

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
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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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Tuesday Morning,
March 26, 2019.

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

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

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

ALJ WALSTRA: Thank you.

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

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

ALJ WALSTRA: Thank you.

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

ALJ WALSTRA: Thank you. Any preliminary matters?

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

I understand from the rule that the Joint Stipulation and Recommendation is due within 24 hours of the hearing, and I would respectfully ask that the requirement of the rule be waived. I am guessing that my 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)

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

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

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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.