

**BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL**

In the Matter of the Application of:

Scout Clean Energy, LLC, for  
Horse Heaven Wind Farm, LLC,  
Applicant

DOCKET NO. EF-210011

PRE-HEARING CONFERENCE ORDER

**Procedural Setting:**

On March 10, 2023, Administrative Law Judge Adam E. Torem conducted a Pre-Hearing Conference in this matter. At that conference, the following matters were discussed (summary):

- Issuance of Preliminary Order on Intervention granting party status to Yakama Nation and Tri-Cities C.A.R.E.S. (TCC) with exact scope of intervention still to be determined
- Potential Venue Choices for Adjudication – in-person vs. hybrid vs. fully virtual
  - Applicant prefers virtual proceeding with hybrid process as second choice
  - Benton County requests in-person proceeding or at least hybrid process
  - Council for the Environment prefers virtual proceeding (or hybrid choice)
  - Yakama Nation requests in-person proceeding, especially for the presentation of testimony from tribal elders (via oral tradition(s))
  - TCC requests in-person proceeding, particularly due to foreseen necessity to display exhibits in larger fashion than is allowed on small computer screens
- Scheduling of Adjudication / Party Notices of Unavailability
  - EFSEC projected potential hearing dates including
    - Monday, 5/15/23 through Friday, 5/19/23
    - Monday, 5/22/23 through Friday, 5/26/23
    - Tuesday, 5/30/23 through Friday, 6/2/23
    - Monday, 6/05/23 through Friday, 6/09/23
    - Tuesday, 6/20/23 through Friday, 6/23/23
  - Considering potential schedule for filing of pre-filed testimony, only last two of those weeks listed above appear realistic to conduct Adjudication
  - ALJ Torem instructed all Parties to ensure Notices of Unavailability filed ASAP
- Filing Requirements – All Parties generally preferred fully electronic filing and service
- Pre-Filed Testimony and Motion Practice – Parties projected readiness to file as soon as 4/3/23 or 4/10/23 with 3 rounds of filing with intervals: F1 + 28 d = F2 + 21 d = F3

- Status of Parties' Development of Disputed Issues List
  - ALJ Torem indicated that parties' letters currently filed with EFSEC were either not sufficiently detailed or lacked appropriate tone of neutrality (or both)
  - Parties requested further guidance on crafting issues for Adjudication

**Further Guidance on Venue and Scheduling of Adjudication:**

ALJ Torem has discussed the Parties' venue preferences and requests regarding in-person and/or hybrid proceedings with EFSEC's Manager. Further discussions with EFSEC Chair Drew are anticipated in the weeks ahead.

The Parties will continue discussions on the schedule for filing Pre-Filed Testimony and the Adjudication. Considering current projections for the 1st Round of Pre-Filed Testimony being due as early as 4/3/23 or 4/10/23, the Adjudication could not start until (earliest) 5/30/23.

**Further Guidance on Crafting of Draft Disputed Issues:**

ALJ Torem has reviewed a number of orders and letters in previous EFSEC cases to determine an approach to develop the list of disputed issues for the upcoming Adjudication. As the Parties continue to collaborate, the following EFSEC orders contain acceptable issue statements:

- EFSEC Order 742 – Chehalis Power Generation (Pre-Hearing Order No. 3 – May 2000)
- EFSEC Order 868 – Whistling Ridge Energy (Adjud. Order Resolving – Oct 2011)
- Order Clarifying EFSEC Process... Summarizing Prelim. Issues – Tesoro (Feb 2016)

The Tesoro order cited above nicely sets out not only jurisdictional issues (pg. 2) but also a set of environmental impact issues (pp. 4-5) that are reasonably specific and relatively neutral in tone.

**Second Pre-Hearing Conference:**

The parties agreed to participate in a second pre-hearing Conference on Monday, March 20, 2023, beginning at 1:30 p.m. and ending no later than 4:00 p.m. EFSEC has already published formal notice of this event. A DRAFT agenda for the second pre-hearing conference will be sent to all parties and published simultaneously with this pre-hearing conference order.

DATED and effective at Olympia, Washington, on the 16th day of March, 2023.

WASHINGTON ENERGY FACILITY  
SITE EVALUATION COUNCIL



Adam E. Torem, Administrative Law Judge