

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
 Application of Calisolar, :
 Inc. for Approval of a :Case No. 11-2336-EL-AEC
 Unique Arrangement for :
 Calisolar, Inc.'s Ontario, :
 Ohio, Facility. :

- - -

PROCEEDINGS

before Mr. Gregory Price and Mr. Jonathan Tauber,
 Attorney Examiners, at the Public Utilities
 Commission of Ohio, 180 East Broad Street, Room 11-C,
 Columbus, Ohio, called at 10:30 a.m. on Tuesday, June
 14, 2011.

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APPEARANCES:

Boehm, Kurtz & Lowry
By Mr. Michael L. Kurtz
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of Colisolar.

FirstEnergy
By Mr. James W. Burk
76 South Main Street
Akron, Ohio 44308

On behalf of Cleveland Electric
Illuminating, Ohio Edison, and
Toledo Edison.

Mike DeWine
Ohio Attorney General
By Mr. Thomas W. McNamee
Assistant Attorney General
Public Utilities Section
180 East Broad Street
Columbus, Ohio 43215

On behalf of the Staff.

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WITNESSES

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Robert B. Fortney
Direct examination by

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JOINT EXHIBITS

ID'D

REC'D

1 - Stipulation and Recommendation
and Request for Expedited
Decision

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1 Tuesday Morning Session,
2 June 14, 2011.

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4 EXAMINER TAUBER: The Public Utilities
5 Commission of Ohio has called for hearing at this
6 time and place Case No. 11-2336-EL-AEC, being In the
7 Matter of the Application of Calisolar, Inc. for
8 Approval of Unique Arrangement for Calisolar, Inc.'s
9 Ontario, Ohio, Facility.

10 My name is Jonathan Tauber, with me is
11 Gregory Price, and we're the Attorney Examiners
12 assigned to this hearing.

13 At this point in time if we could have
14 appearances of the parties.

15 MR. KURTZ: Thank you, your Honor. On
16 behalf of Calisolar, Mike Kurtz, Boehm, Kurtz &
17 Lowry, 1510 URS Center, Cincinnati, Ohio.

18 MR. BURK: On behalf of Ohio Edison
19 Company, James W. Burk, 76 South Main Street, Akron,
20 Ohio, 44308.

21 MR. McNAMEE: On behalf of the staff of
22 the Public Utilities Commission of Ohio, Michael
23 DeWine, Attorney General of the State of Ohio, and
24 I'm Thomas W. McNamee, Assistant Attorney General,
25 180 East Broad Street, Columbus, Ohio.

1 EXAMINER TAUBER: Thank you.

2 Are there any preliminary matters to come
3 before the Commission this morning?

4 MR. KURTZ: Yes, your Honor, thank you.
5 On April 7, Calisolar filed a motion for a protective
6 order with respect to the application that was filed
7 in the case.

8 Subsequent to the application, a
9 stipulation was filed that should also contain
10 confidential information, so we would move at this
11 time that the protective order apply to both the
12 application and the stipulation.

13 EXAMINER TAUBER: Are there any
14 objections?

15 MR. McNAMEE: None.

16 MR. BURK: None.

17 EXAMINER TAUBER: The motion shall be
18 granted. There will be a protective order for the
19 information redacted in the stipulation. That should
20 be under protective order for 18 months. And looking
21 at the date, that would be December 14, 2012.

22 And I understand at this point in time a
23 stipulation has been docketed on the record?

24 MR. McNAMEE: Yes, your Honor. A
25 stipulation was filed in the case on May 31. We

1 believe that it resolves all issues in the case
2 amongst all three parties, and at this time we'd be
3 prepared to put on a witness to sponsor that
4 stipulation.

5 EXAMINER TAUBER: Proceed.

6 MR. McNAMEE: All right. At this time we
7 would call Robert Fortney.

8 (Witness sworn.)

9 - - -

10 ROBERT B. FORTNEY

11 being first duly sworn, as prescribed by law, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. McNamee:

15 Q. Mr. Fortney, can you state and spell your
16 name for the record, please?

17 A. Robert B. Fortney, F, as in Frank,
18 o-r-t-n-e-y.

19 Q. What's your business address?

20 A. 180 East Broad Street, Columbus, Ohio,
21 43215.

22 Q. By whom are you employed and in what
23 capacity?

24 A. I'm employed by the Public Utilities
25 Commission of Ohio as a public utilities

1 administrator.

