

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :
Application of Oregon Clean :
Energy, LLC for a :
Certificate of Environmental: Case No. 12-2959-EL-BGN
Compatibility and Public :
Need for an Electric :
Generating Facility in :
Oregon, Ohio, Lucas County :

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PROCEEDINGS

before Ms. Greta See, Administrative Law Judge, at
the Public Utilities Commission of Ohio, 180 East
Broad Street, Room 11-C, Columbus, Ohio, called at
10:00 a.m. on Tuesday, April 9, 2013.

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6 On behalf of Oregon Clean Energy, LLC.

7 Mike DeWine, Ohio Attorney General
8 Public Utilities Section
9 By Mr. Steven L. Beeler
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13 On behalf of the Staff of the Ohio Power
14 Siting Board.

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Tuesday Morning Session,
April 9, 2013.

- - -

ALJ SEE: Scheduled for hearing today at
this time is Case No. 12-2959-EL-BGN, entitled In the
Matter of the Application of Oregon Clean Energy, LLC
for a Certificate of Environmental Compatibility and
Public Need to Construct an Electric Generation
Facility.

My name is Greta See. I am the
Administrative Law Judge assigned by the Board to
hear this case.

At this time, I'd like to take
appearances of the parties.

On behalf of Oregon Clean Energy.

MS. BLOOMFIELD: On behalf of Oregon
Clean Energy, LLC, Sally W. Bloomfield, with the law
firm of Bricker & Eckler LLP, 100 South Third Street,
Columbus, Ohio, 43215.

ALJ SEE: And on behalf of the staff of
the Board.

MR. BEELER: Thank you. On behalf of the
Staff of the Ohio Power Siting Board, Ohio Attorney
General Mike DeWine, Steven Beeler, Assistant
Attorney General, 180 East Broad Street, Columbus,

1 Ohio.

2 ALJ SEE: Okay. Are there any members of
3 the public present that wish to make a statement
4 today?

5 (No response.)

6 ALJ SEE: Let the record reflect that
7 there are no members of the public present who wish
8 to make a statement.

9 With that, let's proceed with the hearing
10 today.

11 Ms. Bloomfield.

12 MS. BLOOMFIELD: Your Honor, we have a
13 number of exhibits that we previously marked and, at
14 this time, may I distribute them and give them to
15 you?

16 ALJ SEE: Yes.

17 MS. BLOOMFIELD: Can we -- may we
18 consider that the application which was filed, I
19 don't remember when, that really initiated this case,
20 as Company Exhibit 1, but I will not provide one for
21 the record if that's acceptable with you.

22 ALJ SEE: It's part of the docket, so
23 that's fine.

24 MS. BLOOMFIELD: Oh, yes, many copies.

25 And then I have a number of publication

1 documents.

2 ALJ SEE: Okay.

3 MS. BLOOMFIELD: Your Honor, if we could
4 go off the record for a minute, I'll get them all out
5 and then I'll identify them.

6 ALJ SEE: That's fine. Let's go off the
7 record.

8 (Off the record.)

9 ALJ SEE: Let's go back on the record.

10 Ms. Bloomfield.

11 MS. BLOOMFIELD: Your Honor, I have seven
12 exhibits, although, the second exhibit we've already
13 identified the application as Company Exhibit 1.

14 Then I have a Company Exhibit 2A and 2B,
15 and they refer to the publication for the
16 informational meeting; the B is just what we finally
17 received from the newspaper, but we had a copy of it
18 prior to that time, so those are A and B.

19 Then Company Exhibit 3 is the proof of
20 service on the local officials and libraries.

21 Company Exhibit 4 is the first
22 publication concerning the public hearings; that was
23 filed on February 14th.

24 Then we have a Company Exhibit 5 which is
25 a supplement to the application and that just

1 explains the mechanics of the energy tolling
2 agreement.

3 Company Exhibit 6 is a list of
4 commitments, I believe there's 21 commitments that
5 the company made and filed as a supplement to the
6 application.

