

**BEFORE
THE OHIO POWER SITING BOARD**

In the Matter of the Application of Duke :
Energy Ohio, Inc. for a Certificate of : Case No. 16-253-GA-BTX
Environmental Compatibility and Public :
Need for the C314V Central Corridor :
Pipeline Extension Project. :

REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE OHIO POWER SITING BOARD

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**On behalf of the Staff of
The Ohio Power Siting Board**

June 10, 2019

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INTRODUCTION

The Ohio Power Siting Board's Staff (Staff) believes that an objective review of the evidence supports its recommendation; that is to say that any certificate granted by the Ohio Power Siting Board (Board) should direct that the C314V Central Corridor Pipeline be constructed on the Alternate Route proposed by Duke Energy Ohio, Inc. (Duke or the Applicant) and be made subject to the conditions developed by Staff (in its Amended Report of Investigation) to mitigate reasonably-anticipated impacts associated with this project. Again, Duke, with two minor exceptions, agrees with the Amended

Staff Report and its conditions.¹ Below is Staff’s reply to arguments raised by opposing intervenors in their initial briefs.²

DISCUSSION

A. Duke provided fully developed information for Staff to review the proposed preferred and alternate routes.

Intervenors allege that Staff developed its recommendation on something less than “fully developed information.”³ On the contrary, with the supplemental information filed by Duke, the information on the alternate route became even more fully developed. On August 23, 2017, Duke filed a motion to suspend the procedural schedule in this case stating that, in the course of meeting with affected property owners and municipalities, the Company became aware of additional information concerning site-specific matters.⁴ Duke further stated that it was informed of potential concerns with engaging in construction activities in the vicinity of property on which environmental remediation has occurred.⁵ According to Duke, some of this information warranted additional

¹ *In the Matter of the Application of Duke Energy Ohio, Inc. for a Certificate of Environmental Compatibility and Public Need for the C314V Central Corridor Pipeline Extension Project*, Case No. 16-253-GA-BTX, Tr. Vol. I at 133-136. Staff witness Pawley, in Staff Ex. 2 (Pawley Direct) at 3, makes one of the corrections Duke seeks.

² This Reply Brief does not address any intervenor’s opposition to the Preferred Route because Staff has recommended the Alternate Route in its Amended Staff Report.

³ City of Reading Brief at 4-9; NOPE Brief at 19-22.

⁴ Entry (Dec. 18, 2018) at 2.

⁵ *Id.*

examination and, potentially, contribution from entities that are not otherwise participating in this proceeding.⁶ The ALJ granted Duke's motion and suspended the procedural schedule.

On April 13, 2018, Duke filed supplemental information to its application regarding revisions it chose to make to its alternate route.⁷ On June 29, 2018, Staff filed a letter in response to Duke's filing of its supplemental information stating that Duke's supplemental information includes seven significant adjustments to the proposed alternate route, with the furthest distance between the revised alternate route and the original alternate route being less than 500 feet.⁸ Staff also noted that the revisions appear to impact two additional property owners and that Duke's supplemental information did not address whether land use agreements, in addition to those necessary for the original alternate route, would be required for any impacted properties along the revised alternate route.⁹ Staff requested that it be provided sufficient time to complete a thorough review of Duke's supplemental information.¹⁰

On July 26, 2018, Duke further supplemented its application by filing two environmental summary reports.¹¹ The ALJ found that Duke's supplemental information

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

should be considered an amendment of a pending accepted, complete application, in light of Staff's representation that the Company's revisions to the proposed alternate route may impact two additional landowners.¹²

Ohio Adm.Code 4906-5-02 provides that the applicant shall provide a discussion of the suitability of the preferred and alternate routes.¹³ Staff is to evaluate those two routes. Staff selected the alternate route before the supplemental information was filed and after the supplemental information was filed. Duke voluntarily requested that the procedural schedule be suspended in order to allow time for investigation into site-specific issues that it had become aware of. Over the several months, Duke engaged in several categories of investigations that allowed Duke to confirm the lack of pre-existing environmental issues of concern along the alternate route that would require route modifications.¹⁴ However, through meetings with property owners and municipalities, additional information was obtained that resulted in a few adjustments to the alternate route.¹⁵

Regarding the Pristine Inc. Superfund Site (Pristine Site), Duke witness Schucker opined that the pipeline would not impact remediation and would not result in any increased risk of exposure for the general public.¹⁶ She also opined that neither the

¹² *Id.* at 5.

