

BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the :  
Application of Hecate Energy :  
Highland LLC for a Certificate : Case No.  
of Environmental Compatibility : 18-1334-EL-BGN  
and Public Need to Construct :  
a Solar-Powered Electric :  
Generating Facility in :  
Highland County, Ohio :

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PROCEEDINGS

Before Nicholas Walstra, Administrative Law  
Judge, held at the offices of the Public  
Utilities Commission of Ohio, 180 East Broad  
Street, Room 11-D, Columbus, Ohio, on Tuesday,  
March 26, 2019 at 10:00 A.M.

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APPEARANCES:

Squire Patton Boggs  
By Ms. Karen A. Winters  
and  
Ms. Danelle M. Gagliardi  
2000 Huntington Center  
41 South High Street  
Columbus, Ohio 43215

On behalf of Hecate Energy  
Highland LLC.

Ms. Amy Milam  
280 North High Street  
6th Floor  
Columbus, Ohio 43215

On behalf of the Ohio Farm  
Bureau.

Mr. Werner L. Margard  
Assistant Attorney General  
30 East Broad Street  
16th Floor  
Columbus, Ohio 43215

On behalf of the Staff of the  
Ohio Power Siting Board.

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INDEX TO EXHIBITS

- - -

IDENTIFIED

HECATE ENERGY EXHIBITS

|    |   |    |
|----|---|----|
| 1  | Application   | 9  |
| 2  | Supplement to Application                             | 10 |
| 3  | Preconstruction Noise Study                           | 10 |
| 4  | Notice Regarding Modification<br>of Project Footprint | 11 |
| 5  | Proof of Notice of Public<br>Informational Meeting    | 11 |
| 6  | Proof of Service                                      | 12 |
| 7  | Proof of Initial Public<br>Notice                     | 12 |
| 8  | Proof of Second Public Notice                         | 13 |
| 9  | Direct Testimony of Patti Shorr                       | 13 |
| 10 | Joint Stipulation and<br>Recommendation               | 14 |
| 11 | Direct Testimony of Emily<br>Kosmalski                | 17 |

STAFF EXHIBITS

|   |  |    |
|---|--|----|
| 1 | Prefiled Testimony of<br>Robert Holderbaum | 20 |
|---|--|----|

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INDEX TO WITNESSES

- - -

DIRECT CROSS

HECATE ENERGY WITNESSES

|                 |    |
|-----------------|----|
| Patti Shorr     | 9  |
| Emily Kosmalski | 16 |

STAFF WITNESSES

|                   |    |
|-------------------|----|
| Robert Holderbaum | 19 |
|-------------------|----|

- - -

1 Tuesday Morning,  
2 March 26, 2019.

3 - - -

4 ALJ WALSTRA: The Ohio Power Siting  
5 Board has called for hearing at this time and  
6 place Case No. 18-1334-EL-BGN titled In the  
7 Matter of the Application of Hecate Energy  
8 Highland LLC for Certificate of Environmental  
9 Compatibility and Public Need for an Electric  
10 Generating Facility in Mowrystown, Highland  
11 County, Ohio.

12 My name is Nick Walstra, I am the  
13 Administrative Law Judge assigned by the Board  
14 to hear this case. We will begin by taking  
15 appearances of the parties. We will start with  
16 the Applicant.

17 MS. WINTERS: Your Honor, my name is  
18 Karen Winters. I am an attorney with Squire  
19 Patton Boggs, and I am here representing Hecate  
20 Energy Highland LLC, which is the Applicant in  
21 these proceedings.

22 ALJ WALSTRA: Thank you.

23 MS. GAGLIARDI: I am Danelle  
24 Gagliardi, I am co-counsel representing Hecate  
25 Energy Highland.

1 MR. MARGARD: Your Honor, on behalf  
2 of the Staff of the Power Siting Board, Dave  
3 Yost, Ohio Attorney General, by Assistant  
4 Attorneys General Thomas Lindgren and Werner L.  
5 Margard, 30 East Broad Street, 16th Floor,  
6 Columbus, Ohio.

7 ALJ WALSTRA: Thank you.

8 MS. MILAM: Good morning, Your  
9 Honor. Amy Milam on behalf of the Ohio Farm  
10 Bureau Federation. 280 North High Street,  
11 Columbus, Ohio 43215.