7 And then Company Exhibit 7 is the last
8 publication of the public hearings.

9 ALJ SEE: Okay.

10 MS. BLOOMFIELD: And, at this time, we
11 would move these exhibits into the record.

12 ALJ SEE: The exhibits are marked as
13 requested.

14 (EXHIBITS MARKED FOR IDENTIFICATION.)

15 ALJ SEE: Ms. Bloomfield, do you plan to
16 have a witness --

17 MS. BLOOMFIELD: Yes, your Honor, we do.

18 ALJ SEE: -- on behalf the company?

19 MS. BLOOMFIELD: At this time, I'd like
20 to call Mr. Bill Martin to the stand.

21 MR. MARTIN: Is this the stand?

22 ALJ SEE: Yes, it is.

23 Please raise your right hand.

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WILLIAM J. MARTIN

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

DIRECT EXAMINATION

By Ms. Bloomfield:

Q. Good morning, Mr. Martin.

A. Good morning, Ms. Bloomfield.

Q. For the record, would you give your name
and business address.

A. Yes. It's William Joseph Martin, and the
business address is 20 Park Plaza, Suite No. 400,
Boston, Mass, 02116.

Q. And what is your association with Oregon
Clean Energy, LLC?

A. I'm a managing member of North America
Project Development, LLC, and that's "America"
without an "n", it's a mistake sometimes made, and
North America Project Development, LLC is the owner
of Oregon Clean Energy, LLC.

Q. And do you have a co-managing member?

A. I do. William Siderewicz.
S-i-d-e-r-e-w-i-c-z.

ALJ SEE: Repeat that for me, please.

THE WITNESS: Sure. William Siderewicz.
S-i-d-e-r-e-w-i-c-z.

1 Q. And were you and Mr. Siderewicz
2 responsible for developing the proposed 800-megawatt
3 generation station that is owned by Oregon Clean
4 Energy?

5 A. Yes, we are.

6 Q. Could you give a little background about
7 this project?

8 A. Sure, I'd be happy to. We're quite
9 familiar with Ohio. My company was the original
10 developer of the Fremont, Ohio, 700-plus megawatt
11 plant, in which we partnered with Calpine, and Bill
12 Siderewicz was an executive with Calpine at the time,
13 so the two of us had worked successfully in Ohio.

14 In meetings with different entities here
15 in Ohio, after that project was built, sold, and up
16 and operating, we had a tour of the plant, and in
17 discussions with people here in Ohio, we learned that
18 there may be capacity needs and requirements in Ohio,
19 particularly northwest Ohio.

20 So we began an analysis, and when we felt
21 that was indeed the case, that coal plants would be
22 shutting down in PJM, in other words, Ohio and
23 adjacent states, that they would have to be replaced
24 by reliable and economic and environmentally-clean
25 power plants, and gas-fired combined-cycle is really

1 the best in all those categories of all the baseload
2 plants you could create.

3 So we had very specific criteria for what
4 would make a good site for us, and we began
5 investigating properties, mostly in northwest Ohio.
6 I engaged the same realtor that helped us secure the
7 Fremont properties. We hired an environmental
8 consulting firm out of Toledo, to analyze different
9 sites, and sought legal guidance on certain laws,
10 processes, and regulations in Ohio, and that led to
11 us selecting the site that's now the Oregon Clean
12 Energy project site.

13 Q. And was that the only site that met all
14 the criteria that you were looking for?

15 A. That was the only site that met all the
16 criteria. We looked at a number of sites that were
17 good, but usually something was missing, it'd be
18 different in each case, and you really can't afford
19 to have any criterion missing or weak, and this
20 project had met all our criteria.

21 Q. And approximately when did you begin this
22 whole development process from the very beginning?

23 A. Well, it's been a long process, one could
24 argue that it started in 1999, but in terms of this
25 particular project, when we began calling it "Oregon

1 Clean Energy," it was in the summer or fall of 2010
2 is really when I came out to Oregon, and met with
3 city officials and other business leaders in the
4 community in Lucas County, really.