¹³ Ohio Adm.Code 4906-5-02(A)(1).

¹⁴ Duke Motion for Reestablishment of the Procedural Schedule (April 13, 2018) at 2.

¹⁵ Duke Ex. 6 (Supplemental Information) at 1.

¹⁶ Duke Ex. 14 at 10-11.

pipeline nor the construction workers installing the pipeline would be at risk due to the proximity of the Pristine Site.¹⁷ Staff also examined the Pristine Site.¹⁸ Staff reviewed the proposed Alternate Route location and determined that off-property remedial components such as monitoring wells, extraction wells, piezometers, and underground piping are in close proximity to a section of the route along West Street in Reading.¹⁹ Therefore, the pipeline installers will need to locate and avoid these remedial components.²⁰ Staff also determined that contact with contaminated soil at the Pristine Site is not an issue because soil contamination was limited to the three-acre site property, and the proposed Alternate Route does not encroach on this property.²¹ Finally, Staff determined that the proposed pipeline will not impact the groundwater contamination plume emanating from the Pristine Site.²² The depth to the groundwater in the lower aquifer ranges from 60 to 100 feet below ground surface, while the depth of the construction trench for the pipeline is 6 feet.²³

¹⁷ *Id.* at 1-12.

¹⁸ Staff Ex. 4 (Glum Direct) at 2.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 2-3.

²² *Id.* at 3.

²³ *Id.*

Condition 29 was specifically written to ensure the Applicant avoids damage to or interference with remedial components associated with the Pristine Site.²⁴ According to this condition, the Applicant would need to locate and avoid monitoring wells, extraction wells, piezometers, underground piping, and any other relevant remedial components in coordination with Gutteridge Haskins & Davey Services Inc., the Pristine, Inc. Superfund Site engineering firm.²⁵

Again, with the supplemental information filed by Duke, the information on the alternate route became even more fully developed. Staff properly evaluated this supplemental information and amended its Staff Report appropriately.

B. Duke has properly demonstrated the need for the proposed pipeline. (R.C. 4906.10(A)(1)).

Staff believes that Duke has properly demonstrated the need for the construction of the proposed pipeline. Despite arguments that need is not a defined term,²⁶ Ohio Adm.Code 4906-5-03 provides the relevant factors for the review of need regarding this proposed pipeline. Using this rule as a guide, Staff properly evaluated the basis of need in the application. In doing this evaluation, Staff inspected the proposed project area on field visits.²⁷ Staff reviewed: section 3 of the application; the Applicant's Long-Term

²⁴ *Id.*

²⁵ *Id.*; Staff Ex. 1 (Amended Staff Report) at 63-64.

²⁶ NOPE Brief at 8.

²⁷ Staff Ex. 9 (Conway Direct) at 2.

Forecasts; the Applicant's Gas Master Plan; and the December 2015 Management and Performance Audit performed by Exeter Associates, Inc.²⁸ Staff also evaluated the gas system modeling results.²⁹ Staff also issued data requests to the Applicant and interviewed the Applicant.³⁰

1. Duke provided specific projections of system conditions, local requirements, or any other pertinent factors that impacted its opinion on the need for the proposed pipeline.

As described in Staff's initial brief, and contrary to opposing interveners' positions,³¹ Duke accurately described the specific projections of system conditions, local requirements, and any other pertinent factors that impacted its opinion on the need for the proposed pipeline. First, Duke explained the need of balancing the system from north to south. The proposed pipeline addresses the issue of balancing the system from north to south. Staff believes that any noticeable reduction on the reliance to Foster Station is beneficial to Duke's overall system.³² This is a reasonable position when considered, as a package, with Duke's other need justifications. In the end, the proposed pipeline project would bring increased pressure and volumes of natural gas into the system from the

²⁸ *Id.*

²⁹ *Id.* at 7.

³⁰ *Id.* at 2.

³¹ City of Cincinnati/Hamilton County Brief 5-9; NOPE Brief at 8-18; Sycamore Township Brief at 3-5.

