

**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

PREHEARING CONFERENCE #2
(March 20, 2023 at 1:30 p.m.)

JUDGE TOREM'S AGENDA

1. Appearances / Roll Call:

Horse Heaven Wind Farm, LLC – Applicant

- Tim McMahan, Stoel Rives
- ***Crystal Chase, Stoel Rives***
- Emily Schimelpfenig, Stoel Rives

Benton County – Statutory Party of Right

- ***Kenneth Harper, Menke Jackson Beyer, LLP***
- Aziza Foster, Menke Jackson Beyer, LLP
- Ryan Brown, Benton County Prosecuting Attorney

Counsel for the Environment (CFE) – Statutory Party of Right

- ***Sarah Reyneveld, Assistant Attorney General***

The Confederated Tribes and Bands of the Yakama Nation (Yakama Nation)

- Ethan Jones
- ***Shona Voelckers***
- Jessica Houston

Tri-Cities C.A.R.E.S. (Community Action for Responsible Environmental Stewardship)

- ***J. Richard Aramburu***

ALSO Participating / Supporting PHC#1 – EFSEC Staff

- Jonathan Thompson, Assistant Attorney General
- Lisa Masengale
- Andrea Grantham
- _____, Court Reporter

2. Venue for Adjudication – DISCUSSION UPDATE

- Issue of In-Person / Hybrid Preferences Raised with EFSEC Manager Sonia Bumpus
 - Pending Meeting with Chair Drew to Discuss / Negotiate
- Direct Input from Parties? Invitation to Submit “Justification / Request” Letters

3. Scheduling of Adjudication – July 8, 2023 [notional deadline]

The Applicant’s APPROVED Second Extension Request allows EFSEC to make its recommendation no later than July 8, 2023. To date, more than 25 months have elapsed since Scout Clean Energy submitted its Application to EFSEC; the current extension request allows the Council a total of 29 months to meet RCW 80.50.100’s 12 month processing time.

In early 2023, EFSEC Council Members were surveyed with regard to their availability to attend and participate in the Horse Heaven Wind Adjudication during May and June 2023. In the case the Applicant might request a further extension, Council Members are now being surveyed for their availability through September 30, 2023.

Pending any further flexibility in when to conduct the Adjudication, the Council is currently holding the following weeks as possible for scheduling:

- ~~Monday, May 15, 2023 through Friday, May 19, 2023~~
- ~~Monday, May 22, 2023 through Friday, May 26, 2023~~
- ~~Tuesday, May 30, 2023 through Friday, June 2, 2023~~
- **Monday, June 5, 2023 through Friday, June 9, 2023**
- **Tuesday, June 20, 2023 through Friday, June 23, 2023**

Parties: how many total days are estimated to be needed to for this Adjudication?

4. Pre-Filed Testimony

- Timing for Pre-Filed Testimony – 3 Rounds of Responsive Testimony
 - All Parties should have opportunity to present their own cases
 - Applicant filing first, then other Parties responding, then reply/rebuttal?
 - All Parties filing simultaneously, then responding, then rebuttals?

5. Disputed Issues List

- Specific to Topic / Neutral Tone / Simple List vs Question Format
 - EFSEC Orders in Kittitas Valley Wind, Whistling Ridge, and Tesoro
- Does the Proposed Issue Have a Basis in Existing Law? [*see CR 11 for guidance*]
 - If not, is there a Good Faith Argument for Extension/Modification/Reversal of Existing Law or the Establishment of New Law?

6. Discovery

- Informal Discovery per APA
- EFSEC Past Practices – Kittitas Valley Wind, Whistling Ridge, and Tesoro
- Parties' Needs / Preferences for this Adjudication

7. Pre-Hearing Motion Practice and Briefing

- Deadline for Non-Dispositive Motions
 - How long after all pre-filed testimony is submitted?
 - How long before start of Adjudication?
- Pre-Hearing Opening Statements and Supporting Briefing
- Post-Hearing Closing Arguments and Briefing