

OHIO POWER SITING BOARD

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In the Matter of the :
Application of Tymochtee :
Solar, LLC for a Certificate : Case No.
of Environmental Compatibility : 21-04-EL-BGN
and Public Need to Construct :
a Solar-Powered Electric :
Generation Facility in :
Wyandot County, Ohio. :

- - -

PROCEEDINGS

Before Ms. Greta See and Mr. Matthew Sandor,
Administrative Law Judges, held at the offices
of the Public Utilities Commission of Ohio, 180
East Broad Street, Hearing Room 11-C, Columbus,
Ohio, on Tuesday, November 16, 2021, at 10:00
A.M.

- - -

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APPEARANCES:

Dickinson Wright, PLLC
 By Mr. Matthew C. McDonnell
 and
 Ms. Christine Pirik
 150 East Gay Street, Suite 2400
 Columbus, Ohio 43215
 On behalf of the Applicant.

Mr. Thomas M. Shepherd
 and
 Ms. Kyle Kern
 Assistant Attorneys General
 30 East Broad Street, 23rd Floor
 Columbus, Ohio 43215
 On behalf of the Ohio Power
 Siting Board.

Ms. Amy M. Milam
 280 North High Street
 Columbus, Ohio 43215
 On behalf of the Ohio Farm
 Bureau Federation.

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Tuesday Morning,
November 16, 2021.

- - -

ADMINISTRATIVE LAW JUDGE SEE:

Scheduled for hearing today at this time,
the Ohio Power Siting Board has set for hearing
today case No. 21-04-EL-BGN being entitled In
the Matter of the Application of Tymochtee, LLC
for a Certificate of Environmental Compatibility
and Public Need to Construct a Solar-Powered
Electric Generation Facility in Wyandot Ohio.

Good morning everyone. My name is
Greta See, and joining me this morning is
Matthew Sandor. We are the Administrative Law
Judges assigned by the Board to hear this case.

I would first note that this
evidentiary hearing is taking place consistent
with the entry issued on August 17, 2021.

Next I would like to take
appearances of counsel on behalf of the parties.
And let's start with the Applicant.

MR. MCDONNELL: Thank you, your
Honor. On behalf of the Applicant, Tymochett
Solar, LLC, the law firm of Dickinson Wright, by
Christine Pirik and Matthew McDonnell, at 150

1 East Gay Street, Columbus, Ohio, Suite 2400,
2 43215.

3 ADMINISTRATIVE LAW JUDGE SEE: And
4 on behalf of the Ohio Farm Bureau Federation.

5 MS. MILAM: Good morning, your
6 Honors. Amy Milam on behalf of Ohio Farm Bureau
7 Federation, 280 North High Street, 6th Floor,
8 Columbus, Ohio 43215.

9 ADMINISTRATIVE LAW JUDGE SEE: And
10 on behalf of Board Staff.

11 MS. KERN: Thank you, your Honor.
12 On behalf of the Staff of the Ohio Power Siting
13 Board, Dave Yost, Ohio Attorney General; John
14 Jones, Section Chief; by Assistant Attorney
15 General Kyle Kern, Tom Shepherd and Sarah
16 Feldkamp, 30 East Broad Street, 26th Floor,
17 Columbus, Ohio.

18 ADMINISTRATIVE LAW JUDGE SEE: Ms.
19 Kern, please spell the last attorney you called
20 off, please.

21 MS. KERN: Sure. It's
22 F-E-L-D-K-A-M-P.

23 ADMINISTRATIVE LAW JUDGE SEE: Sarah
24 Feldkamp. Thank you. Okay.

25 Are there any matters which need to

1 be addressed before we get started today? Okay.