2 MR. McNAMEE: Your Honor, at this time
3 I'd ask to have a multi-page document filed in this
4 case on May 31 denominated Stipulation and
5 Recommendation and Request for Expedited Decision,
6 marked for identification as Joint Exhibit 1.

7 EXAMINER TAUBER: It shall be so marked.

8 (EXHIBIT MARKED FOR IDENTIFICATION.)

9 Q. Mr. Fortney, do you have before you
10 what's just been marked as Joint Exhibit 1?

11 A. Yes.

12 Q. What is it?

13 A. It's the stipulation and recommendation
14 signed by the staff, Calisolar, and FirstEnergy,
15 regarding the application of Calisolar for a
16 reasonable arrangement.

17 Q. Are you familiar with that document, sir?

18 A. Yes, I am.

19 Q. In what way are you familiar with it?
20 Were you involved in its creation?

21 A. I was involved in negotiations and the
22 review of the draft documents.

23 Q. Good. And, Mr. Fortney, is the
24 stipulation a product of serious bargaining amongst
25 capable and knowledgeable parties?

1 A. Yes, I believe it certainly is. The
2 primary negotiator for FirstEnergy was Eileen
3 Mikkelsen, who is their director of regulatory
4 affairs. Primary negotiator early on for Calisolar
5 was David Stickler, later on it was Michael Kurtz.

6 And for the staff there was a negotiating
7 team consisting of Kim Bojko, who was at that time
8 chief of staff, and department directors Kim Wisman
9 and Jody Bear and myself and other staff members.

10 Q. Okay.

11 A. If you don't believe the bargaining was
12 serious, then you have never met Mr. Stickler.

13 Q. You know all these individuals and you
14 believe that they're capable and knowledgeable?

15 A. Yes, I do.

16 Q. Taken as a package does the stipulation
17 benefit ratepayers and is it in the public interest?

18 A. Yes, sure does.

19 Q. In what way?

20 A. Calisolar is planning to enter a former
21 GM plant in Ontario, Ohio, that is empty, what we
22 call Round Field site. They expect to hire between
23 830 and 1,100 employees. They expect to make 752
24 million in capital investment to revitalize the
25 plant.

1 And along with that all the secondary and
2 tertiary benefits that come about from having the job
3 along with the state, local, and school tax dollars.

4 Q. The terms of the stipulation are
5 important in achieving that end.

6 A. It will allow Calisolar to reopen that
7 plant. Yes.

8 Q. Does the stipulation violate any
9 regulatory principle or practice?

10 A. No, to the contrary. I think it supports
11 state policy. It will -- Calisolar will have
12 products that they will sell internationally. They
13 have also volunteered to contribute their energy
14 efficiency programs and demand response programs to
15 FirstEnergy. They've also agreed to build a
16 demonstration solar plant that FirstEnergy can use as
17 solar regs.

18 EXAMINER PRICE: When you say they're
19 going to commit their energy efficiency and peak
20 demand production to FirstEnergy, they're doing that
21 without any further compensation beyond --

22 THE WITNESS: That's my understanding,
23 yes.

24 EXAMINER PRICE: Thank you.

25 MR. McNAMEE: With that, your Honors, I

1 have no further questions.

2 EXAMINER TAUBER: Mr. Kurtz, do you have
3 any questions?

4 MR. KURTZ: No questions, your Honor.

5 MR. BURK: No questions, your Honor.

6 MR. McNAMEE: Your Honor, I would ask
7 that the Joint Exhibit 1 be admitted.

8 EXAMINER TAUBER: Are there any
9 objections?

10 (No response.)

11 Hearing none, Joint Exhibit 1 will be
12 admitted at this time.

13 (EXHIBIT ADMITTED INTO EVIDENCE.)

14 MR. McNAMEE: At this point, your Honor,
15 I think that would resolve all the issues that I'm
16 aware of in the case, and we have nothing further to
17 present.

18 EXAMINER TAUBER: Is there anything else
19 to come before the Commission this morning?

20 (No response.)

21 EXAMINER TAUBER: Hearing none, this
22 hearing shall be adjourned. Thank you.

23 (Hearing adjourned at 10:36 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Tuesday, June 14, 2011, and carefully compared with my original stenographic notes.

Julieanna Hennebert, Registered Professional Reporter and RMR and Notary Public in and for the State of Ohio.

My commission expires February 19, 2013.

(JUL-1735)

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This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

6/28/2011 10:09:51 AM

in

Case No(s). 11-2336-EL-AEC

Summary: Transcript Transcript of Calisolar, Inc. hearing held on 06/14/11 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Hennebert, Julieanna Mrs.