³² Tr. Vol. III at 656-657.

north.³³ The Central Corridor Pipeline would eliminate some of the pressure limitation constraints around its WW Feed Station.³⁴

Second, Duke explained the need to retire the propane-air peaking plants. Duke indicated that these propane-air plants and propane storage facilities are now reaching the end of their useful lives.³⁵ If propane-air peaking plants would become unavailable, the loss of supply from these plants on a high demand day could result in widespread service outages.³⁶ The installation of the proposed pipeline would allow the Applicant to retire the propane-air peaking plants.³⁷ Relying on the application, field visits, the Applicant's Gas Master Plan, data requests, and interviews with the Applicant, Staff witness Conway found, in his expert opinion, that Duke explained the need to retire the propane-air peaking plants. This was a proper analysis. Again, as stated in Staff's Initial Brief, the retirement of the propane-air peaking plants would allow for customers that are intolerant of the propane-air mixture to no longer need curtailments when the propane-air peaking plants would otherwise have been in operation.³⁸ When the propane-air peaking plants are in use, natural gas supplies containing the propane-air mixture can travel extensively

³³ Staff Ex. 9 (Conway Direct) at 6.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Staff Ex. 9 (Conway Direct) at 4.

³⁷ *Id.* at 6.

³⁸ *Id.*

throughout the Applicant's gas supply system.³⁹ Retirement or loss of the propane-air peaking plants without a replacement supply source would cause the system to have inadequate supply to serve customers and affect service to as many as 50,000 customers on peak winter days.⁴⁰ Staff also found that during some maintenance repair activities, the propane-air peaking plants would be unavailable with short timeframes to place the plant in service.⁴¹ There are several system capacity restrictions that make increasing flow from the northern gate stations to replace the use of propane-air peaking currently not possible.⁴²

Third, Duke explained the need to support the inspection, replacement, and upgrade of aging infrastructure.⁴³ Duke has several older natural gas pipelines that were not designed to meet the current pipeline integrity testing requirements.⁴⁴ Furthermore, the Applicant needs to inspect, test and upgrade portions of its backbone system that brings gas from both north and south into the central Hamilton County area.⁴⁵ The major elements of this backbone include Line A, Line V, and various Line AM natural gas

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Tr. Vol. III at 619.

⁴² Staff Ex. 9 (Conway Direct) at 6.

⁴³ *Id.* at 5.

⁴⁴ *Id.*

⁴⁵ *Id.*

pipelines.⁴⁶ Portions of Line A and Line V were constructed in the 1940s, 1950s, or 1960s and need to be upgraded, and Line A has reached maximum capacity.⁴⁷ Without upgrades, Line A is not capable of supplying additional natural gas to the area.⁴⁸ The proposed pipeline supports the inspection, replacement, and upgrade of aging infrastructure.⁴⁹ Construction of the proposed Central Corridor Pipeline would allow the Applicant to replace this aging infrastructure while maintaining gas service.⁵⁰

The three reasons stated by Duke, taken as a whole, accurately describe the specific projections of system conditions, local requirements, or any other pertinent factors that impacted its opinion on the need for the proposed pipeline. Staff's analysis was reasonable.

2. Duke explained how the proposed pipeline fits into regional expansion plans.

The Applicant explained and Staff has found that the proposed project fits into regional expansion plans.⁵¹ The number of customers has increased since the original case filings in 2016 and, despite interveners arguments that Hamilton County population

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.* at 7.

⁵⁰ *Id.*

⁵¹ *Id.* at 8.

will decrease over the next 20 years,⁵² the Ohio Development Services Agency (ODSA) still projects that the population of the Hamilton County will decline through the year 2030, then increase in the decade from 2030 to 2040.⁵³ The Applicant also identified several areas of its service territory where it has experienced and anticipates growth.⁵⁴ The proposed project can accommodate anticipated growth of the system up to 45,500 thousand cubic feet per hour (MCFH) and allow future replacement/upgrade of aging infrastructure that has been pressure limited.⁵⁵ Within the application, the Applicant stated the proposed Central Corridor Pipeline is one of several capital improvement projects recommended for inclusion in its long-range plan and has been part of the Applicant's long-term forecast for the last 10 years.⁵⁶

Therefore, the Applicant has explained and Staff has properly found that the proposed project fits into regional expansion plans.

3. Duke considered and Staff evaluated alternative options for the proposed project.

⁵² NOPE Brief at 11.