12 ALJ WALSTRA: Thank you. Any  
13 preliminary matters?

14 MS. WINTERS: Yes, Your Honor. Two  
15 items. First of all, the parties have entered  
16 into a Joint Stipulation and Recommendation.  
17 That Joint Stipulation and Recommendation was  
18 filed yesterday, late afternoon. Our apologies  
19 with respect to the lateness of the filing.

20 I understand from the rule that the  
21 Joint Stipulation and Recommendation is due  
22 within 24 hours of the hearing, and I would  
23 respectfully ask that the requirement of the  
24 rule be waived. I am guessing that my  
25 colleagues would agree or join in that motion.

1 And, I see some nodding here, and certainly ask  
2 on behalf of the Board Staff and the Farm  
3 Bureau.

4 ALJ WALSTRA: Thank you. Any  
5 objections to the request for waiver?

6 MR. MARGARD: No objection.

7 MS. MILAM: No objection.

8 MS. WINTERS: One other item with  
9 respect to the Joint Stipulation and  
10 Recommendation. It does reference a map that is  
11 to have been included in the Joint Stipulation  
12 and Recommendation. It's missing from the  
13 filing that was made yesterday to the docket.  
14 I understand that Mr. Holderbaum will be  
15 offering that map a little later today in  
16 connection with his direct testimony and it will  
17 clear that up at this time.

18 And perhaps Attorney Margard can  
19 confirm that.

20 MR. MARGARD: Your Honor, we will be  
21 providing the map. Unfortunately, we will have  
22 to be providing it as a late filed exhibit. We  
23 don't have it available for the hearing this  
24 morning, but we will provide that subsequent to  
25 the hearing.

1 ALJ WALSTRA: Thank you. That  
2 works. In regard to the waiver, officially I  
3 will grant the waiver, hearing no objections, I  
4 will grant it for good cause.

5 MR. MARGARD: Thank you.

6 ALJ WALSTRA: Would you like to call  
7 your first witness?

8 MS. WINTERS: I would like to call  
9 Patti Shorr to the stand on behalf of Hecate  
10 Energy Highland LLC.

11 (WITNESS SWORN)

12 MS. WINTERS: Your Honor, we have  
13 provided counsel for the Ohio Farm Bureau  
14 Federation and the court reporter and now I am  
15 handing you what we have marked as Exhibits 1  
16 through 11. Mr. Lindgren had assured me  
17 yesterday that he could do without his stack of  
18 exhibits, and Mr. Margard has assured me much  
19 the same this morning. So we will not belabor  
20 Mr. Margard any further with those exhibits.

21 And they are provided to you in a  
22 stack here for ease of reference and speed as we  
23 go through these.

24 ALJ WALSTRA: Okay.

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PATTI SHORR

called as a witness, being first duly sworn,  
testified as follows:

DIRECT EXAMINATION

By Ms. Winters:

Q. Could you please state your name for  
the record?

A. Patti Shorr.

Q. And, Ms. Shorr, can you tell us what  
your role is with Hecate Energy and with respect  
to the project that is the subject of this  
certification today?

A. Yes. I am the Vice President  
Project Development, and I am leading the  
development of the project.

Q. I am going to hand you a series of  
exhibits and ask you to work your way through  
this. I will hand you what's been marked as  
Exhibit 1, and ask you if you can identify this  
exhibit?

A. Exhibit 1 is the Application In The  
Matter of Hecate Energy Highland LLC for a  
Certificate of Environmental Compatibility and  
Public Need, Case 18-1313-EL-BGN.

Q. Okay. And was this application

1 prepared by you or at your direction?

2 A. Yes.

3 Q. And is this a true and accurate copy  
4 of the application?

5 A. Yes.

6 Q. Thank you. And I will hand you  
7 what's been marked as Exhibit 2, and ask you if  
8 you can identify this document?

9 A. Exhibit 2 is dated December 6th,  
10 2018. It was supplemental information provided  
11 to the Power Siting Board.

12 Q. And was this prepared by you or at  
13 your direction?

14 A. Yes.

15 Q. And is it a true and accurate copy  
16 to the best of your knowledge?

17 A. Yes.

18 Q. And I will hand you what's been  
19 marked as Exhibit 3, and ask you if you can  
20 identify this document?

21 A. Yes. This was a document filed with  
22 the Ohio Power Siting Board on February 8th,  
23 which is a request for docketing our  
24 Preconstruction Noise Study and Noise Modeling  
25 of Operations.

