

**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. 16-253-GA-BTX
Need for the C314V Central Corridor )	
Pipeline Extension Project. )	

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**COLUMBIA TOWNSHIP’S OBJECTIONS AND RESPONSES TO DUKE  
ENERGY OHIO’S FIRST SET OF INTERROGATORIES AND REQUESTS FOR  
PRODUCTION OF DOCUMENTS**

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Columbia Township, by and through counsel, hereby submits the following objections and responses to Duke Energy Ohio, Inc.’s (“Duke”) First Set of Interrogatories and Request for Production of Documents (“Discovery Requests”):

**PRELIMINARY STATEMENT**

These responses are made solely for the purpose of this litigation. These responses represent Columbia Township’s diligent and best efforts to respond to the Discovery Requests based on the investigations Columbia Township has thus far performed in connection with the this litigation. There may exist further information responsive to the Discovery Requests that is not within Columbia Township’s present knowledge or reasonably available to it. There may also exist documents relating to the subject matter of the Discovery Requests that Columbia Township has not yet located, identified, or reviewed, despite its best efforts to do so. Further, there may exist persons with knowledge relating to the subject matter contained in the Discovery Requests of whom Columbia Township is not presently aware or of whom Columbia Township has not yet conducted interviews.

Accordingly, these responses are based upon the facts and information now known to Columbia Township as well as its present analysis of this litigation, and do not constitute an admission or representation that additional facts, documents, or witnesses having knowledge relevant to the subject matter of discovery do not exist. As this litigation proceeds, Columbia Township anticipates it may discover or identify other facts, documents, or witnesses. Columbia Township reserves the right to alter, supplement, amend, or otherwise modify these responses in any way and at any time.

Except for the explicit facts stated herein, no incidental admissions are intended. The fact that Columbia Township responded to any of the Discovery Requests is not an admission that it accepts or admits the existence of facts set forth or assumed by any Discovery Request, or that such responses constituted admissible evidence. That Columbia Township answered all or part of any Discovery Request is not intended as, and shall not be construed to be, a waiver of all or any part of any objections to the Discovery Request. Columbia Township will follow Duke's instructions only to the extent required by the applicable provisions of the Ohio Revised Code, the Ohio Administrative Code and/or the Ohio Power Siting Board's (the "Board") Local Rules and orders.

### **GENERAL OBJECTIONS**

1. Columbia Township objects to the Discovery Requests insofar as they are vague, ambiguous, overly broad or burdensome, not proportional to the needs of the case, or not relevant to any party's claims or defenses. Columbia Township objects to the Discovery Requests insofar as they seek information and/or documents that are not reasonably related to the underlying litigation.

2. Columbia Township objects to the Discovery Requests insofar as they seek information and/or documents that are confidential and protected by the attorney-client privilege or attorney work-product doctrine, including trial preparation materials. Any information covered by this general objection will not be produced.

3. Columbia Township objects to the Discovery Requests insofar as they seek information and/or documents that are confidential and proprietary business or private information. Confidential or private information which is otherwise discoverable will only be provided subject to the terms of a protective order.

4. Columbia Township objects to the Discovery Requests insofar as they ask Columbia Township to provide information and/or documents that are not within Columbia Township's possession, custody, or control, or thereby compel Columbia Township to speculate when answering.

5. Columbia Township objects to the Discovery Requests insofar as they require answers or the production of documents that are neither appropriate nor required under applicable Ohio law. Thus, Columbia Township has no obligation to: (a) generate documents not currently existing; (b) describe any unsuccessful efforts to respond to any Discovery Request; (c) locate any document or tangible thing not in its possession, custody, or control; (d) add to or change the meaning of any Discovery Request in the conjunctive or disjunctive; or (e) respond to any portion or aspect of a Discovery Request not described with reasonable particularity by the express language of the Discovery Request.

6. Columbia Township's responses to the Discovery Requests do not concede the relevancy, materiality, or admissibility of the information and/or documents produced and are made without prejudice to Columbia Township's right to object to

further discovery. Columbia Township's answers are subject to, and without waiver of, any objection to the competency, overbreadth, relevancy, materiality, privileged nature or admissibility of the information, and/or documents produced for any other purpose.

7. Columbia Township objects to these Discovery Requests to the extent they seek to require it to identify or produce documents that are equally available to Duke as they are to Columbia Township.

