

Before  
**THE SUPREME COURT OF OHIO**

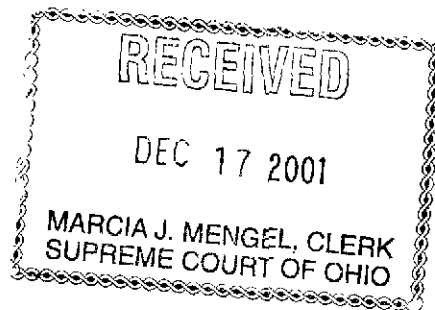
The Nature Conservancy  
c/o James F. Lang (Counsel of record)  
Calfee, Halter & Griswold LLP  
1400 McDonald Investment Center  
800 Superior Avenue  
Cleveland, Ohio 44114

Appellant,

VS.

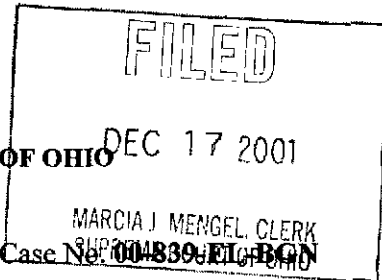
The Power Siting Board  
180 East Broad Street  
Columbus, Ohio 43215-3793

Appellee.



Supreme Court No. 01-2050

**01-2050**



Being Before  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the matter of the application of Cogentrix  
Energy, Inc. for a certificate of environmental  
compatibility and public need to construct a power  
generation facility in Jackson County.

Case No. 00-839-ELC-BON

**Volumes 1 - 5 of 13 (Pleadings)**

**Volumes 6 - 8 of 13 (Transcripts)**

**Volumes 9 - 12 of 13 (Exhibits)**

**Volume 13 of 13 (Correspondence)**

**INDEX DOCKET and ENTRIES**

**2000**

**ICN**

<b>5/12/00</b>	ICN #0001 In the matter of the application of Cogentrix Energy, Inc. for a certificate of environmental compatibility and public need to construct a power generation facility in Jackson County. (6 pgs.)	<b>1</b>
<b>5/15/00</b>	ICN #0002 Request that its motion for waivers filed on May 12, 2000, be modified filed on behalf of applicant by M. Fenlon. (1 pg.)	<b>2</b>
<b>7/18/00</b>	ICN #0003 Excerpt from the Master Plan Assessment for the Jackson City Schools filed by W. Felts. (6 pgs.)	<b>3</b>

INDEX DOCKET and ENTRIES

<u>2000</u>		<u>ICN</u>
7/20/00	ICN #0004 Application filed on behalf of applicant by S. Doyon. (296 pgs.)	4
7/24/00	ICN #0005 Proofs of Publication on behalf of applicant by A. Emerson. (3 pgs.) (Jackson County)	5
7/31/00	Correspondence letter supporting the application, filed by Brian D. McPherson, P.E., P.S., Jackson County Engineer (See Correspondence)	
7/31/00	Letter regarding support for the power generating plant proposed to be Constructed in Franklin Township of Jackson County. Filed by L. Foster (2 pgs) (See Correspondence)	
8/1/00	ICN #0008 Correspondence letters regarding the application, filed by various consumers. (28 pgs.) (See Correspondence)	
8/2/00	ICN #0009 Response letter sent to Brian McPherson, Jackson County Engineer's office filed by PUCO staff (See Correspondence)	
8/3/00	ICN #0010 Response letter to the Honorable Mike DeWine, filed on behalf of the PUCO staff. (1 pg.) (See Correspondence)	
8/3/00	ICN #0011 Response letter to the Honorable John Carey, Jr., filed on behalf of the PUCO staff. (1 pg.) (See Correspondence)	
8/3/00	ICN #0012 Response letter to the Honorable Michael Shoemaker filed on behalf of the PUCO staff. (1 pg.) (See Correspondence)	
8/3/00	ICN #0013 Response letter to the Honorable Ted Strickland filed on behalf of the PUCO staff. (1 pg.) (See Correspondence)	
8/3/00	ICN #0014 Correspondence letter regarding the application, filed by Congressman Ted Strickland. (1 pg.) (See Correspondence)	
8/3/00	ICN #0015 Correspondence letter regarding the application filed by Senator Mike DeWine. (1 pg.) (See Correspondence)	
8/3/00	ICN #0016 Correspondence letter regarding the application, filed by Senator Michael C. Shoemaker. (2 pgs.) (See Correspondence)	
8/3/00	ICN #0017 Correspondence letter regarding the application, filed by Representative John Carey. (2 pgs.) (See Correspondence)	