5 Q. And have you had a number of meetings
6 with the various officials?

7 A. Yes, too many to count, but all of them
8 productive. We started with Mike Beazley, who's the
9 city manager, we met with the town council, we met
10 with Mayor Seferian, we met with county officials,
11 and then began meeting business leaders throughout
12 the process.

13 Q. And did you encounter any objections to
14 the project?

15 A. Never once. Instead, we received only
16 encouragement and strong support, so that was
17 certainly a positive. There was one individual who
18 was very active in opposing the Bay Shore plant, so
19 we made a point of introducing ourselves to that
20 individual to describe our work and to see if she
21 would be an opponent or an ally or neutral, and I
22 think after a couple of meetings with that
23 individual, I believe they support the project.

24 Q. And the project, what zoning does the
25 project have where it's located?

1 A. From the get-go, it was in commercial,
2 industrial-zoned area.

3 Q. And you mentioned that you have -- you
4 participated in the development of the Fremont
5 project which also came before the Commission --

6 A. Uh-huh.

7 Q. -- and was certified in May of 2001. Did
8 you have a number of other projects, energy centers
9 similar that you've also worked on?

10 A. Yes. Bill and I both have over 33 years
11 experience in this business. Collectively, we've
12 developed over 10,000 megawatts of projects.
13 Fremont, by example, is 700 megawatts. We've
14 developed large projects and small projects. We
15 developed the first independent project in Columbia,
16 in South America, the first one in Africa, in
17 Tunisia, and several here in the U.S.

18 Q. Okay. One of the company exhibits that
19 was identified is the second supplement to the
20 application --

21 A. Uh-huh.

22 Q. -- which contains a number of commitments
23 that the applicant made. You are familiar with
24 those, are you not?

25 A. Yes, I am.

1 Q. And you agree to those commitments,
2 correct?

3 A. I do, yes.

4 Q. Have you studied the conditions in the
5 staff report?

6 A. Yes, I have.

7 Q. Do you and Oregon Clean Energy accept the
8 five conditions in the staff report?

9 A. We accept the five conditions in the
10 staff report, yes.

11 MS. BLOOMFIELD: That's all I have, your
12 Honor.

13 ALJ SEE: Mr. Beeler.

14 MR. BEELER: No questions, your Honor.

15 ALJ SEE: I have one question for you,
16 Mr. Martin. Assuming that this project is approved
17 as proposed by the board, can you tell me when
18 commercial operations are planned to commence?

19 THE WITNESS: We're targeting, we've been
20 targeting the summer of 2016, but that will be really
21 contingent upon the PJM feasibility -- facility
22 study. And I had a meeting with PJM on Monday in
23 Pennsylvania, they're the RTO that controls the
24 electrical grid, and I think that process will lead
25 us to a fall of 2016 or, perhaps, even a spring of

1 2017 start date.

2 ALJ SEE: Thank you.

3 THE WITNESS: My pleasure. Thank you.

4 ALJ SEE: With that, are there any
5 objections, Mr. Beeler, to the admission of Company
6 Exhibits 1, 2A and 2B, 3, 4, 5, 6, or 7?

7 MR. BEELER: No, your Honor.

8 ALJ SEE: Company Exhibits 1 through 7,
9 including 2A and 2B, shall be admitted into the
10 record.

11 (EXHIBITS ADMITTED INTO EVIDENCE.)

12 ALJ SEE: Mr. Beeler.

13 MR. BEELER: Thank you, your Honor. The
14 staff of the Board calls Christopher Cunningham.

15 ALJ SEE: Please raise your right hand,
16 Mr. Cunningham.

17 - - -

18 CHRISTOPHER K. CUNNINGHAM

19 being first duly sworn, as prescribed by law, was
20 examined and testified as follows:

21 DIRECT EXAMINATION

22 By Mr. Beeler:

23 Q. Mr. Cunningham, please state your name
24 and business address for the record.

25 A. Christopher King Cunningham. My business

1 address is 180 East Broad Street, Columbus, Ohio,
2 43215.

3 Q. By whom are you employed and in what
4 capacity?

5 A. I'm employed by the Public Utilities
6 Commission of Ohio. I'm a Utility Specialist 2, in
7 the Facilities Siting and Environmental Analysis
8 Division of the Department of Energy and Environment.