⁵³ Staff Ex. 1 (Amended Staff Report) at 30.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

The Applicant considered and evaluated several options before submitting the application.⁵⁷ Interveners NOPE, City of Cincinnati and Hamilton County argue that Duke (and Staff) did not meaningfully consider non-pipeline alternatives.⁵⁸ This argument is misguided. Staff considered and opined on several alternatives considered by Duke to the proposed pipeline. First, the Applicant considered making no improvements and simply continuing maintenance of the existing infrastructure.⁵⁹ The maintenance costs for its aging propane-air peaking plants and associated equipment would likely increase.⁶⁰ Staff confirmed that there have been increased costs.⁶¹ This no-improvement option would not address the increased risk of failure of the propane-air peaking plants due to age, would not address propane intolerant industries, and would not reduce reliance on the Foster Station for system flexibility.⁶²

Second, the Applicant considered replacement of key area pipelines, notably Line A.⁶³ The Applicant found that there is limited backup gas capacity of the pipeline system, making it impossible to take Line A out of service without disruption to

⁵⁷ *Id.*

⁵⁸ NOPE Brief at 22; City of Cincinnati/Hamilton County Brief at 12.

⁵⁹ Staff Ex. 1 (Amended Staff Report) at 30.

⁶⁰ *Id.*

⁶¹ Tr. Vol. III at 618.

⁶² Staff Ex. 1 (Amended Staff Report) at 28.

⁶³ *Id.*

customers during the peak winter season.⁶⁴ This option, replacement of key area pipelines (notably Line Z), would not offset the use or need of the propane-air peaking plants.⁶⁵

Finally, the Gas System Master Plan outlined seven alternative system improvements that would allow the retirement of the propane-air peaking plants, reduce the reliance on the Foster Station, and allow replacement of aging infrastructure.⁶⁶ The Applicant, in the Gas Master Plan, considered three western options, one eastern option beyond the I-275 outerbelt, and three central options within the I-275 outerbelt.⁶⁷ The Applicant found that the western options did not allow for retirement of the propane-air peaking plants or improve reliability in the central core area.⁶⁸ Additionally, these western options did not allow pipeline inspection and replacement work to be conducted as needed in the central core area.⁶⁹ The Applicant found that the eastern option would bring a significant supply of natural gas from northern suppliers and would allow the retirement of the propane-air peaking plants.⁷⁰ However, this option would involve a large diameter, high-pressure pipeline, up to three times longer than any of the other

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 29.

options.⁷¹ With this option, a large diameter, high-pressure pipeline into the central core of the city would still be needed to support the aging central core natural gas infrastructure.⁷² The Applicant found that two of the central options were suboptimal.⁷³ The Applicant concluded that an extension of Line C314 further south through the central corridor from the existing WW Feed Station to the existing Line V was the best option to minimize overall project impacts and meet current and future customer needs.⁷⁴

Therefore, Duke appropriately considered and Staff appropriately evaluated alternative options for the proposed project.

4. Staff Recommendation

Staff, again, believes that the Applicant has appropriately evaluated the condition and needs of its gas supply system and has demonstrated the basis of need for the proposed facility. Staff recommends that the Board find that the basis of need for the project has been demonstrated and therefore complies with the requirements specified in R.C. 4906.10(A)(1).

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

C. Duke has provided sufficient information to determine the nature of probable environmental impact (R.C. 4906.10(A)(2)).

Duke has provided sufficient information to determine the nature of probable environmental impact. Staff made several recommendations in the Amended Staff Report and proposed several conditions regarding the nature of environmental impact. As stated in its initial brief, Staff thoroughly considered the socioeconomic impacts, the ecological impacts, the Pristine Site impacts, and public services/facilities impacts. Opposing interveners point to other potential environment impacts and Duke's late discovery of the potential impact of the Pristine Site as examples of insufficient information. Staff's review, however, was thorough and Duke provided the necessary information for Staff to make its recommendation in the Amended Staff Report. Again, with the supplemental information filed by Duke on April 13, 2018, the information on the alternate route became even more fully developed.

