

# THE OHIO POWER SITING BOARD

IN THE MATTER OF THE APPLICATION  
OF DUKE ENERGY OHIO, INC. FOR AN  
AMENDMENT TO THE C314V CENTRAL  
CORRIDOR PIPELINE PROJECT.

CASE NO. 20-1392-GA-BTA

## ORDER ON CERTIFICATE

Entered in the Journal on January 21, 2021

### I. SUMMARY

{¶ 1} The Ohio Power Siting Board grants the application filed by Duke Energy Ohio, Inc. to amend its certificate.

### II. DISCUSSION

#### A. *Applicable Law*

{¶ 2} All proceedings before the Ohio Power Siting Board (Board) are conducted according to the provisions of R.C. Chapter 4906 and Ohio Adm.Code Chapters 4906-1 et seq.

{¶ 3} Duke Energy Ohio, Inc. (Duke or Applicant) is a person under R.C. 4906.01(A).

{¶ 4} R.C. 4906.04 provides that the Board's authority applies to major utility facilities and requires any proposed facility to be certified by the Board before the start of construction. In accordance with R.C. Chapter 4906, the Board promulgated the rules set forth in Ohio Adm.Code Chapter 4906-3 regarding the procedural requirements for filing applications for major utility facilities and amendments to certificates.

{¶ 5} Pursuant to R.C. 4906.07, when considering an application for an amendment of a certificate, the Board "shall hold a hearing \* \* \* if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility \* \* \*." R.C. 4906.06(B) and (C), as well as Ohio Adm.Code 4906-3-11 and 4906-3-09, require the applicant to provide

notice of its application for amendment to interested parties and potentially affected members of the public.

**B. Procedural History**

{¶ 6} On November 21, 2019, in Case No. 16-253-GA-BTX, the Board granted the application filed by Duke for a certificate to construct a 20-inch natural gas pipeline extension, approximately 14 miles in length, in Hamilton County, Ohio, subject to 41 conditions (Project). *In re the Application of Duke Energy Ohio, Inc. for a Certificate of Environmental Compatibility and Public Need for the C314V Central Corridor Pipeline Extension Project*, Case No. 16-253-GA-BTX (*Certificate Case*), Opinion, Order, and Certificate (Nov. 21, 2019). Accordingly, Duke is certificated to construct, operate, and maintain a major utility facility under R.C. 4906.10.

{¶ 7} On September 22, 2020, in the above captioned case, Duke filed an application to amend the route of the pipeline extension granted in the *Certificate Case*.

{¶ 8} On September 25, 2020, as amended on September 28, 2020, Duke filed its proof of service of the amendment application, pursuant to Ohio Adm.Code 4906-3-11(B)(2)(b).

{¶ 9} On December 21, 2020, Staff filed its report of investigation evaluating the amendment application (Staff Report) and recommends that Duke be required to comply with additional conditions.

{¶ 10} By correspondence filed on December 23, 2020, Duke agreed to the conditions recommended in the Staff Report.

**C. Summary of the Amendment Application**

{¶ 11} In its amendment application, Duke proposes 30 changes to the route approved by the Board in the *Certificate Case*. Of the proposed changes, 19 are engineering adjustments along the approved route within the 80-foot right-of-way. The 11 other

proposed changes are characterized as route adjustments, which are changes outside the approved 80-foot right-of-way. With the proposed changes to the route, the number of residential structures identified within 1,000 feet of the centerline would drop from 2,186 to 1,923. No structures are expected to need to be removed from the right-of-way. Duke plans to commence construction on the pipeline in the first quarter of 2021. The proposed adjustments would increase estimated costs from \$111.2 million to \$142.6 million. As a result of the proposed changes, no new property owners would be affected. (Application at 1 - 47, 6-1, 7-11, 7-12; Staff Report at 2-3, 10.)

#### ***D. Summary of Staff Report***

##### **1. ENGINEERING ADJUSTMENTS**

{¶ 12} According to the Staff Report, of the 19 engineering adjustments within the right-of-way, 18 of those would involve shifts of less than 30 feet within the right-of-way. These 18 adjustments are all entirely within the approved 80-foot right-of-way and are at the request of property owners or the result of detailed advanced engineering. (Staff Report at 2-3.)

{¶ 13} The one remaining engineering adjustment is a 32 -foot adjustment to reduce wetland impacts and ease construction access. Staff notes that stream impacts and tree clearing would be slightly increased. (Staff Report at 3.)