8. Columbia Township objects to each Discovery Request that asks it to identify and/or produce "each and every" or "all" documents or other things of a certain description. Columbia Township objects to each such Discovery Request because seeking "each and every" or "all" information, documents, or other things in the context of this litigation is overly broad and unduly burdensome. Such Discovery Requests seek information which is irrelevant and not reasonably calculated to lead to the discovery of admissible evidence.

9. In answering the Discovery Requests, Columbia Township may or may not specifically reference a General Objection. If Columbia Township does not specifically reference a General Objection in answering a particular Discovery Request, the General Objections remain applicable to that Discovery Request.

10. Columbia Township reserves the right to object to the use of any answer produced pursuant to these Discovery Requests in any subsequent proceeding or in the trial of this or any other action on any grounds.

11. Columbia Township reserves the right at any time to revise, correct, add to, or clarify any of the responses herein.

Without waiving the foregoing objections, Columbia Township responds to the Discovery Requests as follows:

### **INTERROGATORIES**

1. Identify each person who answered or furnished information or documents, or assisted in answering or in furnishing any information or documents, used in answering any of these Interrogatories and/or Requests for Production of Documents, and identify each Interrogatory and/or Document Request for which such person participated in the response.

**RESPONSE:** Columbia Township objects to this Interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine. Notwithstanding this objection and without waiving it, Columbia Township hereby identifies C. Michael Lemon, Columbia Township Administrator.

2. Identify each person whom Columbia intends to call to testify at the hearings in the above-captioned matters. To the extent Columbia claims that it has not made a final determination as to which witnesses it intends to call to testify on its behalf, please supplement this response as soon as such a determination is made.

**RESPONSE:** Objection. This Interrogatory is premature to the extent it seeks disclosure of Columbia Township's witness lists. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order. Notwithstanding this objection and without waiving it, Columbia Township does not currently anticipate presenting any testimony other than the

testimony presented by other intervening parties. Columbia Township reserves the right to call any fact or expert witness identified by any other party in this matter.

3. For each person identified in response to Interrogatory No. 2 above, please state (1) the subject matter upon which the witness is expected to testify; (2) the facts to which each witness is expected to testify; (3) the opinions to be rendered by each witness; (4) a summary of the witness's qualifications to provide the testimony; and (5) a summary of each witness's testimony. To the extent Columbia claims that it has not made a final determination as to witnesses it intends to call to testify, please supplement this response as soon as such a determination is made.

**RESPONSE:** Objection. This Interrogatory is overbroad and unduly burdensome. Further objecting, this Interrogatory is premature. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order. Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2, above.

4. Please identify each expert whom Columbia has retained or is in the process of retaining to testify in the above-captioned proceedings. If the response indicates that a decision has not been made, please supplement the response as soon as the decision is made.

**RESPONSE:** See Objections and Response to Interrogatory No. 2, above. Further answering, Columbia Township reserves the right to call any expert witnesses identified by any other party in this matter.

5. For each expert identified in response to Interrogatory No. 4 above, please state (1) the subject matter upon which the witness is expected to testify; (2) the facts to which each expert is expected to testify; (3) the opinions to be rendered by each expert; (4) a summary of the expert's qualifications to provide the testimony; and (5) a summary of each expert's testimony.

**RESPONSE:** See Objections and Response to Interrogatory No. 2, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order. Further answering, Columbia Township reserves the right to call any expert witnesses identified by any other party in this matter.

6. For each witness identified in response to Interrogatory Nos. 2 or 4 above, please identify all proceedings in all jurisdictions in which the witness has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony. For each response, please provide the following:
- (a) the jurisdiction in which the testimony or statement was pre-filed, offered, given, or admitted into the record;
  - (b) the administrative agency and/or court in which the testimony or statement was pre-filed, offered, admitted, or given;
  - (c) the date(s) the testimony or statement was pre-filed, offered, admitted, or given;
  - (d) the identifying number for the case or proceeding in which the testimony or statement was pre-filed, offered, admitted, or given;
  - (e) whether the witness was cross-examined; and
  - (f) the custodian of the transcripts and pre-filed testimony or statements for each proceeding.

**RESPONSE:** Objection. This Interrogatory is overbroad, unduly burdensome, and seeks the production of information that is neither relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.



