

**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.              | ) |                        |

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**DUKE ENERGY OHIO'S FIRST SET OF  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED TO KENWOOD MALL, LLC AND BRE DDR CROCODILE  
SYCAMORE PLAZA, LLC (KENWOOD)**

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Comes now Duke Energy Ohio, Inc., (Duke Energy Ohio), and addresses the following First Set of Interrogatories and Request for Production of Documents to Kenwood, pursuant to Rules 4901-1-19 and 4901-1-20 of the Ohio Administrative Code. These discovery requests are to be answered within twenty (20) days of the date appearing on the certificate of service appended hereto.

**I. DEFINITIONS AND INSTRUCTIONS**

1. With respect to each discovery request, all information is to be divulged that is within the knowledge, possession or control of the parties to whom it is addressed, including their agents, employees, attorneys and/or investigators.
2. Where an interrogatory calls for an answer in more than one part, each part should be separated in the answer so that the answer is clearly understandable.
3. All answers must be separately and fully stated in writing under oath.
4. Pursuant to Rules 4901-1-16(D) and (E) of the Ohio Administrative Code, you are under a continuing duty to seasonably supplement all discovery responses with respect to any question directly addressed to the identity and locations of persons having knowledge of discoverable matters, the identity of each person expected to be called as an expert witness at the hearing, and the subject matter on which the expert is expected to testify. Further, a party who knows or later learns that a response is incorrect is under a duty to seasonably correct the response.

5. For purpose of these discovery requests, the following terms shall have meanings set forth below:

(a) As used herein, “document,” “documentation” and/or “record,” whether stated as the singular or the plural, means any course of binders, book, pamphlet, periodical, letter, correspondence, memoranda, including but not limited to, any memorandum or report of a meeting or telephone or other conversation, invoice, account, credit memo, debit memo, financial statement, general ledger, ledger, journal, work papers, account work papers, report, diary, telegram, record, contract, agreement, study, draft, telex, handwritten or other note, sketch, picture, photograph, plan, chart, paper, graph, index, tape, data processing card, data processing disc, data cells or sheet, check acceptance draft, e-mail, studies, analyses, contracts, estimates, summaries, statistical statements, analytical records, reports and/or summaries of investigations, opinions or reports of consultants, opinions or reports of accountants, trade letters, comparisons, brochures, pamphlets, circulars, bulletins, notices, forecasts, electronic communication, printouts, all other data compilations from which information can be obtained (translated if necessary by defendants into usable form), any preliminary versions, drafts or revisions of any of the foregoing, and/or any other written, recorded, transcribed, punched, taped, filmed or graphic matter, however produced or reproduced and regardless of origin or location, in the possession, custody and/or control of the defendant and/or their agents, accountants, employees, representatives and/or attorneys. “Document” and “record” also mean all copies of documents by whatever means made, if the copy bears any other markings or notations not found on the original.

(b) The terms “relating to,” “referring to,” “referred to,” “pertaining to,” “pertained to” and “relates to” means referring to, reporting, embodying, establishing, evidencing, comprising, connected with, commenting on, responding to, showing, describing, analyzing, reflecting, presenting and/or constituting and/or in any way involving.

(c) The terms “and,” “or,” and “and/or” within the meaning of this document shall include each other and shall be both inclusive and disjunctive and shall be construed to require production of all documents, as above-described, in the broadest possible fashion and manner.

(d) The term “Kenwood” shall mean Kenwood Mall, LLC and BRE DDR Crocodile Sycamore Plaza LLC, two of the parties in this proceeding.

(e) The term “Duke Energy Ohio” shall mean Duke Energy Ohio, Inc., its employees, agents, officers, directors and representatives.

(f) To “identify” shall mean:

- (1) With respect to a document, to state its date, its author, its type (for example, letter, memorandum, chart, photograph, sound reproduction, etc.), its subject matter, its present location, and the name of its present custodian. The document may be produced in lieu of supplying the foregoing information. For each document which contains information as privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.
- (2) With regard to a natural person, to state his or her full name, last known employer or business affiliation, title and last known home address.
- (3) With regard to a person other than a natural person, state the title of that person, any trade name, or corporate name or partnership name used by that person, and the principal business address of that person.

(g) To “produce” or to “identify and produce,” shall mean that plaintiffs shall produce each document or other requested tangible thing. For each tangible thing which plaintiffs contend are privileged or otherwise excludable from discovery, there shall be included a statement as to the basis for such claim of privilege or other grounds for exclusion.

(h) The terms “Party or Parties” shall mean any organization, person, corporation, entity, etc., which intervened in the above-captioned proceeding and shall further include Staff of the Ohio Power Siting Board.

## **II. INTERROGATORIES**

1. Identify each person who answered or furnished information or documents, or assisted in answering or in furnishing any information or documents, used in answering any of these Interrogatories and/or Requests for Production of Documents, and identify each Interrogatory and/or Document Request for which such person participated in the response.

**RESPONSE:** Kendra D. Newman; Eric C. Cotton

2. Identify each person whom Kenwood intends to call to testify at the hearings in the above-captioned matters. To the extent Kenwood claims that it has not made a final determination as to which witnesses it intends to call to testify on its behalf, please supplement this response as soon as such a determination is made.

**RESPONSE:** Kenwood has not made a final determination as to which witnesses it intends to call to testify on its behalf.