**INDEX DOCKET and ENTRIES**

<b><u>2000</u></b>		<b><u>ICN</u></b>
<b>8/31/00</b>	ICN #0018 Addendum to application filed on behalf of applicant by M. Enochs, P.E. (10 pgs.)	<b>6</b>
<b>9/11/00</b>	ICN #0019 Excerpt from the Master Plan Assessment for the Jackson City Schools filed on behalf of applicant by W. Felts. (7 pgs.)	<b>7</b>
<b>9/28/00</b>	ICN #0020 Comments filed on behalf of The Nature Conservancy by M. Kromer. (2 pgs.)	<b>8</b>
<b>10/3/00</b>	ICN #0021 Correspondence letter to Mr. Steven J. Doyon, Cogentrix Energy, filed on behalf of the PUCO staff. (2 pgs.) (See Correspondence)	
<b>10/6/00</b>	Entry ordering that Cogentrix's motion for waivers be granted with the exceptions set forth in Finding (9). (AE) (3 pgs)	<b>9</b>
<b>10/10/00</b>	Response of A, Schriber filed on behalf of PUCO (1 pg) (See Correspondence)	
<b>10/11/00</b>	ICN #0024 Affidavits of Jim Silvania filed on behalf of applicant by M. Fenlon. (21 pgs.)	<b>10</b>
<b>10/16/00</b>	ICN #0025 Correspondence letter opposing the application, filed by Edie Wolford. (1 pg.) (See Correspondence)	
<b>10/18/00</b>	ICN #0026 Response letter to Edie Wolford, filed on behalf of the PUCO staff. (1 pg.) (See Correspondence)	
<b>10/31/00</b>	ICN #0027 Entry scheduling a local public hearing at 6:30 p.m. on January 3, 2001, at the Lewis Family Restaurant, Jackson, Ohio; scheduling an adjudicatory hearing at 10:00 a.m. on January 4, 2001, at the Commission offices. (AE)	<b>11</b>
<b>11/8/00</b>	ICN #0028 Request to intervene, filed on behalf of The Franklin Township Trustees by R. Evans and J. Forshay. (1 pg.)	<b>12</b>
<b>11/13/00</b>	First set of interrogatories and request for production of documents to applicant Cogentrix Energy, filed on behalf of the PUCO staff.	<b>13</b>
<b>11/16/00</b>	Correspondence letter opposing the application filed by Harold Leach, Jr. (See Correspondence)	

**INDEX DOCKET and ENTRIES**

<u>2000</u>		<u>ICN</u>
11/16/00	First set of interrogatories and requests for document production filed on behalf of applicant by M. Fenlon.	14
11/17/00	Entry Nunc Pro Tunc ordering that the effective date of the application in this case contained in Finding 2 of the Entry dated October 31, 2000, be changed, nunc pro tunc, to November 3, 2000. (AE)	15
11/20/00	Proofs of Publication filed on behalf of applicant by M. Fenlon. (Jackson County)	16
11/20/00	Verification of Mr. Steve Doyon, project manager, filed on behalf of applicant by M. Fenlon.	17
11/27/00	Proof of publication filed on behalf of applicant by M. Fenlon. (Jackson County)	18
11/28/00	Correspondence letter opposing the application, filed by J. Bird, Ohio Coal Development Office. (See Correspondence)	
12/5/00	Proof of service of notice to property owners and submission of notice to the Ohio Power Siting Board and Chief Executive Officers of the Municipal Corporation and Townships, filed on behalf of applicant by M. Fenlon.	19
12/6/00	Additional information filed on behalf of applicant by M. Fenlon.	20
12/11/00	Request to reschedule public hearing and adjudicatory hearing and memorandum in support filed on behalf of applicant by C. Schraff.	21
12/13/00	Addendum to application filed by M. Enochs on behalf of the company.	22
12/13/00	Correspondence letter opposing the application filed by Wm. Helmtoller. (See Correspondence)	
12/13/00	Correspondence letter opposing the application filed by Shirley Jenkins. (See Correspondence)	
12/13/00	Correspondence letter opposing the application filed by Marvin & Beverly Stricklands. (See Correspondence)	
12/13/00	Correspondence letter opposing the application filed by Marlin & Cheryl Lovett. (See Correspondence)	

