

**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

ORDER GRANTING TRI-CITIES
C.A.R.E.S.' REQUEST FOR LEAVE TO
FILE MOTION FOR RECONSIDERATION

Procedural Setting

On August 1, 2023, Intervenor Tri-Cities C.A.R.E.S. (TCC) filed a *Request for Leave to File Motion for Reconsideration and Petition for Administrative Review*. This pleading was in response to the *Order Granting Applicant's Motion to Strike TCC Testimony of Rick Dunn, Paul Krupin, David Sharp, and (in Part) Richard Simon (Striking Order)* issued on July 28, 2023.

TCC contends that the *Striking Order* indiscriminately struck multiple pages of testimony and exhibits important to TCC's case to be presented at the adjudicative hearing. TCC argues that the *Striking Order* eliminated testimony addressing disputed issues approved for presentation in the *Second Prehearing Conference Order* (e.g., Societal/Economic Impacts of the proposed project and the Horse Heaven Wind Farm's overall scope and scale).

Decision¹

TCC's *Request* acknowledges that the *Second Prehearing Conference Order* states motions for reconsideration will not be entertained.² Nonetheless, TCC's *Request* is well taken and was essentially invited by language contained in the *Striking Order*.

TCC correctly points out that the *Striking Order* rejected broad swaths of what TCC believes is relevant evidence central to its case in opposition to the proposed Horse Heaven Wind Farm. The *Striking Order* (page 3) and the underlying *Applicant's Motion to Strike* both recognized that portions of Paul Krupin's 117-page pre-filed testimony might contain relevant evidence. The *Striking Order* also acknowledged that Dave Sharp's testimony may have contained potentially admissible evidence. However, the *Striking Order* elected not to take on the task of sorting out germane evidence offered by Mr. Krupin or Mr. Sharp from their objectionable testimony.

TCC should have an opportunity to re-submit portions of Mr. Krupin's evidence addressing issues approved for this adjudication which come within his qualifications. TCC should also have an opportunity to highlight and reiterate why any evidence presented by Mr. Sharp or any

¹ Due to the condensed litigation schedule and very few days remaining before the adjudicative hearing that begins on Monday, August 14, 2023, this order is being issued without pause to await responses from any other party regarding TCC's Request. All parties will be afforded due process to respond to TCC's motion for reconsideration.

² TCC's *Request* mistakenly indicates this prohibition was on page 2 of the *Second Prehearing Conference Order*. In fact, the language excluding motions for reconsideration appears toward the bottom of page 3.

other impacted witness should not have been stricken. Therefore, TCC's *Request for Leave to File Motion for Reconsideration* is **GRANTED**.

TCC should endeavor to promptly file its motion for reconsideration and ensure it (a) contains sufficient detail (*i.e.*, specifying page and line numbers for each witness's pre-filed testimony it wishes to see revisited by the administrative law judge (ALJ) and/or the Council) and (b) provides a concise rationale for revising the original ruling(s) contained in the *Striking Order*.

Responses, if any, to a TCC motion for reconsideration shall be filed within two (2) business days. Any such responses must succinctly respond to whatever arguments TCC sets out. The ALJ will endeavor to issue an *Order on Reconsideration* as soon as possible thereafter.

DATED and effective at Olympia, Washington, on the 2nd day of August, 2023.

WASHINGTON ENERGY FACILITY
SITE EVALUATION COUNCIL



Adam E. Torem, Administrative Law Judge