9 Q. Just briefly describe your educational
10 background and work experience.

11 A. Sure. I have a bachelor of arts in
12 chemistry and a master's in city and regional
13 planning from Ohio State. I have been continuously
14 employed by the Public Utilities Commission since
15 September of 2006.

16 My primary responsibilities are to act as
17 a lead analyst in power siting cases and, also, I'm
18 responsible for environmental enforcement for those
19 same cases. I'm a subject-matter expert on land-use
20 issues and cultural-resource issues, and I'm also
21 responsible for mapping and geographic information
22 systems.

23 Q. Have you previously testified before the
24 board?

25 A. Yes.

1 Q. What's the purpose of your testimony in
2 this proceeding?

3 A. I'm supporting the application as
4 supplemented and the staff-recommended conditions as
5 filed and accepted by the applicant, Oregon Clean
6 Energy, LLC.

7 The staff report -- or, I'm sorry, the
8 application as supplemented and the staff-recommended
9 conditions represents a -- I'm sorry, represents a
10 reasonable compromise on the issues related to this
11 proceeding. It's my opinion that the application, as
12 supplemented, and the staff-recommended conditions
13 should be adopted and approved by the board.

14 MR. BEELER: At this time, your Honor,
15 I'd like to have marked, as Staff Exhibit 1, the
16 staff report.

17 ALJ SEE: Thank you.

18 (EXHIBIT MARKED FOR IDENTIFICATION.)

19 Q. Again, marked as Staff Exhibit 1 is the
20 Staff Report of Investigation that was filed in this
21 docket on March 18th, 2013. Mr. Cunningham, do you
22 have in front of you what has been marked as Staff
23 Exhibit 1?

24 A. I do.

25 Q. Again, what is it?

1 A. It's the Staff Report of Investigation
2 for the Oregon Clean Energy Facility -- Center.

3 Q. Was it prepared by you or under your
4 direction?

5 A. Yes.

6 Q. Is it true and accurate, to the best of
7 your knowledge?

8 A. Yes.

9 Q. Do you have any changes to Staff Exhibit
10 1?

11 A. I do. On page 18, the last paragraph,
12 second sentence, I'd like to strike that sentence
13 that reads: "However, the owner of the closest
14 residence has signed a neighbor agreement, thereby
15 making the residence a participant of the project."

16 Q. Does that change, does it affect the
17 recommendation proposed by the parties in this
18 proceeding?

19 A. No, it doesn't.

20 Q. Based on your experience in other
21 proceedings before the board, is the application as
22 supplemented and the agreed-to staff conditions
23 reasonable?

24 A. Yes.

25 Q. Do you believe the application and staff

1 conditions we have discussed today is a product of
2 serious bargaining among knowledgeable parties?

3 A. Yes. It was an open process where all
4 parties were represented by experienced counsel and
5 technical staff who had participated in many
6 proceedings before the board. There were no
7 intervenors, so the case was uncontested.

8 Q. So all the parties to this case were
9 included in negotiations prior to today?

10 A. Yes.

11 Q. In your opinion, is the application, as
12 supplemented, and the staff conditions, that
13 agreement, is that in the public interest?

14 A. Yes.

15 Q. How?

16 A. As a reaction to the Mercury and Air
17 Toxics Standards and the Cross-State Air Pollution
18 Rules, there are over 6 gigawatts of capacity
19 scheduled to be retired or to go offline in 2015.
20 Over two-and-a-half of those gigawatts of capacity
21 are in the First Energy service territory.

22 This project is an 800-megawatt project
23 and it's also located in the First Energy service
24 territory. It does offset a large portion of the
25 two-and-a-half gigawatts of capacity that are

1 scheduled to go offline which goes a long way towards
2 ensuring reliability and price stability in the
3 service territory.

4 Additionally, the project area -- the
5 project site is located in a heavily-industrialized
6 area. There are very few environmental issues on
7 that site.