3. For each person identified in response to Interrogatory No. 2 above, please state (1) the subject matter upon which the witness is expected to testify; (2) the facts to which each witness is expected to testify; (3) the opinions to be rendered by each witness; (4) a summary of the witness's qualifications to provide the testimony; and (5) a summary of each witness's testimony. To the extent Kenwood claims that it has not made a final determination as to witnesses it intends to call to testify, please supplement this response as soon as such a determination is made.

**RESPONSE:** Kenwood has not made a final determination as to which witnesses it intends to call to testify on its behalf.

4. Please identify each expert whom Kenwood has retained or is in the process of retaining to testify in the above-captioned proceedings. If the response indicates that a decision has not been made, please supplement the response as soon as the decision is made.

**RESPONSE:** Kenwood has not made a final determination as to which expert witnesses it intends to call to testify on its behalf.

5. For each expert identified in response to Interrogatory No. 4 above, please state (1) the subject matter upon which the witness is expected to testify; (2) the facts to which each expert is expected to testify; (3) the opinions to be rendered by each expert; (4) a summary of the expert's qualifications to provide the testimony; and (5) a summary of each expert's testimony.

**RESPONSE:** Kenwood has not made a final determination as to which expert witnesses it intends to call to testify on its behalf.

6. For each witness identified in response to Interrogatory Nos. 2 or 4 above, please identify all proceedings in all jurisdictions in which the witness has offered evidence, including but not limited to, pre-filed testimony, sworn statements, and live testimony. For each response, please provide the following:

- (a) the jurisdiction in which the testimony or statement was pre-filed, offered, given, or admitted into the record;
- (b) the administrative agency and/or court in which the testimony or statement was pre-filed, offered, admitted, or given;
- (c) the date(s) the testimony or statement was pre-filed, offered, admitted, or given;
- (d) the identifying number for the case or proceeding in which the testimony or statement was pre-filed, offered, admitted, or given;
- (e) whether the witness was cross-examined; and
- (f) the custodian of the transcripts and pre-filed testimony or statements for each proceeding.

**RESPONSE:** Kenwood has not made a final determination as to which witnesses it intends to call to testify on its behalf.

7. For each expert identified in Interrogatory No. 4, above, please identify all documents provided by Kenwood to the expert. To the extent that Kenwood contends that any such documents are privileged, please provide a privilege log for same.

**RESPONSE:** Kenwood has not made a final determination as to which expert witnesses it intends to call to testify on its behalf.

8. Identify all documents or other evidence that Kenwood may seek to introduce as exhibits or for purposes of witness examination in any proceeding related to the above-captioned matter. To the extent that Kenwood contends that any such documents are privileged, please provide a privilege log for same.

**RESPONSE:** Kenwood has not made a final determination as to which documents or other evidence it intends to introduce as exhibits or for the purposes of witness examination.

9. Please state whether you agree to supplement your responses to these Interrogatories and Document Requests.

**RESPONSE:** Kenwood agrees to supplement its responses to these Interrogatories and Document Requests.

## **REQUESTS FOR PRODUCTION OF DOCUMENTS**

Duke Energy Ohio requests that Kenwood produce true and accurate copies of the following documents:

1. Any and all documents identified or referenced in response to any of the foregoing Interrogatories.

**RESPONSE:** Kenwood has no documents responsive to this request.

2. Any and all documents that contain any information used, reviewed, or referenced in preparing Kenwood's responses to any of the foregoing Interrogatories.

**RESPONSE:** Kenwood has no documents responsive to this request.

3. Any and all documents that Kenwood may introduce as exhibits or use for purposes of witness examination at any hearing related to the above-captioned matter.

**RESPONSE:** Kenwood has no documents responsive to this request.

4. Any and all documents relating to the testimony of any of Kenwood's witnesses and/or expert witnesses including, but not limited to, any and all *curricula vitae*, reports, papers, statements, notes, other documents, and any correspondence, communications, or other documents exchanged between Kenwood and the expert.

**RESPONSE:** Kenwood has no documents responsive to this request.



5. Any and all contracts for services between Kenwood and any expert retained or consulted to provide opinions, testimony, evidence, or analysis in relation to the above-captioned proceedings.

**RESPONSE:** Kenwood has no documents responsive to this request.

6. Please provide copies of any transcripts of depositions of each witness identified in Interrogatory No. 2. If a transcript is not available, please provide the name, address, and telephone number of the court reporting service used for purposes of each deposition.

**RESPONSE:** Kenwood has no documents responsive to this request.

7. Provide copies of any transcripts of depositions of each witness identified in Interrogatory No. 4. If a transcript is not available, please provide the name, address, and telephone number of the court reporting service used for purposes of each deposition.

**RESPONSE:** Kenwood has no documents responsive to this request.

Respectfully submitted,

/s/ Richard B. Tranter

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*Attorneys for Kenwood Mall, LLC and BRE*

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 11<sup>th</sup> day of March, 2019, by U.S. mail, postage prepaid, or by electronic mail upon the parties listed below.

/s/ Richard B. Tranter

'Andrew.Garth@cincinnati-oh.gov';  
'Howard.Miller@cincinnati-oh.gov';  
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**Commission of Ohio Docketing Information System on**

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**in**

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

Summary: Response Responses of Kenwood Mall, LLC and BRE DDR Crocodile Sycamore Plaza, LLC to Duke Energy Ohio's First Set of Interrogatories and Requests for Production of Documents electronically filed by Mr. Richard B Tranter on behalf of BRE DDR Crocodile Sycamore Plaza, LLC and Kenwood Mall, LLC