##### **2. ROUTE ADJUSTMENT 1**

{¶ 14} Route Adjustment 1 consists of adjusting the route on the north side of the Blue Ash Sports Complex to the north by 120 feet. The adjustment is at the request of the Ohio Department of Transportation (ODOT) and agreed upon by the Hamilton County Engineer's Office. The adjustment would move the proposed pipeline further away from the sports complex and would facilitate the storage of materials. As with the previously approved route, this route adjustment crosses Interstate 275. (Staff Report at 3.)

### **3. ROUTE ADJUSTMENT 2**

{¶ 15} At the request of the property owner and the city of Blue Ash, Route Adjustment 2 consists of adjusting the route by a maximum of 330 feet to the east of Reed Hartman Highway just south of Timber Ridge Lane. The adjustment would avoid hindering the development of the property and would avoid a newly installed turn lane along the highway. (Staff Report at 4.)

### **4. ROUTE ADJUSTMENT 3**

{¶ 16} Route Adjustment 3 consists of shifting the route approximately 200 feet to the southwest along the west side of Reed Hartman Highway, just south of Cornell Road, to avoid two wetlands, three streams, reduce tree clearing, and allow the Applicant a better angle for boring under the highway. (Staff Report at 4.)

### **5. ROUTE ADJUSTMENT 4**

{¶ 17} Along Reed Hartman Highway, just north of Creek Road, Route Adjustment 4 consists of moving the route by approximately 55 feet to the west. The adjustment would avoid existing utility infrastructure, steep slopes, and retaining walls. The adjustment would also reduce wetland impacts and tree clearing. The adjustment would take this section of the pipeline from private property into public right-of-way. (Staff Report at 5.)

### **6. ROUTE ADJUSTMENT 5**

{¶ 18} To ease the impact of construction on the property owner, the Applicant proposes to adjust the route to turn west down Lake Forest Drive and travel along the property owner's parking lot and grass areas until it reaches Glendale Milford Road. This adjustment allows construction at the intersection of Reed Hartman Highway and Glendale Milford Road to be avoided. This route adjustment would minimize the removal of mature trees and avoid a retention pond and a recreational path. Four new structures would be within 200 feet of the proposed centerline, but no impacts to these structures are anticipated. (Staff Report at 6.)

#### **7. ROUTE ADJUSTMENT 6**

{¶ 19} Route Adjustment 6 consists of adjusting the route by 45 feet east and south along the south side of Glendale Milford Road and McKinley Road, in the area of Summit Park in Blue Ash. The adjustment is at the request of the city of Blue Ash to avoid interfering with future road developments. (Staff Report at 7.)

#### **8. ROUTE ADJUSTMENT 7**

{¶ 20} To avoid interfering with future development plans, the property owner requested Route Adjustment 7, which consists of shifting the route of the pipeline by 113 feet to the east between Glendale Milford Road and Evendale Commons Drive. Three additional structures would be within 200 feet of the proposed centerline, but no impacts to these structures are anticipated. (Staff Report at 7.)

#### **9. ROUTE ADJUSTMENT 8**

{¶ 21} Route Adjustment 8 consists of adjusting the route by 127 feet to the south due to a building being constructed overtop of the approved route. At the request of the property owner, the route is proposed to be adjusted south of the new building. Tree clearing would be reduced as a result of this adjustment. One additional structure would be within 200 feet of the proposed centerline, but no impact to the structure is anticipated. (Staff Report at 8.)

#### **10. ROUTE ADJUSTMENT 9**

{¶ 22} At the request of the property owner, Route Adjustment 9 would shift the route by 100 feet to the west. This adjustment would allow the property owner to maintain access to its facility during construction and avoid impacts to the facility parking lot. One less structure would be within 200 feet of the proposed centerline. The adjustment would also result in an increase of fifteen linear feet of stream impacts. (Staff Report at 8.)

### 11. ROUTE ADJUSTMENT 10

{¶ 23} This adjustment consists of adjusting the route by 50 feet to the east and 100 feet to the west at two locations along the east side of West Street, just north of Veteran's Memorial Stadium. The adjustments would avoid below grade wells and extraction main lines associated with the Pristine, Inc. Superfund Site. Six fewer structures would be within 200 feet of the proposed centerline, with an increase in tree clearing of 0.05 acre. (Staff Report at 9.)