**INDEX DOCKET and ENTRIES**

<u>2000</u>		<u>ICN</u>
12/13/00	Correspondence letter opposing the application, filed by Richard and Susan Hall. (See Correspondence)	
12/14/00	Staff's second set of interrogatories and request for production of documents to applicant Cogentrix Energy, filed by J. Martin.	23
12/18/00	Entry ordering that the adjudicatory hearing be rescheduled to February 19, 2001; the local public hearing shall be rescheduled to February 12, 2001. (AE)	24
12/19/00	Additional information filed on behalf of applicant by M. Enochs, P.E.	25
12/19/00	Oversized documents filed with application.	26
12/19/00	Letter stating that Jackson County Power, LLC should be substituted for Cogentrix Energy as the applicant in this case, filed on behalf of applicant by C. Schraff..	27
12/19/00	Responses to second set of interrogatories and request for production of documents, filed on behalf of applicant by C. Schraff.	28
12/19/00	Letter stating that Christopher R. Schraff has been substituted as counsel for applicant, filed on behalf of applicant by M. Fenlon.	29
12/19/00	Response letter to Marvin Strickland, et al., filed on behalf of the PUCO staff. (See Correspondence)	
12/21/00	Correspondence letter opposing the application filed by C. Leach. (See Correspondence)	
12/21/00	Correspondence letter opposing the application filed by Rick Kelley. (See Correspondence)	
12/27/00	Correspondence letter opposing the application filed by Bertina Hurt. (See Correspondence)	
12/27/00	Correspondence letter opposing the application filed by Randy Spohn. (See Correspondence)	
12/28/00	Correspondence letter opposing the application filed by Marsha Swann. (See Correspondence)	

**INDEX DOCKET and ENTRIES**

**2001**

**ICN**

- 1/3/01 Correspondence letter to The Honorable Ted Strickland regarding his letter supporting the application, filed by J. Bird, Ohio Department of Development. (See Correspondence)
- 1/3/01 Response letter to Christopher S. Leach, et al., filed on behalf of the PUCO staff. (See Correspondence)
- 1/3/01 Correspondence letter opposing the application filed by Jennifer Lovett. (See Correspondence)
- 1/3/01 Correspondence letter opposing the application filed by Bertina Hurt. (See Correspondence)
- 1/4/01 Entry Nunc Pro Tunc ordering that the date and time of the adjudicatory hearing in this case, as it appears in the December 18, 2000 entry of the Administrative Law Judge, be changed nunc pro tunc to reflect that the hearing will take place at 10:00 a.m. at the Commission offices on February 20, 2001. (AE). 30
- 1/8/01 Correspondence letter to Jennifer Lovett regarding rescheduling of a hearing, filed on behalf of the PUCO staff.
- 1/12/01 Staff's third set of interrogatories and request for production of documents to applicant cogentrix energy, Inc. filed by J. Martin. 31
- 1/16/01 Correspondence letter opposing the application filed by Brian Hollback. (See Correspondence)
- 1/17/01 Correspondence letter opposing the application filed by Brian Hollback. (FILED 1/16/01) (See Correspondence)
- 1/18/01 Correspondence letter supporting the application filed by Lora Bobo. (FILED 1/17/01) (See Correspondence)
- 1/18/01 Correspondence letter stating that she is not opposed to this project filed by L. Bobo. (See Correspondence)
- 1/19/01 Answers and responses to Staff's third set of interrogatories and request for production of documents to applicant, filed on behalf of applicant by C. Schraff. 32
- 1/26/01 Request for rescheduling hearings and notice of intervention/notice of appearance and memorandum in support filed on behalf of Jake R. Forshey and Randy Evans by K. Gilliland. 33

