

**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.	)	

**POST HEARING REPLY BRIEF OF INTERVENOR CITY OF READING, OHIO**

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## **REPLY**

### **I. ARGUMENT**

A certificate of environmental compatibility and public need for construction of Duke Energy Ohio's Central Corridor Pipeline (herein CCP) along the Alternate Route should not be granted based upon the state of the current record. Nothing in the record or offered by way of argument supports the recommendation of the Staff of the OPSB that construction should occur along the Alternate Route. Contrary to the Staff's assertion, an objective review of this process and the evidence now under consideration does not support its recommendation for construction on the Alternate Route.

#### **a. Residential Impact**

The Staff analysis of the proposed routes for the CCP devotes precious little discussion to the impact on homes in the area of the pipeline. The Staff simply indicates that significantly more homes are within 1000 feet of the Preferred Route while it has 67 fewer homes within 100 feet than the Alternate Route. *Staff Ex. 1, Amended Staff Report at 49.* Other than the raw numbers, Staff offers no reason why they are important. While it can certainly be said that there will be some impact on homes within the 2000 foot proposed corridor during construction, it defies common sense and experience that the impact will be the same for homes located 500 to 1000 feet from the centerline than it is for homes that are within 100 feet. Residents of homes within 100 feet of the centerline will have the highest likelihood of having their lives disrupted and being displaced during construction. Others not so much.

The constructability review prepared for Duke Energy bears this out, describing that residents along Third Street in Reading will be displaced during construction. *Reading Ex. 4.* While the Staff of the OPSB did not have the luxury of access to Duke Energy's constructability

review, *See: Trans. Vol II, 468-5 through 468-19* (Testimony of Robert Holderbaum), *Trans. Vol III, 691-20 through 692-2* (Testimony of Tim Burgener), it still should have recognized that the “potential for disruption of residences” is much higher for homes that are in close proximity to the ditch in which the pipeline will be placed. As they are more likely to be affected during the construction of the pipeline, homes within 100 feet of the Alternate Route deserve to be accorded a greater priority than the more remote homes along the Preferred Route corridor. In Reading, the disruption of homes and displacement of residents is not potential or hypothetical. It is going to occur. While communities along the Preferred Route may experience similar disruption, there is no evidence in the record that these communities will experience it to the extent that the residents of Reading will.

**b. Land Use Conflict**

The Staff’s assertion that no land use conflicts were identified is inaccurate. *See Staff Post Hearing Brief* at 19. As described during the evidentiary hearing, the proposed Alternate Route runs through a site owned by the City of Reading, known as the Life Science Expansion Site, being held for future development. *Reading Ex. 2, Ross Trans. Ex.s R-6, R-7, and R-47.* Both the State of Ohio and the City of Reading have significant investments in the site to the tune of over \$3,000,000 of government funds used to acquire, remediate, and prepare this site for future development. *Id. at Ex. R 47.* The Life Science Expansion Site is adjacent to other life science companies and is being actively marketed with the intent of bringing high paying technical and scientific jobs to the City. *Id. at 36-8 through 36-24.*

Duke Energy was made aware of the Reading’s ownership of this property and the State of Ohio’s participation in the remediation and preparation of the property for sale. While Duke

has made adjustments to the route through the property, the City remains concerned that the presence of the pipeline will affect its ability to sell the property to any prospective end user.

**c. Impact on Recreational Facilities**

The Staff's analysis of recreational facilities along the proposed Alternate and Preferred Routes was limited to GIS-mapping, field reviews and information contained in the application. *See Staff Post Hearing Brief* at 21. Based upon this limited review, the Staff asserts that the greatest construction impact will occur at two locations on the Preferred Route, a ballfield complex and a golf course. Staff was under the impression that the Alternate Route, though adjacent to more recreational areas, does not actually bifurcate or directly impact these recreational facilities. *Id.* In Reading, the Alternate Route runs directly through a primary recreational area consisting of ballfields, a football stadium and track complex, a fieldhouse and the community pool. The facilities in this area are used year round by the Reading Community Schools, youth sports organizations, and the residents of the City. *Reading Ex. 2, Ross Trans. 13-2 through 14-24.* The Route in this area runs along West Street, which is the only access way into these year-round facilities. *Id. at 43-25 through 44-7.* West Street also separates the stadium/track complex from its only parking area. During construction, access to these year-round facilities will be disrupted. *Id.*

While it may be correct that the impact of construction may be similar for the ballfield complex on the Preferred Route and the stadium/track/fieldhouse/pool/ballfield area in Reading, construction on the fairways of Kenwood Country Club can certainly be accomplished during its slow season (say November through March) with limited disruption to its members.

