

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of
Docket No. EF-220011

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

Council Order No. 890

ORDER DENYING “PETITION FOR RECONSIDERATION” OF ORDER ON POST-HEARING MOTIONS TO SUPPLEMENT RECORD; DENYING FURTHER ADJUDICATIVE HEARINGS FOR CROSS-EXAMINATION OF SUPPLEMENTAL AND REBUTTAL WITNESS TESTIMONY

The Council has considered and hereby declines the October 2, 2023 Tri-Cities C.A.R.E.S (TCC) request for the Council to reconsider ALJ Torem’s September 22, 2023 *Order on Post-Hearing Motions to Supplement Record; Denying Further Adjudicative Hearings for Cross-Examination of Supplemental and Rebuttal Witness Testimony*.

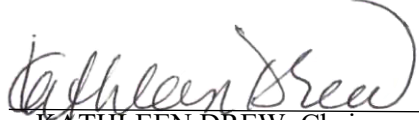
TCC terms its filing a “petition for reconsideration” of a “final order” under RCW 34.05.470. That provision does not apply here for two reasons. First, the ruling was made by the administrative law judge (ALJ) on a procedural matter. Second, even if had been decided by the Council, as it is now by this order, the matters it addresses are interlocutory and not the Council’s “final order” in the adjudication. Nonetheless, it is appropriate for the Council to consider timely-made requests by the parties for review of the ALJ’s procedural rulings.

Having considered TCC’s request, the Council reaffirms ALJ Torem’s reasoning as set out in his September 22, 2023 order. The Council will not attempt to respond here to all representations in TCC’s filing. However, the Council would emphasize that testimony in this adjudication was generally required to be pre-filed in writing by the deadlines established in the Second Pre-Hearing Conference Order, well before the adjudicative hearings. The eight days of adjudicative hearings were for the witnesses to briefly adopt and swear to their pre-filed initial, rebuttal and reply rounds of written testimony and then to stand reasonable cross examination on that written testimony. There was no general allowance for parties to submit new, untimely supplemental testimony during the hearings, except to address a few special circumstances that arose during the hearing. Those circumstances have been adequately explained in prior rulings.

ALJ Torem’s decisions regarding the parties’ supplemental witness testimony will not be disturbed by the Council.

DATED at Olympia, Washington, and effective November 11, 2023.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL


KATHLEEN DREW, Chair