INDEX DOCKET and ENTRIES

<u>2001</u>		<u>ICN</u>
1/26/01	Response letter to Brian Hollback filed on behalf of the PUCO staff. (See Correspondence)	
1/26/01	Response letter to Lora J. Bobo, filed on behalf of the PUCO staff. (See Correspondence)	
1/29/01	The nature conservancy's petition to intervene and to postpone the adjudicatory hearing date filed by J. Lang.	34
1/29/01	Staff Report.	35
1/31/01	Correspondence letters, supporting the application filed by: Roy L. Arthur, Jackson County Trustees Association. (See Correspondence)	
2/1/01	Memorandum contra motions for a continuance filed on behalf of the PUCO staff by J. Martin.	36
2/1/01	Memorandum in opposition to request by intervenors Jake Forshey and Randy Evans to reschedule public hearing and adjudicatory hearing, filed on behalf of applicant by C. Schraff.	37
2/2/01	Notice of appearance filed on behalf of applicant by R. Schmidt.	38
2/2/01	Memorandum in opposition to request to reschedule public hearing and adjudicatory hearing, filed on behalf of applicant by R. Schmidt.	39
2/2/01	Correspondence letter supporting the application filed by Charles and Catherine Harley, et al. (See Correspondence)	
2/2/01	Proof of publication. (Town Meeting) Wellston Telegram.	40
2/6/01	Correspondence letters supporting the application filed by Shawn & Jeffery Adkins, Stanley Johnson, Kimberly White; and correspondence letter opposing the application filed by Terri & John Slater. (See Correspondence)	
2/7/01	Entry ordering that the notice of intervention filed by the Trustees in this case is granted; that the motion by TNC to intervene is granted; that the requests for continuances of the two hearings already scheduled are granted in part and denied in part; that the adjudicatory hearing be called and continued to March 20, 2001, at 10:00 a.m., Commission offices. (AE)	41

INDEX DOCKET and ENTRIES

<u>2001</u>		<u>ICN</u>
2/7/01	Response letter to Freeman Jones, filed on behalf of the PUCO staff. (See Correspondence)	
2/7/01	Response letter to Ronald L. Evans, filed on behalf of the PUCO staff. (See Correspondence)	
2/7/01	Response letter to Harely Johnson, filed on behalf of the PUCO staff. (See Correspondence)	
2/7/01	Response letter to Robert Swann filed on behalf of the PUCO staff. (See Correspondence)	
2/7/01	Response letter to Vancil Comer filed on behalf of the PUCO staff. (See Correspondence)	
2/7/01	Response letter to Dave Evans filed on behalf of the PUCO staff. (See Correspondence)	
2/8/01	Correspondence letter opposing the application filed by Regina Chaney. (See Correspondence)	
2/12/01	First set of data requests directed to Jackson County Power, LLC filed by P. Rosato on behalf of Nature Conservancy	42
2/12/01	Response letter to Rick Crabtree, et al., filed on behalf of the PUCO Staff. (See Correspondence)	
2/13/01	Letter on the Cogentrix-Jackson Ohio Project filed by D. Evans. (See Correspondence)	
2/13/01	Letter regarding (Cogentrix) filed by J. Forshey. (See Correspondence)	
2/13/01	Proof of Notice filed by C. Schraff.	43
2/15/01	Correspondence letter opposing the application filed by Rita Strickland. (See Correspondence)	
2/15/01	Response letter to Regina Chaney filed on behalf of the PUCO staff. (See Correspondence)	
2/16/01	Request for status conference filed on behalf of applicant by R. Schmidt.	44
2/20/01	Notice of appearance of designation of trial attorney filed on behalf of Franklin Township Board of Trustees by R. Shostak.	45
2/20/01	Correspondence letter opposing the application filed by Kurtis Strickland. (See Correspondence)	
2/21/01	Correspondence letter opposing the application filed by Rita Strickland. (See Correspondence)	
2/21/01	Response letter to Deborah L. Evans filed on behalf of the PUCO staff. (See Correspondence)	