1 Q. Was this prepared by you or at your  
2 direction?

3 A. Yes, it was.

4 Q. And is it a true and accurate copy  
5 to the best of your knowledge?

6 A. It is.

7 Q. I will hand you what's been marked  
8 Exhibit 4, and ask you if you can identify this  
9 document?

10 A. Yes. This is a document, Exhibit 4,  
11 notice regarding the Project Modification of  
12 Project Footprint.

13 Q. And was this prepared by you or at  
14 your direction?

15 A. Yes, it was.

16 Q. And is it a true and accurate copy  
17 to the best of your knowledge?

18 A. It is.

19 Q. I am going to hand you what's been  
20 marked as Exhibit 5, and ask you if you can  
21 identify this document?

22 A. Yes. This is the Proof of Notice of  
23 Public Informational Meeting that was scheduled  
24 for August 27th.

25 Q. And was this prepared by you or at

1 your direction?

2 A. It was.

3 Q. And is this a true and accurate copy  
4 to the best of your knowledge?

5 A. It is.

6 Q. Okay. I am going to hand you what's  
7 been marked as Exhibit 6, and ask you if you can  
8 identify this document?

9 A. Yes. Exhibit 6 is Proof of Service  
10 noting that cover letters were sent on January  
11 11th and on January 14th.

12 Q. Thank you. Was this prepared by you  
13 or at your direction?

14 A. It was.

15 Q. And is it true and accurate to the  
16 best of your knowledge?

17 A. Yes.

18 Q. I will ask you if you can identify  
19 Exhibit 7 for me?

20 A. Yes. Exhibit 7 is Proof of Initial  
21 Public Notice sent on January 29th, 2019.

22 Q. Was this prepared by you or at your  
23 direction?

24 A. Yes.

25 Q. And is it a true and accurate copy

1 to the best of your knowledge?

2 A. It is.

3 Q. I am going to hand you what has been  
4 marked as Exhibit 8, and ask you if you can  
5 identify that document?

6 A. Exhibit 8 is Proof of Second Public  
7 Notice circulated on March 8th, March 9th, and  
8 March 10th.

9 Q. And I am going to ask you if that  
10 was prepared by you or at your direction?

11 A. It was.

12 Q. And I am going to ask you as well if  
13 that's a true and accurate copy to the best of  
14 your knowledge?

15 A. It is.

16 Q. I am going to hand you what's been  
17 marked as Exhibit 9, and ask you if you can  
18 identify that document for us?

19 A. Exhibit 9 is my direct testimony to  
20 the Board.

21 Q. And that was prepared by you or at  
22 your direction?

23 A. It was.

24 Q. And is it true and accurate to the  
25 best of your knowledge?

1           A.    It is.

2           Q.    Do you have any corrections to that  
3 testimony at the present time?

4           A.    Not at this time.

5           Q.    I am going to ask you to take a look  
6 at Exhibit 10, and ask you if you can identify  
7 that document?

8           A.    Exhibit 10 is the Joint Stipulation  
9 and Recommendation.

10          Q.    Were you involved in the preparation  
11 of that document?

12          A.    I was.

13          Q.    A couple more questions, Ms. Shorr.  
14 There were a handfull of concerns expressed in  
15 connection with your direct testimony regarding  
16 some of the terms and conditions that were set  
17 forth in the Staff's Report of Investigation;  
18 is that correct?

19          A.    There were.

20          Q.    Were those concerns addressed in the  
21 Joint Stipulation and Recommendation?

22          A.    They are.

23          Q.    Can you tell who the Joint  
24 Stipulation and Recommendation is among?

25          A.    Among Hecate Energy Highland LLC,

1 the Applicant; the Ohio Power sitting Board  
2 Staff; the Ohio Attorney General; and the Ohio  
3 Farm Bureau.

4 Q. Was the Joint Stipulation and  
5 Recommendation the product of arms' length  
6 negotiation?

7 A. It was.

8 Q. Were all parties represented by  
9 counsel in connection with the development of  
10 the Joint Stipulation and Recommendation?

11 A. They were.

12 Q. Do you have a recommendation to the  
13 a ALJ and the Board with respect to the Joint  
14 Stipulation and Recommendation?

15 A. I recommend that the Joint  
16 Stipulation and Recommendation be adopted.

17 MS. WINTERS: Thank you. I have no  
18 further questions of Ms. Shorr. And before I  
19 forget I would like to move the exhibits into  
20 evidence.

