

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.)

**MOTION FOR WAIVER
BY
DUKE ENERGY OHIO, INC.
AND
REQUEST FOR EXPEDITED TREATMENT**

Now comes Duke Energy Ohio, Inc., (Duke Energy Ohio or the Company) and moves for a waiver of a requirement set forth in Ohio Administrative Code (O.A.C.) Rule 4906-3-09(A)(2).

For the reasons more fully set forth in the attached memorandum in support, Duke Energy Ohio respectfully requests that the Ohio Power Siting Board (Board) grant this motion for waiver on an expedited basis, pursuant to O.A.C. Rule 4906-2-27(C).

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

Amy B. Spiller (0047277)

Deputy General Counsel

Jeanne W. Kingery (0012172) (Counsel of Record)

Associate General Counsel

Duke Energy Business Services LLC

139 E. Fourth Street, 1303-Main

Cincinnati, Ohio 45201

(614) 222-1334 (telephone)

(614) 222-1337 (facsimile)

Amy.Spiller@duke-energy.com

Jeanne.Kingery@duke-energy.com

MEMORANDUM IN SUPPORT

O.A.C. Rule 4906-3-09 sets forth the requirements that an applicant for a Certificate of Environmental Compatibility and Public Need must follow with regard to notifying the public of accepted complete applications. Paragraph (A) of that rule sets forth the manner in which the applicant must provide two notices of the proposed utility facility. The first notice, as described under subparagraph (1), is to be provided within fifteen days after the effective filing date of the application. The second notice, described under subparagraph (2), is to be provided “at least seven days but no more than twenty-one days before the public hearing.” The second notice must be (a) published in relevant newspaper(s), (b) mailed to chief executive officers and heads of identified agencies in each municipal corporation, county, or township in which any portion of the facility is proposed to be located, and (c) mailed to the owners of each property crossed by or adjacent to the preferred and alternate routes.

Duke Energy Ohio provided the first notice in a timely fashion, as required by O.A.C. Rule 4906-3-09(A)(1). With regard to the second notice, Duke Energy Ohio published the required notice in the Cincinnati Enquirer on Thursday, June 8, 2017, seven days prior to the public hearing on June 15, 2017. Also on that date, Duke Energy Ohio sent the second notice to the identified public officials. However, due to inadvertent error, the mailing of the second notice to affected property owners was delayed.

To compensate for the delay and ensure that the second notice would provide adequate notice of the public hearing to affected property owners, the Company is taking the following additional steps: (1) The notices, once in envelopes, will be driven to Cincinnati on Monday, June 12, 2017. (2) Such notices will be mailed in Cincinnati, on Monday, June 12, 2017, through the United States Postal Service, by Priority Mail, such that delivery is scheduled to occur on Tuesday, June 13, 2017.

Duke Energy Ohio respectfully requests that the Board waive specific compliance with subparagraph (A)(2) of O.A.C. Rule 4906-3-09 and conclude that the steps being taken for delivery of the second notice to affected landowners constitutes substantial compliance with the requirements of said rule. The Company respectfully requests an expedited ruling, pursuant to the provisions of O.A.C. Rule 4906-2-27.

Respectfully submitted,

DUKE ENERGY OHIO, INC.

/s/ Jeanne W. Kingery

Amy B. Spiller (0047277)

Deputy General Counsel

Jeanne W. Kingery (0012172) (Counsel of Record)

Associate General Counsel

Duke Energy Business Services LLC

139 E. Fourth Street, 1303-Main

Cincinnati, Ohio 45201

(614) 222-1334 (telephone)

(614) 222-1337 (facsimile)

Amy.Spiller@duke-energy.com

Jeanne.Kingery@duke-energy.com

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Motion for Waiver by Duke Energy Ohio, Inc. and Request for Expedited Treatment* was delivered by U.S. mail (postage prepaid), personal, or electronic mail, on this 12th day of June, 2017, to the parties listed below.

/s/ Jeanne W. Kingery
Jeanne W. Kingery

Paula Boggs-Muething
Paula.boggsmuething@cincinnati-oh.gov
City Solicitor

Kent Bucciare
The Bucciare Firm
10149 Kenwood Rd
Blue Ash, OH 45242
Kent.bucciare@gmail.com

Counsel for 10149 LLC
Counsel for RLB Inc.
Counsel for Coprop Inc.

