

The Ohio Power Siting Board  
180 East Broad Street  
Columbus, Ohio 43215

RECEIVED-DOCKETING DIV.

2016 JUN 24 PM 3:49

Case No. 16-253-GA-BTX

PUCO

Dear Sirs,

I attended the June 15 informational open house presented by Duke Energy at the Cooper Creek Event Center. My participation was partially motivated by residing within four hundred feet of the recently revised pink route, but mostly driven by the perception that the revision moved the path from where it would do the least uncompensated external harm, to, arguably, where uncompensated damage would be maximized. I left the meeting more convinced than ever that this particular revision in the route is indefensible. More importantly, as a retired economics professor, I left the meeting convinced that a credible case has not yet been made for building the pipeline at all.

I am not an expert in the Economics of Regulation, but, as with much in economics, the simplest ideas are often the most powerful. Following Adam Smith, economists believe that markets usually work. The idea is that none of us can read the minds of others, but we can assume no one would sell unless a good was priced high enough that they would benefit from the sale, and no one would buy unless the price was low enough that they benefited from the purchase. In benefiting both buyer and seller, voluntary transactions benefit society, unless individuals not party to the transaction are positively or negatively affected. Third party impacts, which economists call externalities, provide necessary but not sufficient justification for regulating a market. The body of this letter is divided into three sections. Section 1 argues that regulations should be written so that the interests of a provider aligns with the interests of the broader public. Duke Energy will do what is best for Duke Energy. Management is remiss in its obligations to stockholders if it does not follow this rule. Regulators are faced with the very difficult task of seeing to it that what is good for Duke is good for Ohio, and vice versa. Section 1 will illustrate this difficulty by analyzing a revision in the pink route. Section 2 will propose that wherever possible regulation should utilize market forces. Accepting this principle will lead to the conclusion that evidence on supply reliability provided to support central corridor expansion more accurately supports the thesis that expansion would be counterproductive. The final section addresses the assertion that central corridor expansion is warranted by future local usage.

1. Pipelines are by far the least dangerous and most efficient way of transporting natural gas. In the absence of regulation, property owners who held out after others on the route sold their rights of way could extort patently exorbitant prices as a ransom for allowing passage. The cost to build pipelines would be too high; too few pipelines would be built, and less efficient and more dangerous modes of transport would be over-utilized. For this reason pipeline regulation enables the use of eminent domain, which strives for reasonable compensation to property owners surrendering right of way, but does not compensate property owners near but not directly in the path of the pipeline for the harm that they experience. This bifurcation of compensation leads to perverse routing. Since I am most familiar with the segment of the pink route closest to my residence, I will use that segment as my example. Specifically consider that route as it passes by the Speedway gasoline station at the intersection of Hunt Road and Plainfield. The proposed route runs through an

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.  
Technician Am Date Processed 6/24/16

unutilized part of a parking lot that served the now vacant former Kmart site, but perversely it is routed as close as possible to the gas station first running north bordering the west side of the property and then running east bordering the north side. If sited further west, away from the gas station Duke Energy would have to pay more for the right of way, as the owners of the strip mall property would face slight increases in convenience and safety concerns. It apparently does not matter to the corporation's cost accountants that placing a high pressure 30" pipeline virtually on top of gasoline storage tanks multiplies the risks, as an incident with one would likely cause a secondary reaction with the other. Speedway is one of three gasoline stations at that intersection. Add the pipeline and what a tantalizing soft target for terrorists this makes! The proposed siting does increase the firm's potential liability, but not its out of pocket costs. If the route were moved any closer to Plainfield, so to be on Speedway property, the costs of obtaining right of way would be much higher as the harm experienced by the owners of that property would now enter the equation.

If the route were on the east side of Plainfield moving north from the gas station it would pass by an adult daycare center, a preschool daycare center, Saint Andrews Pl. Condominiums, and the Peppermill Farms and Sycamore Trace subdivisions. The route presently is set to go along the west side of Plainfield. It passes two apartment complexes, an under construction "lifestyle" community, a large daycare center, the Blue Ash Elementary School, and the University of Cincinnati Blue Ash Campus. The daycare center abuts Plainfield; the elementary school is set back 500 to a 1,000 feet; and the main college buildings are set back about 1,000 feet. While the residences and businesses on the east side of Plainfield have alternate escape routes, on the west side of the road no egress is possible except onto Plainfield. Routing along the east side of Plainfield would be bad enough, the present route along the west side is worse.

Before the present revision, the basic pink route was to run in back of the homes on Bluewing Terrace sited on either side of the border between the subdivision and Deercross apartments on the south, and the back of the UC Blue Ash campus for most of the middle and northern stretches of the street. The back of the campus basically features a parking lot to the north, and rugged, heavily wooded, seriously eroded terrain, essentially inaccessible even on foot, to the south. The first organized protest to the pipeline came from residents of Bluewing Terrace. Blue Ash City Councilman, Mark Sirkin, set up a meeting where these residents met with project manager James Olberding([cincinnati.com](http://cincinnati.com) April 27, 2016.) People living on Bluewing Terrace certainly have valid concerns, as do, to a lesser extent residents of the apartment complex. The main college buildings are approximately equidistant between Bluewing Terrace, and Plainfield, but in an emergency the Plainfield siting could block egress. In choosing a variant of the former alternate route, over what had been the basic route, by any measure of costs imposed on others, but especially considering safety, Duke Energy chose the worst route.