### 12. ROUTE ADJUSTMENT 11

{¶ 24} Route Adjustment 11 consists of adjusting the route by 140 feet to the northwest on the east side of Reading Road, slightly east of Sherman Avenue. The adjustment is at the request of the property owner to avoid an area with planned future development. The adjustment would result in a reduction of tree clearing but five additional structures would be within 200 feet of the proposed centerline. No impacts to these structures are anticipated. (Staff Report at 9.)

### 13. SOCIAL IMPACTS

{¶ 25} Based on Staff's review, the proposed adjustments are not expected to significantly alter existing land uses, including agricultural and residential land. With these adjustments, the total number of residences located within 1,000 feet of the centerline would decrease from 2,186 to 1,923. Structures of any type within 200 feet of the edge of the proposed right-of-way would drop from 666 to 574. The Applicant continues to propose an 80-foot wide construction work area with a 30-foot wide permanent right-of-way, but on vacant and open land, the construction work area may increase up to 100 feet wide. No structures are expected to need to be removed from the proposed right-of-way. The proposed changes have been studied for the presence of archeological and historic impacts, and the State Historic Preservation Office concurs that no significant adverse impacts on cultural resources are expected. As a result of the proposed changes, no new property owners would be affected. (Staff Report at 10.)

#### 14. ROADS AND BRIDGES

{¶ 26} Impacts to roads and bridges are not expected to be significantly different from those cited in the *Certificate Case*. The Project area of the approved pipeline includes several major highways, state routes, and a railroad. According to the Applicant, there will be no impacts to any bridges in the area. Duke will acquire the necessary traffic control permits and coordinate Project timelines with the appropriate authorities so that traffic impacts would be minimized. Any damaged roads would be repaired promptly to their previous conditions by the Applicant under the guidance of the appropriate regulatory agency. (Staff Report at 10.)

#### 15. ECONOMICS

{¶ 27} The Applicant's total estimated intangible and capital cost for the approved route is \$111.2 million and for the proposed adjusted route is \$142.6 million. The Applicant will remit property taxes annually on the installed utility facilities. The Applicant estimates the total projected first year property tax for the approved route would be \$3.3 million and for the proposed amended route would be \$4.1 million. Each jurisdiction located along the pipeline will receive a portion of the tax revenue. Staff also notes that the proposed Project would have a positive impact on regional development through increased reliability and availability of natural gas to residential, commercial, and industrial customers. (Staff Report at 10-11.)

#### 16. GEOTECHNICAL ENGINEERING REPORT

{¶ 28} Duke's consultant conducted a geotechnical investigation to obtain site-specific information and engineering properties of the soils to refine the Project design. The Applicant selected geotechnical soil boring locations based on the locations of horizontal direction drills, road/railroad bores, regulation stations, and main-line valves.

{¶ 29} The Applicant has a permit with ODOT to install approximately 300 feet of the pipeline under Interstate 275 using a lateral jack and boring method under the roadway that will not disturb the pavement. This installation is associated with Route Adjustment 1.

Duke tested boring locations on the south side of Interstate 275 but cancelled the test on the north side because the soil sample had a gasoline odor. The Applicant will be prepared to address and handle any potential discolored or petroleum contaminated soil appropriately in accordance with its Soil and Water Management Plan pursuant to the certificate issued in the *Certificate Case*. Further, Duke concluded that based on the soil test boring that there are no subsurface conditions that preclude a pipeline crossing under Interstate 275. Staff notes that Condition 28 of the Certificate states that the Applicant shall retain an independent and qualified environmental specialist, and Staff recommends that the environmental specialist be on site during the lateral jack and bore construction activities and installation of pipeline under Interstate 275. (Staff Report at 11-12.)

#### **17. SURFACE WATERS**

{¶ 30} Proposed adjustments to the Project would represent a decreased impact to surface water resources. The approved route centerline crosses 6 streams, while the construction work area contains 14 streams totaling 733 linear feet. The proposed adjusted centerline crosses 6 streams, while the construction work area contains 8 streams totaling 661 linear feet. The approved route centerline crosses 10 wetlands, and the construction work area contains 18 wetlands, totaling 0.9 acres. The proposed adjusted centerline crosses 4 wetlands, and the construction work area contains 6 wetlands, totaling 0.48 acres. Staff advises that adherence to the conditions of the approved certificate, including implementation of the storm water pollution prevention plan, would minimize impacts to surface water resources that could occur as a result of the proposed adjustments. (Staff Report at 12.)