William Wright
Section Chief
Robert Eubanks
Assistant Attorney General
Public Utilities Section
180 East Broad St., 6th Floor
Columbus, Ohio 43215
William.wright@ohioattorneygeneral.gov
Robert.eubanks@ohioattorneygeneral.gov

Counsel for Staff of the Commission

James Yskamp
Emily A. Collins
Fair Shake Environmental Legal
Services
159 S. Main Street, Suite 1030
Akron, OH 44308
jyskamp@fairshake-els.org
ecollins@fairshake-els.org

Counsel for NOPE –
Neighbors Opposed to Pipeline
Extension, LLC

Brian W. Fox
Graydon Head & Ritchey LLP
312 Walnut St. Suite 1800
Cincinnati, OH 45202
bfox@graydon.law

Counsel for Mayor Melisa Adrien,
City of Madeira

Gregory G. Laux
Attorney at Law
3134 Schubert Avenue
Cincinnati, Ohio 45213
glaux2001@gmail.com

Counsel for Pleasant Ridge
Community Council

James F. Lang
Steven D. Lesser
Mark T. Keaney
Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
jlang@calfee.com
slesser@calfee.com
mkeaney@calfee.com

**Counsel for City of Cincinnati and for
the Board of County Commissioners
of Hamilton County, Ohio**

Timothy M. Burke
Micah E. Kamrass
Manley Burke, LPA
225 W. Court Street
Cincinnati, OH 45202
tburke@manleyburke.com
mkamrass@manleyburke.com

Counsel for the Village of Evendale

Bryan E. Pacheco
Mark G. Arnzen, Jr.
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, OH 45202
Bryan.pacheco@dinsmore.com
Mark.arnzen@dinsmore.com

**Counsel for City Manager David
Waltz and the City of Blue Ash, Ohio
and for Columbia Township and
David Kubicki, President of the Board
of Trustees of Columbia Township**

R. Douglas Miller
Robert T. Butler
Donnellon, Donnellon & Miller LPA
9079 Montgomery Road
Cincinnati, OH 45242
miller@donnellonlaw.com

**Counsel for Thomas J. Weidman,
President, Board of Township
Trustees of Sycamore Township, Ohio
and Sycamore Township**

Kevin K. Frank
Wood & Lamping LLP
600 Vine Street, Suite 2500
Cincinnati, OH 45202-2491
kkfrank@woodlamping.com

**Counsel for Amberley Village and
Scot Lahrmer, Village Manager**

Roger E. Friedmann
Michael J. Friedmann
Jay R. Wampler
Assistant Prosecuting Attorneys
Suite 4000
230 E. Ninth Street
Cincinnati, OH 45202
Roger.friedmann@hcpros.org
Michael.friedmann@hcpros.org
Jay.wampler@hcpros.org

**Counsel for Board of County
Commissioners of Hamilton County,
Ohio**

Terrence M. Donnellon
Solicitor, The Village of Golf Manor,
Ohio
Robert T. Butler
Donnellon, Donnellon & Miller LPA
9079 Montgomery Road
Cincinnati, OH 45242
tmd@donnellonlaw.com

**Counsel for The Village of Golf
Manor, Ohio and Mayor Ron Hirth**

David T. Stevenson
Law Director
City of Reading
1000 Market St.
Reading, OH 45215
dstevenson@cinci.rr.com

Of Counsel – City of Reading

Andrew J. Helmes
Law Director
City of Deer Park
7777 Blue Ash Road
Deer Park, OH 45236
ahelmes@deerpark-oh.gov

**Counsel for Mayor John Donnellon
and the City of Deer Park, Ohio**

Dylan F. Borchers
Devin D. Parram
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215-4291
dborchers@bricker.com
dparram@bricker.com

**Counsel for The Jewish Hospital –
Mercy Health**

Joseph Olikier
Counsel of Record
6100 Emerald Parkway
Dublin, OH 43016
joliker@igsenergy.com

Counsel for IGS Energy

Richard B. Tranter
Kevin M. Detroy
Dinsmore & Shohl LLP
255 East Fifth Street, Suite 1900
Cincinnati, OH 45202
Richard.tranter@dinsmore.com
Kevin.detroy@dinsmore.com

**Counsel for BRE DDR Crocodile
Sycamore Square LLC
Counsel for Kenwood Mall, LLC**