

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.)

**DUKE ENERGY OHIO, INC.’S MEMORANDUM CONTRA
KENWOOD’S AND SYCAMORE PLAZA’S MOTIONS FOR CONTINUANCE OF THE
ADJUDICATORY HEARING AND REQUEST FOR EXPEDITED RULING**

I. Introduction

On January 20, 2017, as amended and supplemented on February 13, 2017, February 24, 2017, and March 3, 2017, Duke Energy Ohio, Inc., (Duke Energy Ohio or Company) filed an amended application (Application) with this honorable Ohio Power Siting Board (Board), seeking an order permitting the Company to install a natural gas pipeline (Project) in the Hamilton County area.

On April 13, 2017, the Administrative Law Judge set two hearings: a public hearing to be held on June 15, 2017, and an adjudicatory hearing to commence on July 12, 2017. Subsequently, on May 31, 2017, the Staff of the Commission (Staff) filed its Staff Report of Investigation (Report) recommending approval of the alternate route.

On June 13, 2017, the City of Cincinnati, the Board of County Commissioners of Hamilton County, Amberley Village, the City of Blue Ash, the City of Deer Park, the City of Madeira, the City of Reading, Columbia Township, Sycamore Township, the Village of Evendale, and the Village of Golf Manor (Communities) filed a Joint Motion for Continuance of

the Adjudicatory Hearing and Request for Expedited Ruling (Joint Motion), requesting that the adjudicatory hearing be delayed until October 2, 2017.

On June 14, 2017, NOPE – Neighbors Opposed to Pipeline Extension, LLC (NOPE), filed a Motion for Continuance of the Adjudicatory Hearing (NOPE Motion), requesting that the adjudicatory hearing be delayed until November 16, 2017.

On June 19, 2017, Duke Energy Ohio filed a memorandum contra the Joint Motion and the NOPE Motion.

On June 20, 2017, two additional motions for continuance were filed: by BRE DDR Crocodile Sycamore Plaza, LLC (Sycamore Plaza), and by Kenwood Mall, LLC (Kenwood) (jointly, June 20 Motions).

As Duke Energy Ohio demonstrates herein, both June 20 Motions should be denied.

Both Sycamore Plaza and Kenwood initially assert that they agree with all arguments made in the Joint Motion and the NOPE Motion, although they support the extreme delay proposed by NOPE.

Duke Energy Ohio renews its opposition to all arguments set forth in the Joint Motion and the NOPE Motion. The Company would note that, after all the time that has passed since this project was announced more than a year ago, neither Sycamore Plaza nor Kenwood has even begun any attempt at discovery. Thus, their concerns that no depositions have been scheduled and that they might need to hire experts should be dismissed out of hand.

Sycamore Plaza and Kenwood also raise the factually unsupported assertion, as claimed in testimony at the public hearing, that the purpose of the project is actually to move natural gas in interstate commerce and that, therefore, consideration of the Application in this case is beyond the jurisdiction of the Board. As Sycamore Plaza and Kenwood are no doubt aware, this

fallacious claim has been discussed by opponents of the project for many months; it has not just “been brought to the fore,” as the movants suggest. Although Sycamore Plaza and Kenwood argue that they need additional time to look into the Company’s “intended purpose [for] the pipeline,” neither one has made any effort to do so. Like the rest of their tactics to delay the adjudicatory hearing, this approach should be disregarded.

It should be noted that delay is, in and of itself, a tactic. For those opposed to allowing the Company to proceed with this necessary work, stalling and delaying permits the status quo to continue. While this is of value to those who are opposed, the delay imposes undue risk and burden on the project and on the service to be provided to customers when the project is complete. These complainants have had ample opportunity for due process and such parties should not be permitted to remain idle and then complain that there has not been sufficient time for discovery, analysis, or argument.

For all of the reasons discussed above and in the Memorandum Contra the NOPE Motion and the Joint Motion, the Company respectfully requests that the Board deny the Sycamore Plaza Motion and the Kenwood Motion and order the parties to be prepared for hearing on July 12, 2017, as currently scheduled.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Duke Energy Ohio, Inc.'s Memorandum Contra Kenwood's and Sycamore Plaza's Motions for Continuance of the Adjudicatory Hearing and Request for Expedited Ruling* was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 20th day of June, 2017, to the parties listed below.

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