8 In addition to providing reliable
9 electric service in the area, construction of the
10 facility would create approximately 500 jobs,
11 construction-related jobs, and the operation of the
12 facility would create 25 full-time permanent
13 positions.

14 Q. Thank you.

15 Does the application as supplemented, and
16 the agreed-to staff conditions, overall, does that
17 violate any important regulatory principle or
18 practice?

19 A. No, it doesn't.

20 Q. Are you recommending that the board
21 approve the application as supplemented with the
22 addition of the agreed-to staff conditions?

23 A. Yes. I believe the application and the
24 staff conditions, agreed upon today, represent a
25 fair, balanced, and reasonable compromise to the

1 issues related to this case, and is a fair and just
2 result for customers.

3 Q. Is there anything else that you would
4 find important to note for the board?

5 A. No.

6 MR. BEELER: That's all the questions I
7 have, your Honor.

8 ALJ SEE: Any cross-examination,
9 Ms. Bloomfield?

10 MS. BLOOMFIELD: No, your Honor.

11 ALJ SEE: Mr. Cunningham, I have a couple
12 of questions to clarify the staff report.

13 You struck the sentence in the last
14 paragraph on page 18?

15 THE WITNESS: Yes.

16 ALJ SEE: Explain why, please.

17 THE WITNESS: Sure. It's the second
18 sentence in the last paragraph?

19 ALJ SEE: Uh-huh.

20 THE WITNESS: Yeah. Initially, the
21 applicant was trying to negotiate a neighbor
22 agreement with a property that is located adjacent to
23 the project site; that property is owned by First
24 Energy. They have -- the residence living in that --
25 the person living in that residence has a 99-year

1 lease with First Energy. I believe that that was
2 part of past mitigation for construction of adjacent
3 power lines.

4 So there was some issue with -- some
5 legal issues with coming up with a neighbor
6 agreement. That's not to say it couldn't happen in
7 the future, but not in time for this staff report to
8 be filed.

9 Q. Okay. How close is the next-closest
10 residence to the proposed site?

11 A. I don't have that number.

12 Q. Approximately.

13 A. I'd say under a quarter mile.

14 Q. Okay.

15 A. None of the other residences, other than
16 the one that's adjacent to the property, would be
17 exposed to any noise over 60 decibels. That's the
18 important piece of information.

19 Q. There are two, currently two residents
20 adjacent to the proposed site, correct, in addition
21 to the one you discussed earlier?

22 A. Correct.

23 Q. Will they continue to be there if the
24 project is approved and built?

25 A. No.

1 ALJ SEE: Okay. Thank you,
2 Mr. Cunningham.

3 MR. BEELER: At this time, your Honor, I
4 would move for the admission of Staff Exhibit 1 into
5 the record.

6 ALJ SEE: Are there any objections to the
7 admission of Staff Exhibit 1?

8 MS. BLOOMFIELD: No, your Honor.

9 ALJ SEE: Staff Exhibit 1 is admitted
10 into the record.

11 (EXHIBIT ADMITTED INTO EVIDENCE.)

12 ALJ SEE: And, if there are no other
13 matters to be addressed today, the hearing is
14 adjourned. Thank you.

15 I'm sorry, one other point of
16 clarification. Will Oregon be requesting that this
17 transcript be expedited?

18 MS. BLOOMFIELD: Yes, your Honor.

19 ALJ SEE: And that will be for overnight,
20 one-day service?

21 MS. BLOOMFIELD: Yes, your Honor.

22 ALJ SEE: Thank you very much.

23 With that, the hearing is adjourned.

24 (The hearing adjourned at 10:27 a.m.)

25 - - -

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, April 9, 2013, and carefully compared with my original stenographic notes.

Carolyn M. Burke, Registered
Professional Reporter, and
Notary Public in and for the
State of Ohio.

My commission expires July 17, 2013.

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This foregoing document was electronically filed with the Public Utilities

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in

Case No(s). 12-2959-EL-BGN

Summary: Transcript in the matter of Oregon Clean Energy, LLC hearing held on 04/09/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Burke, Carolyn M. Mrs.