2 Hearing none, let us move on. Mr.

3 McDonnell.

4 MR. MCDONNELL: Yes, your Honor.

5 We would like to mark our exhibits first if that
6 is okay with you.

7 ADMINISTRATIVE LAW JUDGE SEE: Yes.

8 Please do.

9 MR. MCDONNELL: Thank you, Your
10 Honor. Firstly Joint Exhibit 1 is the Joint
11 Stipulation and Recommendation that was filed on
12 November 9th, 2021.

13 Applicant Exhibit 1 is the
14 application filed on April 29th, 2021.

15 Applicant Exhibit 2 is the first
16 supplement to the application filed on June
17 24th, 2021.

18 Applicant Exhibit 3 is the second
19 supplement to the application which was filed on
20 July 6th, 2021.

21 Applicant Exhibit 4 is the third
22 supplement to the application which was filed on
23 September 13th, 2021.

24 Applicant Exhibit 5 is the response
25 to the first data request filed on June 3rd,

1 2021.

2 Applicant Exhibit 6 is the response
3 to the second data request filed on June 11th,
4 2021.

5 Applicant Exhibit 7 is the response
6 to the third data request which was filed on
7 July 26th, 2021.

8 Applicant Exhibit 8 is the
9 supplemental response to the first data request
10 which was filed on October 1st, 2021.

11 Applicant Exhibit 9 is the
12 certificate of service of the public information
13 meeting that was filed on March 3rd, 2021.

14 Applicant Exhibit 10 is the proof of
15 publication of the public information meeting
16 that was filed on March 16th, 2021.

17 Applicant Exhibit 11 is a
18 certificate of service for the application that
19 was filed on July 2nd, 2021.

20 Applicant Exhibit 12 is the proof of
21 service and publication filed on September 1st,
22 2021.

23 Applicant Exhibit 13 is the proof of
24 service and proof of second publication that was
25 filed on October 19th, 2021.

1 And finally Applicant Exhibit 14 is
2 the prefiled testimony of Carmen O'Keefe which
3 was filed on November 9th, 2021.

4 ADMINISTRATIVE LAW JUDGE SEE: The
5 exhibits are so marked.

6 (EXHIBITS MARKED FOR THE PURPOSE OF
7 IDENTIFICATION)

8 MR. MCDONNELL: Thank you, your
9 Honor. At this time we would like to call our
10 first witness, your Honor.

11 ADMINISTRATIVE LAW JUDGE SEE: Okay.

12 MR. MCDONNELL: I would like to call
13 Carmen O'Keefe.

14 (WITNESS SWORN)

15 ADMINISTRATIVE LAW JUDGE SEE: Mr.
16 McDonnell.

17 MR. MCDONNELL: That you, your
18 Honor. I would also like to note that all of
19 the Applicant's exhibits and Joint Exhibit 1
20 have been filed in the docket.

21 - - -

22 CARMEN O'KEEFE
23 called as a witness, being first duly sworn,
24 testified as follows:

25 DIRECT EXAMINATION

1 By Mr. McDonnell:

2 Q. Ms. O'Keefe, could you please state
3 your name and spelling, title and company name
4 for the record?

5 A. Yes. Carmen O'Keefe. C-A-R-M-E-N
6 O'K-E-E-F-E. I am the Development Manager at
7 Apex Clean Energy.

8 Q. Thank you. Do you have before you
9 what's been marked as Applicant Exhibit 14?

10 A. I do.

11 Q. Is that your prefiled testimony that
12 was filed on November 9th, 2021?

13 A. Yes.

14 Q. Can you confirm that this testimony
15 was prepared under your supervision and
16 direction?

17 A. It was.

18 Q. Do you have any corrections to your
19 testimony?

20 A. I do not.

21 Q. If you were asked the same questions
22 that are currently in Applicant Exhibit 14 would
23 your answers be the same?

24 A. Yes.

25 Q. Do you have before you what's been

1 marked as Joint Exhibit 1?

2 A. I do.

3 Q. Is that the Joint Stipulation and
4 Recommendation that was entered into between
5 Tymochtee Solar, the Ohio Power Siting Board
6 Staff, and the Ohio farm Bureau Federation?