**d. Duke Energy's Professed Needs**

While the Staff asserts that it is satisfied Duke Energy has overwhelmingly demonstrated its need for the CCP, *See Staff Post Hearing Brief* at 6-18, Staff seems bound and determined that Duke Energy should live with a second class solution that does not wholly meet its stated need. Duke Energy's description of its need for the CCP includes the retirement of the existing propane-air plants, the replacement of aging infrastructure, and improving the balance of supply within its distribution system by increasing the supply of gas from northern sources. *Duke Post-hearing Brief pp 9-17*. Assuming that the OPSB agrees that these needs are real, it should closely re-examine whether such needs will be filled by constructing the CCP on the Alternate Route as recommended by the Staff. Simply put, the Alternate Route offers significantly less opportunity to directly offset gas flow from the Foster Station, *see Testimony of Andrew Conway Trans. Vol III, 657-2 through 659-8*, and the flexibility for natural gas pipeline testing and replacement without incurring outages will be limited. *Duke Amended Application at 2-7*. Routes connecting to Line V in the Fairfax area provide the most favorable flow balance both east and west on Line V, and would also most directly offset flows from the Foster Station. *Id*. Such routes also will provide sufficient gas capacity in central Hamilton County to permit the ability to test and replace aging infrastructure without a loss of service. *Id.*; *Testimony of Gary Hebbeler, Trans. Vol I at 43-13*.

**e. The Board Should Direct the Staff to Explore Other Alternatives**

By any measure, the construction of the CCP along either the Preferred or Alternate Route will be a major undertaking. Businesses and residents will have their daily affairs disrupted, and some of them will be displaced during construction. City streets will be ripped up to install the pipeline and private and public property will be taken to provide the easements

necessary to construct the route. Citizens and local governments alike have expressed concerns regarding these disruptions and fears that the construction will leave them less safe. The persons and entities expressing these concerns will be the ones living with and most affected by the installation of the CCP and will be the ones required to deal with the daily disruptions that construction will entail. These concerns are real, and ought not simply be dismissed as “parochial viewpoints.” *Staff Post Hearing Brief* at 1.

Most of the concerns expressed by communities and citizens near both of the proposed routes could have been largely mitigated, or outright eliminated, had Duke Energy not summarily excluded ODOT rights of way along interstate highways from consideration. Using the Interstate 71 right of way provides the most direct access to Duke Energy’s proposed Fairfax station and would likely eliminate the concerns expressed by Jewish Hospital, Blue Ash, and Sycamore Township regarding the location of the Preferred Route. Interstate 75 lies a couple of hundred yards to the west of where the Alternate Route turns south off Glendale Milford Road and provides access to State Route 561 on Seymour Avenue leading to the existing Norwood Station. Though the I 75 corridor straddles the Mill Creek, and is therefore both inside and outside Duke Energy’s study area, routes along this corridor were apparently never considered. The same cannot be said of the I 71 corridor. In fact, the best scoring route in Duke Energy’s route selection process (Route 3), is largely located within Interstate 71 easement. *See Duke Amended Application, Appendix 4-1 at 3-7.*

From both a practical and policy perspective, eliminating ODOT rights of way from the route siting process makes no sense. The interstates are linear, direct routes. Construction can be accomplished outside the traveled portion of the highway, eliminating traffic issues inherent with construction along surface streets and roads. The necessary permits and easements can be

obtained from a single agency as opposed to multiple jurisdictions. And further, if the State is to approve and order the construction of a major utility facility, available rights of way under control of State agencies should be considered for use first, ahead of private property and land controlled by local governments, and eliminated from consideration only for compelling reasons.

For these reasons, the Board should direct its Staff to re-visit the siting process and consider all possible routes, including those within the interstate rights of way.

## **II. CONCLUSION**

For all of the forgoing reasons and those advanced in the City of Reading's initial Post Hearing Brief, Duke Energy's application for a certificate of environmental compatibility is not well-taken and must be denied.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Initial Brief filed on behalf of Intervenor City of Reading was served by electronic mail on or before June 10, 2019, upon counsel of record for the parties in the matter to the following electronic addresses:

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