The City of Blue Ash and Columbia Township argue that Staff's conclusions with regard to parks/recreation and aesthetics is incomplete.⁷⁵ This argument is incorrect. Staff's evaluation and conclusions were complete and appropriate. Conditions 12 and 13 pertain to construction impacts to parks and recreational areas.⁷⁶ As Staff explained, the primary construction impact of installing the pipeline would be temporary and the impacts can be minimized by constructing the pipeline in phases, so that any work to be

⁷⁵ City of Blue Ash/Columbia Township Brief at 26-28.

⁷⁶ Staff Ex. 2 (Pawley Direct) at 3.

performed in park and/or recreational areas where people are playing or congregating be done during that activity's off-season.⁷⁷ The facility would be located underground so that, if properly restored above grade, recreational use and parking may remain as it was prior to construction.⁷⁸ Although Blue Ash and Columbia Township argue that with underground lines there is still a potential safety risk,⁷⁹ pipelines constructed with modern materials and methods and operated in accordance with existing pipeline safety regulations will result in a high degree of safety, as discussed below.

In regard to aesthetics, Staff concluded that permanent visual impacts would be introduced at the locations of the project's valve stations, regulating stations, and pipeline markers.⁸⁰ Staff recommended Conditions, 15, 16, and 17, that would mitigate the visual impact of the above-ground facilities by requiring green screening and vegetation around regulator and valve stations, requiring that security lighting to be directed downward, and requiring the Applicant to work with property owners on the design and placement of pipeline markers.⁸¹ Staff's conditions are appropriate and warranted.

Therefore, Staff recommends that the Board find that the Applicant has determined the nature of the probable environmental impact for the proposed facility, and therefore complies with the requirements specified in R.C. 4906.10(A)(2).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ City of Blue Ash/Columbia Township Brief at 28.

⁸⁰ Staff Ex. 10 (Burgener Direct) at 4.

⁸¹ *Id.*; Staff Ex. 1 (Amended Staff Report) at 62.

D. The routes represent minimum adverse environmental impact (R.C. 4906.10(A)(3)).

The routes represent minimum adverse environmental impact. Staff reviewed the Applicant's route selection study and concluded that the Applicant investigated all practicable routes, and used a reasonable process for selecting the Preferred and Alternate routes as required by Ohio Adm.Code 4906-5-04(A).⁸² Staff reviewed whether the Applicant followed a reasonable process for determining the optimal location for the needed facility, within the operational constraints of the project.⁸³

The Applicant conducted a typical route selection study, adapted to the context of the project.⁸⁴ The Applicant developed and described reasonable route evaluation criteria that covered a range of impacts and incorporated public feedback.⁸⁵ The route selection process led to the selection of Preferred and Alternate routes that provide two distinct alternatives for the Board's consideration, while minimizing potential impacts, based on the criteria used to evaluate the routes.⁸⁶

⁸² Staff Ex. 1 (Amended Staff Report) at 47.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

While both routes are viable, they each have unique issues, and no route is without impact.⁸⁷ Staff has analyzed each route independently of one another and concluded that the Alternate Route presents fewer impacts to the project area than the Preferred Route. Overall, the project would result in both temporary and permanent impacts to the project area.⁸⁸ The Alternate Route presents fewer potential economic, ecological, and cultural resource impacts.⁸⁹ The Alternate Route is shorter in length, would cost significantly less to construct, and presents a lower potential for disruption of residences during construction, as the Alternate Route crosses fewer properties and contains significantly fewer residences within 1,000 feet.⁹⁰ Therefore, Staff concludes that the Alternate Route represents the minimum adverse environmental impact when compared to the Preferred Route.⁹¹ Thus, Staff recommends that the Alternate Route be accepted by the Board.

Staff further recommends that the Board find that the Alternate Route represents the minimum adverse environmental impact, and therefore complies with the requirements specified in R.C. 4906.10(A)(3), provided that any certificate issued by the Board for the proposed facility include the conditions specified in the Amended Staff Report.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *Id.*

E. Duke has shown that the proposed pipeline will serve the public interest, convenience and necessity (R.C. 4906.10(A)(6)).

1. Pipeline Safety

a. The classification and construction standards for the C314V Central Corridor Pipeline meet both the letter and spirit of the law.

Contrary to the assertions of NOPE, the classification of the C314V Central Corridor Pipeline as a distribution line and the construction standards that Duke will have to meet – assuming Staff’s recommendations are accepted – to address the unique nature of this particular distribution line, meet the letter and spirit of the law.

