

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. 20-1411-GA-BTX
Need for the Construction of the Bethel-)
Batavia Pipeline.)

MOTION FOR WAIVER OF DUKE ENERGY OHIO, INC.

Now comes Duke Energy Ohio, Inc. (Duke Energy Ohio or the Company), pursuant to Ohio Administrative Code (O.A.C.) 4906-05-01(B), and requests a waiver for the Bethel-Batavia Pipeline Project (Project) of the requirement set forth in O.A.C. 4906-5-07(E), the extent that such provision expects that the correspondence with the Ohio historic preservation office would reflect full concurrence with a complete Phase 1 investigation.

Duke Energy Ohio hereby respectfully requests that the Ohio Power Siting Board (Board) grant a waiver of such requirement for good cause. A further description of the specific requirement for which Duke Energy Ohio is requesting a waiver and the reasons supporting the Company's motion, as well as how the Company plans to meet the intent of the regulation, are more fully set forth in the attached Memorandum in Support.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

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MEMORANDUM IN SUPPORT

O.A.C. 4906-5-07(E) sets forth the information required in an application with regard to cultural and archaeological resources. Within that paragraph, subsection (2) states that “[t]he applicant shall describe studies used to determine the location of cultural resources within the study corridor. Correspondence with the Ohio historical preservation office shall be included.”

This language leaves room for interpretation as to what steps must have already been accomplished in order for an application to be deemed complete, for purposes of O.A.C. 4906-3-06(A)(1). Ultimately, prior to construction, the Company will need to receive a concurrence letter from the Ohio historical preservation office (SHPO). That concurrence letter would be based on the satisfactory conclusion of a full Phase 1 cultural resources survey, including, as needed, both a literature and records search and fieldwork.

The project under consideration in this proceeding is expected to be 13 to 15 miles long. Thus, a full Phase 1 survey for both the preferred and the alternate route would encompass more than 25 miles of fieldwork. As the Board is aware, the field studies needed for that survey are often quite invasive would, therefore, be disruptive for many of the residents and businesses in the area of the two routes. Particularly during the current COVID-19 pandemic, when social distancing is critical, the Company believes it is ill-advised to take actions with the potential of creating such disturbances.

Duke Energy Ohio understands that the goal of this rule is to present the Board with as much scientific data as possible as it completes its analysis and makes a decision on the application. In order to accomplish that goal without completing a full Phase 1 survey and obtaining SHPO concurrence, the Company proposes to take the following steps prior to filing the application:

- Perform a complete literature and records search for both routes.
- Based on the information learned through the literature and records search, prepare a

full study plan for each route.

- Review the two study plans with SHPO for SHPO's input and advice.
- To the extent possible and acceptable to impacted landowners, begin the field work on the preferred route, particularly in areas more likely to contain cultural resources that may qualify for inclusion in or eligibility for the Nation Register.

The complete Phase 1 survey would be finalized only after certification of a single route and the Company would seek SHPO concurrence thereafter.

For the reasons provided above, the Company respectfully requests that the Board grant this Motion.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

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CERTIFICATE OF SERVICE

In accordance with Rule 4901-2-05, Ohio Administrative Code, the Board's efilings system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion for Waiver* was sent by, or on behalf of, the undersigned counsel to the following parties of record this 15th day of October, 2020, via electronic transmission.

/s/ Jeanne W. Kingery
Jeanne W. Kingery

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