

**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.)

**POST HEARING BRIEF OF
THE JEWISH HOSPITAL – MERCY HEALTH**

I. INTRODUCTION AND BACKGROUND

A. The Jewish Hospital

The Jewish Hospital – Mercy Health (“The Jewish Hospital” or “Hospital”) is a community hospital faithful to its Jewish heritage and grounded in the Jewish and Catholic traditions of service to the community. The Hospital provides advanced, compassionate, quality care in the greater Cincinnati area and surrounding communities through its care network. The Jewish Hospital is located in Kenwood, a Cincinnati suburb that provides convenient access from around the Tri-state area. The Hospital has 196 beds and operates at full capacity.

B. Duke Energy’s Application and Preferred Route

On September 13, 2016, Duke Energy Ohio, Inc. (“Duke Energy” or “Applicant”) filed the C314V Central Corridor Pipeline Extension Project application (the “Application”). Duke Energy then filed an amendment to its Application on January 20, 2017, and further supplemented the Application on February 13 and 24, 2017; March 3, 2017; May 11, 2017; and April 13, 2018. As required, by the Ohio Power Siting Board’s (“Board” or “OPSB”) rules, the Application contains two proposed routes, a “Preferred Route” and “Alternate Route.”

In part, the Preferred Route runs east-west under Galbraith Road, and turns south on Frolic Road, and then east-west again on Happiness Way. Along this route, the Pipeline would border the Hospital's campus on both the west and the south.¹

C. The OPSB Staff Investigation of the Application

On May 31, 2017, the OPSB Staff filed a Staff Report of Investigation. In that report, the Staff concluded that "the Alternate Route represents the minimum adverse environmental impact when compared to the Preferred Route."² Subsequently, on March 5, 2019, the OPSB Staff filed its Amended Staff Report of Investigation, which replaced and superseded the prior report. However, the Staff's conclusion that the Alternate Route results in "fewer potential economic, ecological, and cultural resource impacts" remained the same in the Amended Staff Report of Investigation.³

II. ARGUMENT

A. The Preferred Route imposes adverse impacts on the Hospital.

The Preferred Route imposes a number of adverse impacts on the Hospital, described in more detail below.

- 1) The Preferred Route poses a risk to the Hospital's underground utility infrastructure and a potential disruption of electric service.*

The Preferred Route will cross over and run along the Hospital's underground electric lines.⁴ This close proximity to the underground electric lines could disrupt electric service to the Hospital.⁵ Construction of the Pipeline could damage the electric lines, or Duke Energy may

¹ See, Map page 4 of the Amended Staff Report of Investigation, illustrating the location of the Pipeline relative to The Jewish Hospital.

² Staff Report of Investigation, at p. 47.

³ Amended Staff Report of Investigation, at p. 49.

⁴ The Jewish Hospital Ex. 1, at p. 3.

⁵ *Id.*

need to temporarily shut-off electric service to the Hospital out of safety concerns when contractors are working in close proximity to the underground electric lines.⁶ Further, the risk for electric service disruption would be ongoing as Duke Energy's periodic maintenance and repairs of the pipeline may similarly damage the electric lines or require service to be shut off.⁷

Disruption of electric service to the Hospital has the potential to create significant negative consequences, requiring the Hospital to rely on critical backup power supply.⁸ Depending on the scope of the disruption to electric service, the Hospital would lose the ability to run some equipment, or maintain temperature control of operating rooms and laboratories, resulting in the cancellation of surgeries.⁹

- 2) *The Preferred Route is in close proximity to the Hospital's underground fuel storage tanks and the Hospital's Gamma Knife, which is powered through a radioactive nuclear fuel source.*

The Gamma Knife is an advanced radiation treatment for adults and children with small to medium brain tumors, abnormal blood vessel formations, epilepsy, trigeminal neuralgia, a nerve condition that causes chronic pain, and other neurological conditions. The Jewish Hospital maintains the only Gamma Knife in the Cincinnati area. The Gamma Knife is powered through a nuclear fuel source, located on the Hospital's premises.¹⁰ The delivery and maintenance of the Gamma Knife fuel is overseen, in part, by the Department of Homeland Security.¹¹

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at pp.3-4.

⁹ *Id.*

¹⁰ *Id.* at p. 5.

¹¹ *Id.*

In addition, the Jewish Hospital stores diesel fuel in an underground tank onsite for use in the Hospital's back-up generators. The storage tank contains approximately 35,000 gallons of diesel fuel and is approximately 85 feet from the pipeline route.¹²

The Jewish Hospital recognizes that pipeline explosions are uncommon. However, because of the nuclear material and fuel storage tanks located at the Hospital, the enhanced risk posed by a pipeline explosion should not be overlooked.

3) *The Preferred Route may impede patient and emergency medical service ("EMS") access to the Hospital.*

Construction of the Preferred Route is likely to cause traffic back-up and delays on the roads surrounding the Hospital, making it more difficult for EMS and patients to access the facility.¹³ In the event that there is a mishap or some unplanned event during construction, access to the Hospital would likely be further impacted.¹⁴ Any damage to the roads, caused by the heavy construction vehicles and equipment, would also impact the ability of EMS and patients to access the Hospital.¹⁵ Finally, these negative effects would likely reoccur whenever Duke Energy needs to conduct maintenance or repairs of the Pipeline.¹⁶

4) *The Preferred Route will impede the Hospital's ability to undertake necessary future expansion.*

The Hospital has continually expanded its facilities to meet the growing needs of the surrounding community.¹⁷ The Hospital continues to expand services, therefore increasing the need for more physical space to house and treat patients. The Hospital is currently at 100% capacity daily, Monday – Friday, with some days at 115% capacity or greater, and 75% capacity

¹² *Id.* at pp. 5-6.