What qualifies a pipeline as a distribution lines or as a transmission line is not an ambiguous matter. Contrary to the assertions of NOPE, the Pipeline Safety Regulations contain different construction and operation standards for pipelines like the C314V Central Corridor Pipeline depending on whether they are classified as transmission or distribution lines.⁹² The definition of a transmission line may be found in 49 C.F.R. 192.3 and reads: “Transmission Line means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.” A distribution line is a line that delivers gas from a distribution center to

⁹² Staff Ex. 12 (Chace Direct) at 8.

customers.⁹³ The term “distribution center” is not defined in the Pipeline Safety Regulations but PHMSA has consistently defined a distribution center through written interpretations and guidance as “the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale.”⁹⁴

In accordance with guidance and rule, the C314V Central Corridor Pipeline is a distribution line. As Staff understands Duke’s proposal, it is using the pipeline in question to deliver gas to consumers, and the gas is supplied from an upstream delivery point with redundant overpressure protection that qualifies as a distribution center.⁹⁵ The C314V Central Corridor Pipeline will operate at a MAOP of 19.0% SMYS, so it does not meet the second part of the transmission definition which captures piping operating at over 20% SMYS.⁹⁶ The pipeline in question is also not transporting gas within a storage field, so it does not meet the third part of the transmission definition.⁹⁷ For these reasons the C314V Central Corridor Pipeline is appropriately classified as a distribution line.⁹⁸

Admittedly, while the C314V Central Pipeline is appropriately classified as a distribution line, on the spectrum from a typical distribution line to a typical transmission

⁹³ *Id.*

⁹⁴ *Id.* at 9

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ *Id.*

⁹⁸ *Id.*

line, the C314V Central Corridor pipeline falls somewhere in between. And this is accounted for in Duke’s application and the recommendations in the Amended Staff Report by requiring that the pipeline have to meet many – but not all – of the requirements for transmission lines. Staff is proposing that the C314V Central Corridor Pipeline be constructed in accordance with code requirements for transmission lines in instances where transmission requirements are more stringent than distribution requirements.⁹⁹ For example, the requirements for the inspection and testing of welds used in steel pipeline construction are more extensive for transmission lines than for distribution lines.¹⁰⁰ Duke has listed the construction standards they will follow in their “C314V Central Corridor Pipeline Extension Project” proposal dated January 2017.¹⁰¹ The Staff proposal spells out the remaining transmission construction requirements not already listed in the Duke proposal.¹⁰² The additional recommendations from Staff may be found under General Conditions 33 and 34 of the Amended Staff Report filed on March 5, 2019.¹⁰³ While NOPE argues for the pipeline to have to comply not only with the construction standards for a transmission line, but also the operational transmission line requirements, Duke’s application, combined with Staff’s recommendations, is a reasonable position that is in line with both the letter and spirit of the law.

⁹⁹ *Id.* at 10

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² *Id.*

¹⁰³ *Id.*

b. The C314V Central Corridor Pipeline is legally safe.

With all due respect to the concerns expressed by the City of Blue Ash concerning safety, its arguments miss the crucial question of whether the C314V Central Corridor Pipeline is legally safe. The pipeline safety regulations are federal regulations that govern the design, construction, operation and maintenance of pipeline systems.¹⁰⁴ They are found in the Code of Federal Regulations, Chapter 49, Part 192.¹⁰⁵ The pipeline safety regulations are maintained by the U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration (PHMSA).¹⁰⁶ The State of Ohio has adopted these regulations for intrastate pipelines in Ohio.¹⁰⁷ The Commission enforces the Pipeline Safety Regulations at the State level.¹⁰⁸ And it is the Staff's position that the C314V Central Corridor Pipeline – particularly if Staff's recommendations are accepted – will meet and exceed legal safety standards for a distribution pipeline.