**INDEX DOCKET and ENTRIES**

<u>2001</u>		<u>ICN</u>
2/21/01	Responses to The Nature Conservancy's first set of data requests, filed on behalf of applicant by R. Schmidt, Jr.	46
2/23/01	Entry granting applicant's request for pre-hearing conference; scheduling a pre-hearing conference at 10:00 a.m. on March 13, 2001, at the Commission offices, Hearing Room 11-F. (AE)	47
2/23/01	Supplemental proof of notice filed on behalf of applicant by R. Schmidt, Jr. (Jackson County)	48
2/26/01	Response letter to Juanita J. Forshey, Jackson-Vinton County Farm Bureau, filed on behalf of the PUCO staff.. (See Correspondence)	
2/26/01	Response letter to Rita Strickland, filed on behalf of the PUCO staff. (See Correspondence)	
2/26/01	Response letter to Jeffrey Chesser, filed on behalf of the PUCO staff. (See Correspondence)	
2/26/01	Response letter to Rick Crabtree, filed on behalf of the PUCO staff. (See Correspondence)	
2/26/01	Transcript filed for hearing held 2/12/01, (SD), 173 pgs., Continued. (Jackson, Ohio) (See Transcripts)	
2/28/01	Correspondence letters opposing the application filed by various consumers. (See Correspondence)	
3/5/01	Supplemental proof of notice filed on behalf of applicant by C. Schraff. (Jackson County)	49
3/6/01	Transcript filed for hearing held 2/20/01, (SD), 6 pgs., Continued. (PUCO-Columbus, OH) (See Transcripts)	
3/15/01	Correspondence letter opposing the application filed by Regina Chaney. (See Correspondence)	
3/22/01	Response letter to Regina Chaney filed on behalf of the PUCO staff. (See Correspondence)	
4/3/01	Transcript filed for hearing held 3/20/01, (SD), 199 pgs., Continued. (PUCO-Columbus, OH) (See Transcripts)	

INDEX DOCKET and ENTRIES

2001

ICN

4/4/01	Transcript filed for hearing held 3/21/01, (SD), 186 pgs., Continued. (Volume II) (PUCO-Columbus, OH)	(See Transcripts)
4/4/01	Exhibits filed with transcript of hearing held 3/21/01, Volume II. (Part 1 of 2)	(See Exhibits)
4/4/01	Exhibits filed with transcript for hearing held 3/21/01, Volume II. (Part 2 of 2)	(See Exhibits)
4/5/01	Transcript filed for hearing held 3/22/01, (SD), 220 pgs., Continued. (Volume III) (PUCO-Columbus, OH)	(See Transcripts)
4/6/01	Transcript filed for hearing held 3/23/01, (SD), 176 pgs., Continued. (Volume IV) (PUCO-Columbus, OH)	(See Transcripts)
4/9/01	Transcript filed for hearing held 3/26/01, (SD), 50 pgs., Submitted. (Volume V) (PUCO-Columbus, OH) (Part 1 of 2)	(See Transcripts)
4/9/01	Transcript for hearing held 3/26/01, Volume V, continued. (Part 2 of 2)	(See Transcripts)
4/10/01	Request for extension to file merits brief, filed on behalf of Franklin Township Trustees by R. Shostak.	50
4/11/01	Entry granting applicant's request for a delay in the briefing schedule; initial briefs should be filed by 4/23/01; reply briefs shall be filed by 5/7/01. (AE)	51
4/12/01	Request for extension to file merits brief filed by B. Modrzakowski on behalf of the Franklin Township Trustees.	52
4/16/01	Correspondence letter talking about flooding in Jackson filed by S. Benson, City Engineer.	(See Correspondence)
4/19/01	Correspondence letter opposing the application filed by Randy Spohn.	(See Correspondence)
4/19/01	Response letter to Steven Benson, P.E., City of Jackson, and various consumers filed on behalf of the PUCO staff.	(See Correspondence)
4/23/01	Post hearing brief filed on behalf of applicant by C. Schraff.	53
4/23/01	Post hearing brief filed on behalf of The Nature Conservancy by J. Lang.	54
4/23/01	Post hearing brief filed on behalf of the PUCO Ohio Power Siting Board Staff by J. Bair and S. Koladin.	55

