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February 3, 2020

PSC STAFF OPINION 2020-006

Hon. Rocco O. D'Ascenzo
Associate General Counsel
Duke Energy Ohio, Inc.
139 East Fourth Street ML 1303
Cincinnati, OH 45202

Re: Request for a Staff Opinion -- Regarding the Need for Siting Board Approval

Dear Mr. D'Ascenzo:

Commission Staff¹ acknowledges receipt on December 23, 2019, on behalf of Duke Energy Ohio, Inc. (Duke Ohio), in which you request an opinion as to whether an upgrade to its existing non-regulated 138 kV transmission line coupled with a new transmission switching station requires a siting certificate by the Kentucky State Board on Electric Generation and Transmission Siting (Siting Board).

In your letter you present the following facts: Duke Ohio is a regulated utility in Ohio but is not a utility regulated by the Commission. Duke Energy Kentucky, Inc. (Duke Kentucky), a wholly-owned subsidiary of Duke Ohio, is a utility engaged in providing electric and gas service to customers in five counties in northern Kentucky. Because Duke Kentucky was a wholesale electric customer of Duke Ohio until 2006, Duke Ohio still owns and operates the 138 kV transmission facilities that feed Duke Kentucky's local transmission and distribution systems.

Duke Kentucky has an application pending before the Commission seeking a Certificate of Public Convenience and Necessity to construct a 138 kV transmission line to serve load growth in Boone County Kentucky, within Duke Kentucky's northern Kentucky service territory. To serve its new regulated transmission lines, Duke Kentucky has sought interconnection to Duke Ohio's 138 kV transmission system and has further requested that Duke Ohio provide a looped transmission feed to support Duke Kentucky's

¹ Pursuant to KRS 278.702(3), Commission Staff serves as permanent administrative staff for the Siting Board.

new transmission line. To accommodate this request, Duke Ohio must construct a new switching station (Woodspoint Switching Station) along its existing 138 kV transmission system at the section of Feeder 6782 that goes from Florence to Donaldson located in Boone County and modify its current feeder lines to route them into the switching station.

The new Woodspoint Switching Station would be constructed within the area of land just east of the existing Florence to Donaldson line. To feed this station, Duke Ohio would decommission approximately 650 feet of existing transmission conductor and remove two poles. Duke Ohio would then install approximately 125 feet of new conductor into the Woodspoint Switching Station from the Florence to Donaldson line and replace three poles within the existing Duke Ohio right-of-way along the Florence to Donaldson line to establish the new Florence to Woodspoint line. In addition, Duke Ohio would also install approximately 300 feet of new conductor and one new pole from the Florence to Donaldson line to feed into the new Woodspoint Switching Station within the existing Duke Ohio right-of-way and add one new pole, relocate one pole, and replace three poles within the road right-of-way to establish the new Woodspoint to Donaldson line. Once the switching station is installed, the Duke Kentucky Woodspoint to Aero transmission line would then be connected to the Woodspoint Switching Station where, through switching, either of the two Duke Ohio-owned lines would be capable of feeding the Duke Ohio Woodspoint to Aero line. The construction and relocation of these facilities would be in accordance with accepted engineering practices and the national Electric Safety Code.

The letter states that Duke Ohio is aware that KRS 278.714 requires that "nonregulated electric transmission line" will require a certificate of construction issued by the Siting Board. The letter also references KRS 278.700, which sets forth the definition of a nonregulated electric transmission line. The letter further states that it is arguable that the new switching station by itself would trigger the Siting Board requirements as it is not a non-regulated line. However, the letter notes that the new switching station coupled with the fact that Duke Ohio will be relocating two sections of an existing line would require Siting Board approval. Duke Ohio states that the construction and relocation of the proposed facilities will be in accordance with accepted engineering practices and the National Electric Safety Code. It also states that the section of line associated with the establishment of the Woodspoint to Donaldson line rebuild is located within a road right-of-way. The right-of-way for the rest of the line, including the new line extensions, will be on Duke-owned easements or land wholly owned by Duke Energy and will be done to accommodate adjacent landowners. Duke Ohio further states that the construction will not affect neighboring property owners or existing structures on the property.