My basic thesis in section 1 was that Duke energy faces bifurcated liability. Property owners along a right of way are entitled to recover damages, but neighbors who actually might face greater damage, have no claim. While the law may work in a rural area with where property sizes are large, in urban areas it is completely dysfunctional. I used the pink route at the southern end of Blue Ash as my example, in part because of local knowledge, but I suspect it to be part of a pattern. On the yellow route, for instance, the initial published map has the primary route taking a wide berth to the east of the Kenwood commercial area, but with an alternate straight up Kenwood. The revised map chooses the alternate, and as with the

Speedway station in Blue Ash, the route avoids requiring a right of way through Mercy-Jewish Hospital, but does not avoid close proximity, by taking a jog at the southern property boundary and proceeding along the rear boundary.

2. From an economist's perspective the first rule of regulation is, that to the extent possible, regulators should strive to align the interests of service providers with that of the general public. Archaic laws fail to do this by requiring compensation to property owners for yielding right of way, but not requiring compensation for losses from proximity to right of way. The second rule is to work with market forces rather than to impose absolute prohibitions. The efficacy and efficiency of regulatory authority has improved significantly with increased reliance on this approach. For instance, establishing a market for pollution rights achieves the reduction of pollution to a certain level at much lower cost than mandating pollution levels industry by industry, or site by site. Viewing pipelines and power lines as common carriers, so that only transmission remains regulated, is another advance. Generators of electricity have achieved cost reductions while reducing the ill effects of pollution through time shifting. Required capacity is governed by peak usage, so marginal costs spike during hours of peak usage. Electric companies have exhibited considerable ingenuity in dealing with this. For example, proximity to very old mountains with flat tops and steep lower reaches has enabled utilities serving New York City and Saint Louis to build reservoirs on mountain tops. At night, water is pumped up the mountain; in the daytime, water is released, generating electricity—less electricity, to be sure, than it takes to pump the water uphill, but electricity that is worth more. More generally, marginal cost pricing by time of day has been widely implemented.

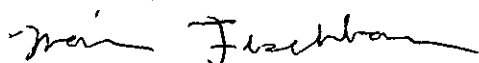
Duke Energy states that new pipelines in the greater Cincinnati region are required for three reasons; to increase system reliability, to meet projected demand growth, and to replace aging pipelines. At the June 15 open house, I questioned the reliability issue, stating that to Duke Energy's credit, none of my acquaintances ever complained about reliability. A company representative responded that present capacity occasionally cannot meet peak period demand, but twenty-five or so large consumers have agreed to have their access cut off when usage nears system capacity. I asked if these users agreed to the arrangement in exchange for rate concessions, and the representative nodded in the affirmative. Note that the present agreement is entirely voluntary so it can be presumed that both seller and buyers gain, and third parties are not affected. In contrast new pipelines impose serious costs on those in the path of the pipeline that have no say as to whether the pipeline will be built or not.

3. As someone not privy to internal documentation driving the Duke Energy request for pipeline expansion, I can only speculate whether they are primarily motivated by concerns for projected demand growth in the central corridor area and/or a desire based on safety concerns to replace aging pipelines in the corridor, or whether they are disingenuous. At the June 15 open house when questions were voiced relevant to these broader concerns, the standard response was, I do not have an answer to that. Earlier, at the Bluewing Terrace meeting, according to [cincinnati.com](http://cincinnati.com) project manager James Olberding was slightly more forthcoming. He is quoted as stating, "This is to get gas down from the Lebanon area into the northern suburbs of Cincinnati. This project started based on a study that Duke did in 2015. There were five major projects. This is the first one." Before approving one piece in a pattern, it would be nice to see the entire pattern.

Art first blush projections of growing demand for natural gas along the corridor might seem far fetched. Manufacturing capacity has dropped sharply, and population has at best been stable.

Two developments though support Duke's desire to add a high capacity pipeline. First, extraction of natural gas from the Utica Shale fields has lowered the inflation adjusted price of natural gas to historical lows, and promises to keep that price as low, or lower for an extended period. That should encourage further substitution of natural gas for other energy sources, although in the case of residences that process is essentially complete. Also the development of Utica Shale fields is impacting the direct of flow of natural gas. After years of stable capacity, 2015 brought an increase of pipeline capacity flowing from Pennsylvania to Ohio, and increases in pipeline capacity flowing from Ohio to both Indiana and Kentucky. Second, cheaper natural gas can only increase the likelihood that government will impose more stringent pollution controls on electric power plants to encourage switching out of coal and towards cleaner fuels. According to Wikipedia, The Miami Fort Generating Station near North Bend is one of the dirtiest power plants in the U.S. in terms of sulphur dioxide emissions. The proposed central corridor extension would provide the principal missing link in a very direct, but unnecessarily urbanized route from Lebanon to that power plant.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Marvin Fischbaum', with a stylized, flowing script.

Marvin Fischbaum Ph.D.

Professor Emeritus Economics, Indiana State University

4209 Saint Andrews Place  
Cincinnati, Oh 45236

(513) 936-9067  
mfischbaum@cinci.rr.com44