7 A. Yes.

8 MR. MCDONNELL: Your Honor, we have
9 no further questions for the witness. She is
10 available for cross-examination.

11 ADMINISTRATIVE LAW JUDGE SEE: Any
12 cross-examination for this witness by the Farm
13 Bureau?

14 MS. MILAM: No, your Honor.

15 ADMINISTRATIVE LAW JUDGE SEE: Any
16 cross-examination by the Staff?

17 MS. KERN: No, your Honor. Thank
18 you.

19 ADMINISTRATIVE LAW JUDGE SEE: Mr.
20 Sandor.

21 ADMINISTRATIVE LAW JUDGE SANDOR:
22 No, I do not.

23 ADMINISTRATIVE LAW JUDGE SEE: Okay.
24 Ms. O'Keefe, I have one question for you. Did
25 you participate in the negotiations that led to

1 the Joint Stipulation?

2 THE WITNESS: I did.

3 ADMINISTRATIVE LAW JUDGE SEE: And
4 were all the parties invited to participate?

5 THE WITNESS: They were.

6 ADMINISTRATIVE LAW JUDGE SEE: In
7 negotiations?

8 THE WITNESS: Yes.

9 ADMINISTRATIVE LAW JUDGE SEE: Thank
10 you very much.

11 THE WITNESS: Thank you.

12 ADMINISTRATIVE LAW JUDGE SEE: Mr.
13 McDonnell.

14 MR. MCDONNELL: We have nothing
15 further, Your Honor.

16 Actually my apologies, your Honor.
17 I would like to move for the admission of
18 Applicant Exhibits 1 through 14 into the record.

19 ADMINISTRATIVE LAW JUDGE SEE: And
20 are there any objections to the admission of
21 Company Exhibits 1 through 14, along with Joint
22 Exhibit 1 into the record?

23 MS. KERN: No objections, your
24 Honor.

25 MS. MILAM: No objections.

1 ADMINISTRATIVE LAW JUDGE SEE: With
2 that Company Exhibits 1 through 14 and Joint
3 Exhibit 1 are admitted into the record.

4 (EXHIBITS ADMITTED INTO EVIDENCE)

5 ADMINISTRATIVE LAW JUDGE SEE: Does
6 the Company have anything further?

7 MR. MCDONNELL: Nothing further.
8 Thank you, Your Honor.

9 ADMINISTRATIVE LAW JUDGE SEE: Thank
10 you, Mr. McDonnell. Ms. Kern.

11 MS. KERN: Thank you, your Honor.
12 I would like to have two exhibits marked. The
13 first marked as Staff Exhibit 1 and it is the
14 Staff Report of Investigation docketed on
15 October 8th, 2021. I have copies. Would your
16 Honor like a copy, or the court reporter?

17 ADMINISTRATIVE LAW JUDGE SEE: It
18 has been filed in the docket?

19 MS. KERN: They have been filed in
20 the docket.

21 ADMINISTRATIVE LAW JUDGE SEE:
22 However, I would like one, please.

23 MS. KERN: Sure.

24 MR. MCDONNELL: I will have one as
25 well.

1 MS. KERN: Okay. Sure. The second
2 Staff Exhibit, Staff Exhibit 2, is the direct
3 testimony of Andrew Conway docketed on November
4 9th, 2021 in this docket. I also have a copy
5 and will send it your way.

6 ADMINISTRATIVE LAW JUDGE SEE: Staff
7 Exhibits 1 and 2 are so marked.

8 (EXHIBITS MARKED FOR THE PURPOSE OF
9 IDENTIFICATION)

10 MS. KERN: Staff would like to call
11 Mr. Andrew Conway to the stand.

12 (WITNESS SWORN)

13 ADMINISTRATIVE LAW JUDGE SEE:
14 Thank you. Ms. Kern.

15 MS. KERN: Thank you.

16 - - -

17 ANDREW CONWAY
18 called as a witness, being first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 By Ms. Kern:

22 Q. Sir, can you please state your name
23 and by whom you are employed?

24 A. Andrew Conway with the Public
25 Utilities Commission of Ohio.

1 Q. Thank you. Did you have any
2 responsibility for the documents that have been
3 marked as Staff Exhibits 1 and 2 in this case?