21 ALJ WALSTRA: Thank you. Any there  
22 other questions for the witness?

23 MR. MARGARD: No cross-examination.  
24 Thank you, Your Honor.

25 MS. MILAM: No, Your Honor.

1 ALJ WALSTRA: And any objection to  
2 the admission of Hecate Exhibits 1 through 11?

3 MR. MARGARD: No objections, Your  
4 Honor.

5 MS. MILAM: No objections, Your  
6 Honor.

7 ALJ WALSTRA: They will all be  
8 admitted.

9 (EXHIBITS ADMITTED INTO EVIDENCE)

10 ALJ WALSTRA: You are all set.  
11 Thank you.

12 THE WITNESS: Thank you.

13 MS. WINTERS: I would like to call  
14 Ms. Emily Kosmalski to the stand.

15 (WITNESS SWORN)

16 ALJ WALSTRA: Please take a seat.

17 - - -

18 EMILY KOSMALSKI

19 called as a witness, being first duly sworn,  
20 testified as follows:

21 DIRECT EXAMINATION

22 By Ms. Winters:

23 Q. Ms. Kosmalski, can you state your  
24 name for the record, please?

25 A. Emily Kosmalski.



1           Q.    Can you also please tell us your  
2 position and your role with respect to the  
3 project?

4           A.    I am a Senior Associate with  
5 Terracon and environmental planner and assisted  
6 with the coordination and oversight of the  
7 special studies for this project.  And also  
8 assisted with the coordination of the  
9 application with regard to the project.

10          Q.    I am going to hand you what's been  
11 marked as Exhibit 11, and ask you if you can  
12 identify this document?

13          A.    That is my direct testimony before  
14 the Ohio Power Siting Board.

15          Q.    Was this prepared by you or at your  
16 direction?

17          A.    It was.

18          Q.    Do you have any corrections at this  
19 time?

20          A.    I do not.

21          Q.    There were a number of concerns  
22 regarding recommended conditions from the Staff  
23 Report of Investigation.

24          A.    That's correct.

25          Q.    Okay.  And I am going to hand you

1 what's been marked previously as Exhibit 10, and  
2 ask you if you can identify this document?

3 A. This is the Joint Stipulation and  
4 Recommendation before the Ohio Power Siting  
5 Board.

6 Q. Have you had an opportunity to  
7 review that document?

8 A. I have.

9 Q. Are any concerns regarding the  
10 conditions set forth in the Staff Report of  
11 Investigation addressed by that Joint  
12 Stipulation?

13 A. I believe all concerns were  
14 addressed.

15 MS. WINTERS: Thank you. I have no  
16 further questions of Ms. Kosmalski, and also I  
17 move the admission of Exhibit No. 11 into  
18 evidence.

19 ALJ WALSTRA: Thank you. Any  
20 questions?

21 MR. MARGARD: No cross-examination.  
22 Thank you, Your Honor.

23 MS. MILAM: No, Your  
24 Honor.

25 ALJ WALSTRA: All right. Thank you.

1 I think I previously admitted 11, but we will  
2 now formally admit Exhibit 11 into evidence.

3 (EXHIBIT HEREBY ADMITTED INTO  
4 EVIDENCE)

5 MS. WINTERS: That's all we have for  
6 our case in chief, Your Honor.

7 ALJ WALSTRA: Thank you. Mr.  
8 Margard.

9 MR. MARGARD: Thank you, Your Honor.  
10 Staff would call Mr. Robert Holderbaum to the  
11 stand, please

12 (WITNESS SWORN)

13 MR. MARGARD: Your Honor, let the  
14 record reflect that I placed before the witness,  
15 the Bench and the court reporter, a copy of the  
16 document marked for purposes of identification  
17 as Staff Exhibit No. 1.

18 (EXHIBIT HEREBY MARKED FOR  
19 IDENTIFICATION PURPOSES)