The letter cites to PSC Staff Opinion No. 2010-001 in support of Duke Ohio's proposition that the proposed project constitutes normal repair and maintenance to ensure continuity of service to Duke Kentucky's customers and that such repairs and maintenance includes the relocation of poles and line route within the established right of way. Duke Ohio requests confirmation that the relocation of the transmission facilities described to accommodate a new customer are similar to the facts and opinion presented in PSC Staff Opinion 2010-001.

Commission Staff's research reveals no relevant Siting Board decision addressing the particular issue raised in Duke Ohio's letter. Commission Staff notes that the PSC Staff Opinion 2010-001 cited in Duke Ohio's letter presents facts that are very similar to the facts described in this request. PSC Staff Opinion 2010-001 involves a request by Southern Indiana Gas & Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. (Vectren) concerning the relocation of two transmission poles supporting an existing non-regulated 138 kV transmission line located in Hancock County, Kentucky. Vectren sought a Commission Staff opinion on whether the relocation of two transmission poles approximately 500 feet from their current locations would require a construction certificate from the Siting. Vectren stated that the property owner, AMP-Ohio, requested the two poles be relocated to accommodate a hydro-electric project that AMP-Ohio plans on its property. Vectren indicated that the relocated transmission poles would remain within the right-of-way as it existed when the transmission line was originally constructed between 1958 and 1960. Vectren further indicated that the relocation of the poles would be done in accordance with accepted engineering practices and the National Electric Safety Code and would not affect neighboring property owners or any existing structures on the AMP-Ohio property.

PSC Staff Opinion 2010-001 analyzed the facts of the Vectren request under KRS 278.141(1),² KRS 278.700(4),³ and KRS 278.700(5).⁴ PSC Staff Opinion 2010-001 concluded that, based upon the facts presented, the relocation of the two transmission poles within the existing right-of-way does not require a construction certificate from the Siting Board. That opinion reasoned that a transmission line owner/operator must maintain the transmission line in order to ensure that it continues to provide adequate electric service to the customers it serves and to protect public safety. That opinion further stated that routine maintenance and repair may include the need to relocate transmission

² KRS 278.714(1) provides, in relevant part, as follows:

No person shall commence to construct a nonregulated electric transmission line...without a construction certificate issued by the board.

³ KRS 278.700(4) provides as follows:

"Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing or excavation work will not satisfy the commence to construct requirements....

⁴ KRS 278.700(5) provides as follows:

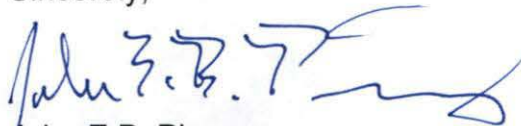
"Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts....

poles and the line route, if necessary, within the existing right-of-way in order to serve new customers. Lastly, the opinion noted that the right-of-way for a transmission line is much wider than the transmission line and associated facilities in order to accommodate the occasional necessary re-routing of a transmission line from its as-built location to address certain reasonable contingencies as indicated in that opinion.

Commission Staff is of the opinion that the facts presented in Duke Ohio's letter is similar to the facts described in PSC Staff Opinion 2010-001. Commission Staff concludes that the modification of Duke Ohio's existing Florence to Donaldson 138 kV transmission line, including the new Woodspoint Switching Station, the two new short line extensions, and the Woodspoint to Donaldson line rebuild, which will all be done within the existing rights-of-way, can be characterized as maintenance and repair of the current 138 kV transmission line to ensure that the transmission line continues to provide adequate electric service to Duke Kentucky's current and future customers. Accordingly, Commission Staff is of the opinion that such modification does not require a construction certificate issued by the Siting Board.

This letter represents Commission Staff's interpretation of the law as applied to the facts presented. This opinion is advisory in nature and not binding on the Commission should the issues herein be formally presented for Commission resolution. Questions concerning this opinion should be directed to Quang D. Nguyen at (502) 782-2586.

Sincerely,

A handwritten signature in blue ink, appearing to read "John E.B. Pinney", with a stylized flourish extending to the right.

John E.B. Pinney
Acting General Counsel

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