#### **18. PUBLIC INTERACTION AND PARTICIPATION**

{¶ 31} The Applicant served a copy of the amendment application on property owners along the new route and electronically served a copy on parties to the case, local governments in the Project area, and the Public Library of Cincinnati and Hamilton County.



As of the date the Staff Report was filed, the Board had not received any public comments in this proceeding. (Staff Report at 12.)

**19. STAFF-PROPOSED ADDITIONAL CONDITIONS**

{¶ 32} Staff recommends that the Board approve the certificate amendment subject to the following new conditions:

- (1) The Applicant shall continue to adhere to all conditions of the Opinion, Order, and Certificate for the C314V Central Corridor Pipeline Extension Project in Case No. 16-253-GA-BTX following the route as amended through this amendment application (Staff Report at 12).
- (2) The certificate authority provided in this case shall not exempt the Project from any other applicable and lawful local, state, or federal rules or regulations nor be used to affect the exercise of discretion of any other local, state, or federal permitting or licensing authority with regard to areas subject to their supervision or control (Staff Report at 12-13).
- (3) The environmental specialist approved in Condition 28 of the original Opinion and Order shall be on site during the lateral jack and bore construction activities and installation of the approximate 300 feet of pipeline under Interstate 275 (Staff Report at 13).

{¶ 33} Accordingly, upon its review, overall, Staff recommends that the Board approve the amendment to the certificate, provided that the Applicant shall continue to adhere to all conditions of the Opinion, Order, and Certificate issued in the *Certificate Case*, as well as the additional conditions proposed by Staff in this case (Staff Report at 12-13).

**E. Board Conclusion**

{¶ 34} After considering the application and the Staff Report, the Board finds that the proposed alignment changes presented in the amendment application do not result in any material increase in any environmental impact or a substantial change in the location of all or a portion of the Project approved in the *Certificate Case*. Therefore, pursuant to R.C. 4906.07, the Board finds that a hearing on the amendment application is not necessary under the circumstances presented in this case. Further, the Board finds that with the requested route amendments, the Project satisfies the criteria set forth in R.C. Chapter 4906. Therefore, the Board concludes that the amendment application should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional conditions proposed by Staff in this case.

**F. Findings of Fact and Conclusions of Law**

{¶ 35} Duke is a corporation and a person under R.C. 4906.01(A).

{¶ 36} On September 22, 2020, Duke filed an application seeking an amendment to the certificate issued in the *Certificate Case*.

{¶ 37} On December 21, 2020, Staff filed the Staff Report containing its evaluation of the amendment application.

{¶ 38} The proposed amendment to the certificated facility does not result in a substantial change in the location of the facility or any material increase in any environmental impact; therefore, in accordance with R.C. 4906.07, an evidentiary hearing is not necessary.

{¶ 39} Based on the record, and in accordance with R.C. Chapter 4906, the amendment application should be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional conditions Staff recommended in this case.

### III. ORDER

{¶ 40} It is, therefore,

{¶ 41} ORDERED, That, in accordance with the above findings, Duke's amendment application be approved, subject to the conditions set forth in the Opinion, Order, and Certificate in the *Certificate Case*, as well as the additional conditions recommended by Staff in this case. It is, further,

{¶ 42} ORDERED, That a copy of this Order on Certificate be served upon all parties and interested persons of record.

#### BOARD MEMBERS:

##### *Approving:*

M. Beth Trombold, Acting Chair  
Public Utilities Commission of Ohio

Matt McClellan, Designee for Lydia Mihalik, Director  
Ohio Development Services Agency

Brittney Colvin, Designee for Mary Mertz, Director  
Ohio Department of Natural Resources

W. Gene Phillips, Designee for Stephanie McCloud, Director  
Ohio Department of Health

Drew Bergman, Designee for Laurie Stevenson, Director  
Ohio Environmental Protection Agency

Sarah Huffman, Designee for Dorothy Pelanda, Director  
Ohio Department of Agriculture

Greg Murphy, Public Member

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Summary: Entry granting the application filed by Duke Energy Ohio, Inc. to amend its certificate. electronically filed by Ms. Mary E Fischer on behalf of Ohio Power Siting Board