7. For each expert identified in Interrogatory No. 4, above, please identify all documents provided by Columbia to the expert. To the extent that Columbia contends that any such documents are privileged, please provide a privilege log for same.

**RESPONSE:** Objection. This Interrogatory is overbroad and unduly burdensome. Columbia Township further objects to this interrogatory to the extent that it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine. Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.

8. Identify all documents or other evidence that Columbia may seek to introduce as exhibits or for purposes of witness examination in any proceeding related to the above-captioned matter. To the extent that Columbia contends that any such documents are privileged, please provide a privilege log for same.

**RESPONSE:** Objection. This Interrogatory is premature to the extent it seeks disclosure of Columbia Township's exhibit lists, as Columbia Township has not yet determined what documents it will use as exhibits. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order. Notwithstanding these objections and without waiving them, any document that Columbia Township may seek to introduce has already been exchanged by the parties in this matter or is a publicly available document.

9. Please state whether you agree to supplement your responses to these Interrogatories and Document Requests.

**RESPONSE:** Columbia Township will comply with all applicable requirements of the Ohio Revised Code, the Ohio Administrative Code, and any order entered by the Ohio Power Siting Board.

#### **REQUESTS FOR PRODUCTION OF DOCUMENTS**

Duke Energy Ohio requests that Columbia produce true and accurate copies of the following documents:

1. Any and all documents identified or referenced in response to any of the foregoing Interrogatories.

**RESPONSE:** Any document Columbia Township identified or referenced in response to any of the above Interrogatories has been exchanged by the parties in this matter or is a publicly available document. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.

2. Any and all documents that contain any information used, reviewed, or referenced in preparing Columbia's responses to any of the foregoing Interrogatories.

**RESPONSE:** See Response to Request for Production No. 1, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.

3. Any and all documents that Columbia may introduce as exhibits or use for purposes of witness examination at any hearing related to the above-captioned matter.

**RESPONSE:** Objection. This Request is premature to the extent it seeks disclosure of Columbia Township's exhibit lists, as Columbia Township has not yet determined what documents it will use as exhibits. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order. Notwithstanding these objections and without waiving them, any document that Columbia Township may seek to introduce has already been exchanged by the parties in this matter or is a publicly available document.

4. Any and all documents relating to the testimony of any of Columbia's witnesses and/or expert witnesses including, but not limited to, any and all *curricula vitae*, reports, papers, statements, notes, other documents, and any correspondence, communications, or other documents exchanged between Columbia and the expert.

**RESPONSE:** Objection. This Request is overbroad and unduly burdensome. Columbia Township further objects to the extent this Request seeks documents and information that are not discoverable under Civ R. 26(B)(3) and (5). Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2 and Response to Request for Production No. 1, above.

5. Any and all contracts for services between Columbia and any expert retained or consulted to provide opinions, testimony, evidence, or analysis in relation to the above-captioned proceedings.

**RESPONSE:** Columbia Township has not entered into any contracts with any experts.

6. Please provide copies of any transcripts of depositions of each witness identified in Interrogatory No. 2. If a transcript is not available, please provide the name, address, and telephone number of the court reporting service used for purposes of each deposition.

**RESPONSE:** Objection. This Request is overbroad, unduly burdensome, and seeks the production of information that is neither relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.

7. Provide copies of any transcripts of depositions of each witness identified in Interrogatory No. 4. If a transcript is not available, please provide the name, address, and telephone number of the court reporting service used for purposes of each deposition.

**RESPONSE:** Objection. This Request is overbroad, unduly burdensome, and seeks the production of information that is neither relevant, nor reasonably calculated to lead to the discovery of admissible evidence. Notwithstanding these objections and without waiving them, *see* Response to Interrogatory No. 2, above. Columbia Township will supplement its response in accordance with the Board's December 18, 2018 Order.

Respectfully submitted,

s/ Bryan E. Pacheco

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the below-listed counsel and parties on this 11<sup>th</sup> day of March, 2019.

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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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s/ Bryan E. Pacheco

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Summary: Response Columbia Township's Objections and Responses to Duke Energy Ohio's First Set of Interrogatories and Requests for Production of Documents electronically filed by Mr. Mark G Arnzen on behalf of Columbia Township