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March 23, 2023

Kathleen Drew
EFSEC Chair
kathleen.drew@efsec.wa.gov

Honorable Adam Torem
Administrative Law Judge for the Horse Heaven application
adamtorem@writeme.com

EFSEC Adjudication
Attn: Lisa Masengale / Horse Heaven
adjudication@efsec.wa.gov

Re: In the matter of the Application of Scout Clean Energy, LLC, Docket EF-210011:
Venue for Hearing.

Dear Chairperson Drew and Judge Torem:

This office represents Tri-Cities C.A.R.E.S (Tri-Cities Community Action for Responsible Environmental Stewardship). TCC is a Washington non-profit corporation originally incorporated on June 2, 2022 to protect critical wildlife habitats and cultural resources, reduce the intrusive visual impacts of turbines on local residents and preserve the natural landscapes that make the Tri-Cities community unique, healthy, and beautiful.

After filing its petition for intervention, TCC has been granted party status in this proceeding by order of ALJ Torem. As the only private party representing the interests of the residents and impacted businesses of Benton County, TCC intends to participate fully in the upcoming adjudication, which will decide whether the Applicant will be granted site certification approval for its project.

This proposal is the largest wind turbine/solar project ever proposed in the state of Washington. The project is 25 miles from east to west, 8 miles from north to south and encompasses nearly 115 square miles. More than 250,000 people live in the Tri-Cities

metropolitan area (within ten miles of the project) and more than 100,000 people live within six miles of the project boundary and its impacts. The interest of the community in these proceedings is evidenced by the 2,500 comments on the draft DEIS and substantial attendance at the public hearings.

Before TCC became a party to this proceeding, a decision was made to conduct the hearing on this matter remotely, through a virtual format, with no hearings in the Tri-Cities area, the site of the project. I write today to request this earlier decision be rescinded and that a significant portion of the hearing be conducted in the vicinity of the project. This request is based on the following considerations.

1. It is the policy of this state to recognize: “the important and fundamental nature of the public’s right to know about the inner workings of our government” and where residents have “historically and consistently demanded transparent and open government to allow public oversight.”¹ Many local residents do not have computers and those that do are not always able to easily connect to virtual formats. Further, it is difficult for interested residents to follow proceedings on the small computer screens found on laptops, tablets and other smaller devices. As a practical matter, the use of smart phones, with even smaller screens, will not permit meaningful observation and participation in the adjudication.

2. Completely virtual hearings were largely a product of the Covid-19 pandemic. However, these restrictions were ended in Washington state by the Governor’s Proclamation 20-05.1 terminating the COVID-19 State of Emergency on October 28, 2022.

3. Hearings on contested and substantial recent EFSEC proceedings were primarily held in the local communities, including Whistling Ridge (7 of 8 hearings in Skamania County) Tesoro/Vancouver Energy Distribution Terminal (2 of 5 weeks of hearings in Vancouver, only 100 miles up I-5 from Olympia), Kittitas Valley Wind Project (4 days of hearings in Ellensburg). Per Google Maps, affected residents would have to travel 265 miles from the Tri-Cities to Olympia to attend hearings, with travel time of more than four hours.

4. With the large number of residents impacted by the decision, holding a hearing in the vicinity of the project allows local residents to observe and participate in proceedings.

¹See *Northwest Gas Assn. v. Washington Utilities and Transportation Commission*, 141 Wn.App. 98, 122 (2007) “Citing *Progressive Animal Welfare Society v University of Washington*, 125 Wn 2d 243, 251 (1994).”

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An additional practical concern is involved. As noted above, the project is very large and spreads over 25 miles of ridge line in Benton County. Review of the evidence by EFSEC members will require review of multiple maps (many small scale), drawings, photographs, simulations and the like. Trying to make sense of these materials on 25 inch screens is an extraordinarily difficult task, especially with a screen already crowded with a gallery of witnesses, lawyers and staff. With EFSEC members potentially unfamiliar with adjudicative proceedings to begin with, this adds another layer of procedural questions and complexity. In an in-person hearing, large drawings and full screen presentations are available for all to see and it is easier for members of the Council to ask questions about those presentations.

This is not to say that some witnesses could not be heard in a virtual format, especially those unable to attend personally. Others may not require close examination of detailed drawings, photographs and similar material. However, virtual testimony should be the exception, not the rule.

Accordingly, TCC requests that a significant portion of the hearings take place in the local community.

Thank you for your attention to community concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Richard Aramburu". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

J. Richard Aramburu

JRA:cc

cc: TCC
Parties of Record