**INDEX DOCKET and ENTRIES**

<u>2001</u>		<u>ICN</u>
4/24/01	Merit brief filed on behalf of Franklin Township Trustees by A. Hall.	56
4/27/01	Correspondence letter to Jackie Bird opposing the application, filed by Heidi Ehret, Ohio Environmental Council. (See Correspondence)	
4/27/01	Correspondence letter opposing the application, filed by H. Ehret, Ohio Environmental Council. (See Correspondence)	
5/1/01	Response letter to Heidi Ehret, Ohio Environmental Council, filed by K. Wissman, PUCO staff. (See Correspondence)	
5/7/01	Reply brief to the post hearing brief of The Nature Conservancy and the merit brief of The Franklin Township Trustees, filed on behalf of applicant by C. Schraff.	57
5/7/01	Reply brief filed on behalf of The Nature Conservancy by J. Lang.	58
5/7/01	Reply brief filed on behalf of the PUCO staff by K. Danosi.	59
5/9/01	Reply brief filed on behalf of Franklin Township Trustees by B. Modrzakowski.	60
7/23/01	Opinion and order ordering a Certificate of Environmental Compatibility and Public Need be issued to Jackson County Power, LLC; certificate shall contain the conditions set forth in Sections V and VI of this order.	61
8/21/01	Motion for rehearing and memorandum in support filed on behalf of Franklin Township Trustees by R. Shostak.	62
8/22/01	Application for rehearing and memorandum in support filed on behalf of The Nature Conservancy by P. Rosato.	63
8/23/01	Correspondence letter opposing the application, filed by H. Ehret, Ohio Environmental Council. (See Correspondence)	
8/31/01	Memorandum in opposition to intervenor Trustees' motion for rehearing, filed on behalf of applicant by R. Schmidt, Jr.	64
8/31/01	Memorandum in opposition to The Nature Conservancy's application for rehearing, filed on behalf of applicant by R. Schmidt, Jr.	65

**INDEX DOCKET and ENTRIES**

<b><u>2001</u></b>		<b><u>ICN</u></b>
<b>9/17/01</b>	Entry ordering that the applications for rehearing filed by Trustees on August 21, 2001, and TNC on August 22, 2001, are denied. (OPSB)	<b>66</b>
<b>9/21/01</b>	Threatened and endangered species survey work plan filed on behalf of applicant by M. Enochs, P.E.	<b>67</b>
<b>10/9/01</b>	Storm water management plan filed.	<b>68</b>
<b>11/16/01</b>	Notice of Appeal filed on behalf of The Nature Conservancy by J. Lang.	<b>69</b>

**Before  
THE SUPREME COURT OF OHIO**

The Nature Conservancy )  
c/o James F. Lang (Counsel of record) )  
Calfee, Halter & Griswold LLP )  
1400 McDonald Investment Center )  
800 Superior Avenue )  
Cleveland, Ohio 44114 )

Appellant, )

VS. )

The Power Siting Board )  
180 East Broad Street )  
Columbus, Ohio 43215-3793 )

Appellee. )

**Supreme Court No. 01-2050**

**Being Before  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

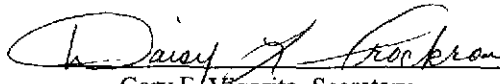
*In the matter of the application of Cogentrix )  
Energy, Inc. for a certificate of environmental )  
compatibility and public need to construct a power )  
generation facility in Jackson County. )*

**Case No. 00-839-EL-BGN**

### CERTIFICATION

I, Gary E. Vigorito, the duly appointed and qualified Secretary of The Public Utilities Commission of Ohio, in whose custody the books, records, and files of said Commission are kept, do hereby certify there is transmitted herewith the docket entries of the Commission. **ICN No. 1 - 69, the Opinion & Order dated July 23, 2001, and the Entry on Rehearing dated September 17, 2001, inclusive; and the Certification of the record in Case No. 00-839-EL-BGN.**

IN WITNESS THEREOF, I have thereunto set  
my hand and affixed the official seal of  
The Public Utilities Commission of Ohio this  
17<sup>th</sup> day of December, 2001.

  
\_\_\_\_\_  
Gary E. Vigorito, Secretary  
Daisy L. Crockron, Acting Secretary  
Ronald D. Rose, Acting Secretary

THE PUBLIC UTILITIES COMMISSION OF OHIO