¹³ The Jewish Hospital Ex. 1, at p. 6.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The Jewish Hospital Ex. 1, at pp.7-8.

on weekends.¹⁸ Any additional expansion at this point would have to be outside of the Hospital's existing footprint. By encircling the Hospital along the only two directions where the Hospital can expand, the Preferred Route would effectively block the Hospital's ability to expand beyond its footprint to continue to meet the needs of the community.

B. The Application fails to address adverse impacts of the Preferred Route to the Hospital.

In its evaluation of potential pipeline routes, Duke Energy considered impacts to a variety of "sensitive land uses" by the pipeline, including to The Jewish Hospital.¹⁹ Despite acknowledging that the Hospital constituted a "sensitive land use, however, Duke Energy conducted no further inquiry on potential impacts of the Preferred Route to the Hospital. Duke Energy did not engage in any discussions with The Jewish Hospital when planning the route.²⁰

As a result of conducting no further inquiry or analysis, despite identifying the Hospital as a "sensitive land use," Duke Energy was unaware of the nuclear fuel source located onsite and did not consider related potential impacts in its route selection study.²¹ Duke Energy was also unaware of the proximity of the planned pipeline to the Hospital's main electric service line and underground fuel storage tanks and did not consider related potential impacts in its route selection study.²² Duke Energy was also unaware of the location of the Hospital's primary entrance and did not consider the impacts of the Preferred Route to EMS and patient access.²³ And finally, in determining the relative impact of the Preferred Route, Duke Energy did not

¹⁸ *Id.* at p. 8.

¹⁹ Tr. Vol. II, pp.310-312.

²⁰ *Id.* at p. 314.

²¹ *Id.* at pp. 316-317.

²² *Id.* at pp. 317-319.

²³ *Id.* at 319.

consider the Hospital's need to expand its footprint in order to serve growing community needs.²⁴

C. Avoiding the Preferred Route's adverse impacts will serve the public interest and convenience and is consistent with the Amended Staff Report of Investigation.

The Ohio Revised Code expressly defines the criteria upon which the Board must base its decision. One such criteria is that the "facility will serve the public interest, convenience, and necessity."²⁵ A corollary of this mandate is that the facility must not undermine the public interest, convenience, and necessity. The Preferred Route presents adverse impacts to the Hospital's operations, access to the Hospital, and the ability for the Hospital to expand to meet the needs of a growing community. Hospitals are uniquely situated to provide life-saving care and public services to the surrounding community. The harmful potential impacts to the Hospital were never considered by the Application, and approval of the Preferred Route would be counter to the public interest.

Although the Amended Staff Report of Investigation does not address potential impacts to the Hospital, the concerns raised by the Hospital in its testimony and its brief are consistent with the Staff's recommended approval of the Alternate Route. Approving the Alternate Route and avoiding the impacts to the Hospital will help ensure that the Pipeline represents the minimum adverse environmental impact to the surrounding community.

²⁴ *Id.* at 320.

²⁵ Ohio Revised Code Section 4906.10(6).

III. CONCLUSION

For the foregoing reasons, The Jewish Hospital respectfully requests that the Board approve the Alternate Route as recommended by the Staff.

Respectfully submitted on behalf of
JEWISH HOSPITAL – MERCY HEALTH



Dylan F. Borchers
Devin D. Parram
Kara Herrnstein
BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
Telephone: (614) 227-4914
Facsimile: (614) 227-2390
E-Mail: dborchers@bricker.com
dparram@bricker.com
kherrnstein@bricker.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies foregoing Post-Hearing Brief was served this 13th day of May 2019 by electronic mail upon the parties listed below.



Dylan F. Borchers

Rocco.D'Ascenzo@duke-energy.com;
Jeanne.Kingery@duke-energy.com;
Brian.Heslin@duke-energy.com;
Andrew.Garth@cincinnati-oh.gov;
Howard.Miller@cincinnati-oh.gov;
robert.holderbaum@puco.ohio.gov;
john.jones@ohioattorneygeneral.gov;
Robert.eubanks@ohioattorneygeneral.gov;
jyskamp@fairshake-els.org;
ecollins@fairshake-els.org;
bfox@graydon.law;
jlang@calfee.com;
slesser@calfee.com;
mkeaney@calfee.com;
cjones@calfee.com;
tburke@manleyburke.com;
mkamrass@manleyburke.com;
Bryan.pacheco@dinsmore.com;
Mark.arnzen@dinsmore.com;
miller@donnellonlaw.com;
kkfrank@woodlamping.com;
Roger.friedmann@hcpros.org;
Michael.friedmann@hcpros.org;
Jay.wampler@hcpros.org;
tmd@donnellonlaw.com;
butler@donnellonlaw.com;
dstevenson@cinci.rr.com;
ahelmes@deerpark-oh.gov;
joliker@igsenergy.com;
Richard.tranter@dinsmore.com;
Kevin.detroy@dinsmore.com;
Kent.bucciery@gmail.com;
glaux2001@gmail.com;
Paula.boggsmuething@cincinnati-oh.gov

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