20 ALJ WALSTRA: So marked.

21 - - -

22 ROBERT HOLDERBAUM  
23 called as a witness, being first duly sworn,  
24 testified as follows:

25 DIRECT EXAMINATION

1 By Mr. Margard:

2 Q. Mr. Holderbaum, can you please  
3 identify yourself for the Board?

4 A. My name is Robert Holderbaum.

5 Q. And by whom are you employed and in  
6 what capacity, please?

7 A. I am a Utility Specialist with the  
8 Ohio Power Siting Board staff.

9 Q. Sir, do you have before what's been  
10 marked as Staff Exhibit No. 1?

11 A. Yes.

12 Q. Could you identify that document for  
13 me, please?

14 A. Yes. This is my prefiled testimony  
15 for the application.

16 Q. Was this document prepared by you or  
17 at your direction?

18 A. Yes.

19 Q. Have you had an opportunity to  
20 review this document prior to taking the stand  
21 today?

22 A. Yes.

23 Q. In so doing did you note any  
24 changes, corrections, modifications of any kind  
25 to this document?

1 A. No.

2 Q. So if I would ask you the questions  
3 contained in this document would your responses  
4 be the same?

5 A. Yes.

6 Q. And in your opinion would those  
7 responses be true and accurate?

8 A. Yes.

9 Q. Let me ask you briefly, sir, what  
10 responsibility did you have with the preparation  
11 of this Staff Report of Investigation in this  
12 case?

13 A. I was the lead for Staff on the  
14 case.

15 Q. Have you had an opportunity to  
16 review the Staff Report of Investigation prior  
17 to taking the stand today?

18 A. Yes.

19 Q. Do you have any changes,  
20 corrections, note any modifications that need to  
21 be made to the Staff Report of Investigation?

22 A. I do not.

23 Q. So you have heard us discuss today a  
24 map to be provided later in this proceeding.  
25 Can you briefly describe for us what that map

1 is?

2 A. Yes. It's just a more accurate map  
3 of the project layout. Staff did not add the 95  
4 acre parcel that was added later in the process,  
5 so we updated the map which includes all the  
6 parcels in the project.

7 Q. Have you had an opportunity to  
8 review that map prior to the proceeding today?

9 A. Yes.

10 Q. And in your opinion does that map  
11 accurately reflect the project?

12 A. Yes.

13 MR. MARGARD: I guess that's all I  
14 have. Thank you, Your Honor. I respectfully  
15 move for the admission of Staff Exhibit No. 1,  
16 and tender the witness.

17 ALJ WALSTRA: Thank you. Any  
18 questions?

19 MS. WINTERS: I have no questions,  
20 although I do want to note I think the map will  
21 be forthcoming subsequent to the hearing here.

22 MR. MARGARD: We will try to ensure  
23 it's filed today, Your Honor.

24 ALJ WALSTRA: I appreciate that.  
25 Any questions?

1 MS. MILAM: No questions, Your  
2 Honor.

3 ALJ WALSTRA: I have a couple  
4 questions for you.

5 EXAMINATION

6 By ALJ WALSTRA:

7 Q. To your knowledge does the  
8 stipulation violate any regulatory principles or  
9 practices?

10 A. No.

11 Q. Do you think the stipulation in your  
12 opinion is in the public interest?

13 A. I do

14 Q. Can you describe how?

15 A. Well, I think the concerns the  
16 Applicant raised of the conditions were mostly  
17 to allow construction to go smoothly without  
18 adding any additional impact to the public or  
19 any of the other issues that the Staff  
20 investigates. So I think it's a win-win for  
21 everybody.

22 Q. And does the stipulation, does it  
23 adopt many of the conditions in the Staff  
24 Report?

25 A. Yes.

1 ALJ WALSTRA: I don't have any other  
2 questions.

3 MR. MARGARD: I renew my motion for  
4 admission, Your Honor.

5 ALJ WALSTRA: Any objections?

6 MS. WINTERS: None.

7 ALJ WALSTRA: Hearing none, Staff  
8 Exhibit 1 will be admitted.

9 (EXHIBIT HEREBY ADMITTED INTO  
10 EVIDENCE)

11 ALJ WALSTRA: You are all set.

12 MR. MARGARD: I have nothing  
13 further, Your Honor. Thank you.

14 ALJ WALSTRA: Ohio Farm Bureau?

15 MS. MILAM: No, Your Honor.

16 ALJ WALSTRA: Anything further to  
17 come before the Board?

18 MS. WINTERS: Nothing further, Your  
19 Honor.

20 ALJ WALSTRA: Thank you. The Board  
21 will take this under consideration. We are  
22 adjourned. Thank you.

23 (At 10:25 A.M. the hearing was  
24 concluded)

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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 March 26, 2019, and carefully compared with my original stenographic notes.

*Michael O. Spencer*  
Michael O. Spencer,  
Registered Professional  
Reporter.

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**This foregoing document was electronically filed with the Public Utilities**

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**4/11/2019 11:01:35 AM**

**in**

**Case No(s). 18-1334-EL-BGN**

Summary: Transcript In the Matter of the Application of Hecate Energy Highland LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generating Facility in Highland County, Ohio, hearing held on March 26th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.