural gas pipeline, with two proposed routes: a Preferred Route and an Alternate Route. Both of these routes would be located in Hamilton County, Ohio. On May 31, 2017 Staff filed its Staff Report recommending the Alternate Route.

Pursuant to a request from Duke, on August 24, 2017, the Administrative Law Judge suspended the procedural schedule. In their request Duke asked to suspend the procedural schedule because it became aware of additional details and information

concerning site-specific matters, and that it had learned of potential concerns with engaging in construction activities in the vicinity of property where environmental remediation had occurred. *See* Motion for Suspension of Proceedings by Duke Energy Ohio and Request for Expedited Treatment at p. 2 (filed Aug. 23, 2017).

On April 13, 2018, Duke filed a Motion for Reestablishment of Procedural Schedule and Request for Expedited Treatment with the Board. Also on April 13, 2018, Duke filed what is titled Supplemented Information for the C314V Central Corridor Pipeline Extension Project (hereinafter referred to as “Supp. Information”). This Supplemental Information amends the Alternate Route in a number of ways. In its filing Duke suggests that the Alternate Route was not sufficiently investigated until after the Staff Report recommended the Alternate Route. *See* Supp. Information at p. 1 (stating that the “Alternate Route had not received as much focus as the Preferred Route prior to the Staff Report, therefore additional time was taken to further investigate the Alternate Route...”). Duke notes that they have made a number of “substantial alignment changes compared to the previous May 2017 Alternate Route.” *Id.* Duke further references several other “minor” alignment changes, which are noted to be “generally less than 30 feet” shifts. *Id.*

Ohio Revised Code Section 4906.06 and the rules promulgated thereunder govern the requirements for Duke’s Application for obtaining a certificate of environmental compatibility and public need for the proposed pipeline. Applications for a certificate must first be determined to be complete before Staff can begin their investigation. *See* OAC 4906-3-06. OAC 4906-3-05 requires that “[a]ll standard certificate applications for ... gas pipelines shall include fully developed information on two sites/routes.” This

regulation additionally requires that each route must be “a viable alternative on which the applicant could construct the proposed facility.” OAC 4906-3-05.

In its revised Application, Duke only gives cursory explanations for each of the various changes proposed for the Alternate Route. However, Duke notes that they are making number of changes to the Alternate Route, with some being deemed “substantial” in Duke’s Supplement. Notably, Duke had not disclosed or discovered in its original Application that the Alternate Route is in close proximity to the Pristine, Inc. environmental remediation site. *See* Motion by Duke Energy Ohio, Inc. for Reestablishment of Procedural Schedule at p. 2. Yet, there is very little description given in Duke’s April 13th Supplement on the details of the relationship between the Alternate Route as amended and the remediation site. Thus, given the fact that the Alternate Route as originally proposed has substantially changed, and was apparently not viable or fully developed as originally proposed, this Board and Staff should first review the Application as amended for completeness pursuant to OAC 4906-3-06(A). In addition, because of the number of substantial changes, and the significant public interest in the proposed project, Intervenor respectfully requests that the Board require an additional informational meeting pursuant to OAC 4906-3-03(B). A public informational meeting and an additional public hearing is necessary for the public to gain a full understanding and to give full and complete testimony on the proposed changes to the project. As previously noted, this proposed project warrants and has gained a significant amount of public interest and concern due to the densely populated communities it would impact, including many of NOPE’s members. Each Party and the public should be given an adequate

amount of time to truly understand, assess, and respond to the issues and changes presented in the revised Application.

In addition, because Staff's recommendation was to approve the Alternate Route instead of the Preferred Route, all Parties and Staff should be afforded the opportunity to fully evaluate the differences and impacts of both Routes as they are currently proposed. If the Board should find that it does not have to determine completeness pursuant to OAC 4906-3-06, Intervenor NOPE requests an appropriate procedural schedule that allows time for Staff to review the alternate route and develop an appropriate report and recommendation for the Board, and allows all Parties access to additional discovery to evaluate the changes to the Application and Staff's recommendations.

WHEREFORE, NOPE respectfully requests that the Board consider the significant changes in the Alternate route in developing a procedural schedule, and evaluate the amended Application for completeness pursuant OAC 4906-3-06, and require that Duke hold an additional informational meeting pursuant to OAC 4906-3-03(B).

Respectfully submitted,

/s/ James Yskamp

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CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2018 the foregoing Memorandum In Response was filed through the Docketing Information System, and a copy will be served upon the parties of record by electronic mail via the electronic filing system.

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

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

Summary: Response Intervenor NOPE's Memorandum in Response to Motion by Duke Energy Ohio, Inc., for Reestablishment of Procedural Schedule and Request for Expedited Treatment electronically filed by James Yskamp on behalf of NOPE - Neighbors Opposed to Pipeline Extension, LLC