Accordingly, for the reasons already stated in Staff's Initial Brief and in this Reply Brief, the C314V Central Corridor Pipeline is legally safe. Undercutting the arguments of the City of Blue Ash is the fact that there is no requirement that distribution pipelines avoid residential areas – only that distribution pipeline in more densely populated areas

¹⁰⁴ *Id.* at 3

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

be classified, constructed, and operated more rigorously.¹⁰⁹ There is no requirement that pipelines be built to a standard that they could never rupture, fail, or leak under even the most extreme of circumstances – only that they be constructed, maintained and monitored in accordance with law.¹¹⁰ The City of Blue Ash, through its silence on the subject, seems to concede the fact that the pipeline is legally safe, and chose instead to explore the issue of whether the pipeline is fail proof – which is an impossible standard that is not at issue.

The C314V Central Corridor Pipeline is legally safe.

2. Public Interaction and Participation

While several opposing interveners raise concerns with the public interaction and participation in this case,¹¹¹ public interaction and participation was amply provided. The Applicant hosted four public informational meetings for this project.¹¹² During each meeting, attendees were provided the opportunity to speak with representatives of the Applicant about the proposed project and to provide feedback, and the Applicant incorporated two overview presentations into the format of the fourth meeting.¹¹³ Staff

¹⁰⁹ *Id.* at 6.

¹¹⁰ *Id.* at 3.

¹¹¹ City of Cincinnati/Hamilton County Brief at 2-5; Nope Brief at 31-35; City of Blue Ash/Columbia Township Brief at 23-26.

¹¹² Staff Ex. 1 (Amended Staff Report) at 55.

¹¹³ *Id.*

attended the meetings to learn about the project and to answer questions from the public regarding the Board's application process.¹¹⁴

In addition, the Applicant has met with local officials, businesses, community groups, and the media in the communities affected by the proposed pipeline.¹¹⁵ The Applicant maintains a project website and members of the public may contact the Applicant by email or by phone, and the Applicant logs all contacts in a customer comment database.¹¹⁶ The Applicant has committed to continue to communicate project updates with the public and to respond to questions and concerns.¹¹⁷

In Staff-recommended Condition 4, the Applicant would be required to develop a public information program that informs affected property owners, tenants, and local government officials of the nature of the project, specific contact information of personnel familiar with the project, the proposed timeframe for project construction, and a schedule for restoration activities.¹¹⁸ Staff further recommended in Condition 5 that the Applicant be required to develop a complaint resolution procedure to address potential public grievances resulting from project construction and operation.¹¹⁹

¹¹⁴ *Id.*

¹¹⁵ *Id.* at 56.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* at 60.

¹¹⁹ *Id.* at 60-61.

The Board conducted a local public hearing in Blue Ash, Ohio on June 15, 2017. During the hearing, 68 witnesses offered sworn testimony regarding the proposed facility. A transcript of the proceedings is available in the case record.¹²⁰ A second local public hearing was held on March 21, 2019 in Blue Ash, Ohio.¹²¹ The adjudicatory hearing occurred on April 9-11, 2019. A court reporter transcribed both proceedings, and the OPSB made the hearing transcript available in the case record.

3. Staff Recommendation

The Applicant has submitted detailed information on relevant items of public interest, convenience, and necessity, including noise, aesthetics, environmental concerns, social and economic impacts, long-term natural gas supply, and health and safety considerations.¹²² Staff has reviewed this information and believes that the information is sufficient to support the fulfilment of the statutory criteria. Staff is aware of the high level of public interest in this project.¹²³ The comments received from members of the public and local officials served to inform Staff throughout the course of its investigation.¹²⁴ Many of the potential impacts and concerns raised in those comments, including those regarding pipeline safety, basis of need, and route selection are addressed

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *Id.*

in various sections of the Amended Staff Report, minimized by the Applicant, and further mitigated by the Recommended Conditions of Certificate.¹²⁵

CONCLUSION

Staff believes that Duke has stated and supported its case for certification and construction of the C314V Central Corridor Pipeline Extension Project. Staff recommends that any certificate issued by the Board for construction and operation of the Project incorporate and require strict compliance with all conditions identified in the Amended Staff Report of Investigation as either amended or further supplemented through testimony in the record.

Respectfully submitted,

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¹²⁵

Id.

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Reply Brief, submitted on behalf of the Staff of the Ohio Power Siting Board, was served via electronic mail, upon the following parties of record, this 10th day of June, 2019.

/s/ Steven L. Beeler

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This foregoing document was electronically filed with the Public Utilities

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in

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

Summary: Reply Brief electronically filed by Ms. Yvette L Yip on behalf of the Ohio Power
Siting Board