4 A. Yes. I prepared my direct testimony
5 and I was the case lead that directed,
6 coordinated the investigation for the Staff
7 Report.

8 Q. Have you reviewed those documents
9 prior to testifying today?

10 A. Yes.

11 Q. Are there any changes, corrections,
12 amendments, modifications of any kind to the
13 Staff Report?

14 A. No.

15 Q. And are there any changes,
16 corrections, amendments, or modifications to
17 your testimony?

18 A. No.

19 Q. And is your testimony true and
20 accurate and reasonable to the best of your
21 believe and knowledge?

22 A. Yes, it is.

23 Q. And you have what's before us what
24 has been marked as Joint Exhibit 1 which was the
25 stipulations filed on November 9th, 2021. Do

1 you have a copy of that? If not I have one.

2 A. Yes, I do.

3 Q. Thank you. And can you identify
4 that document for me, please?

5 A. It's the Joint Stipulation and
6 Recommendation.

7 Q. Were you involved in the negotiation
8 of this stipulation and recommendation?

9 A. Yes, I was.

10 Q. In your opinion were the parties
11 involved in the negotiations of the settlement
12 knowledgeable about the issues contained
13 therein?

14 A. Yes. They were knowledgeable and
15 represented by counsel.

16 Q. Do you believe that there are any
17 benefits as a result of this stipulation?

18 A. Yes. Yes. The stipulation
19 incorporates many of the Staff Report
20 conditions. It represents that the facility
21 would be the minimum adverse environmental
22 impact considering the state of available
23 technology and the nature of the economics of
24 various alternatives.

25 The facility would benefit

1 the public interests and represents and
2 addresses the issues that were raised at the
3 local public hearing.

4 Q. So the Stipulation and
5 Recommendation accepts the Staff's findings,
6 conclusion and recommendations as contained in
7 Staff Exhibits 1 and 2; is that correct?

8 A. Yes.

9 MS. KERN: Thank you, your Honor.
10 I have no further questions for Mr. Conway and I
11 would respectfully move for the admission of
12 Staff Exhibits 1 and 2 subject to cross.

13 ADMINISTRATIVE LAW JUDGE SEE: Any
14 cross-examination for this witness, Ms. Milam?

15 MS. MILAM: No, Your Honor.

16 ADMINISTRATIVE LAW JUDGE SEE: Any
17 cross-examination, Mr. McDonnell?

18 MR. MCDONNELL: No, your Honor.
19 Thank you.

20 ADMINISTRATIVE LAW JUDGE SEE: Mr.
21 Sandor.

22 ADMINISTRATIVE LAW JUDGE SANDOR:
23 No, I do not.

24 ADMINISTRATIVE LAW JUDGE SEE: Thank
25 you very much, Mr. Conway. Are there any

1 objections to the admission of Staff Exhibits 1
2 and 2?

3 MS. MILAM: No objection.

4 MR. MCDONNELL: No objections, your
5 Honor.

6 ADMINISTRATIVE LAW JUDGE SEE: With
7 that Staff Exhibits 1 and 2 are admitted into
8 the record.

9 (EXHIBITS ADMITTED INTO EVIDENCE)

10 ADMINISTRATIVE LAW JUDGE SEE: Is
11 there anything else?

12 MR. MCDONNELL: Respectfully, Your
13 Honor, I believe we had moved for the admission
14 of Applicant's Exhibits 1 through 14. I don't
15 know if I -- I don't believe I moved for
16 the admission of Joint Exhibit 1. I think you
17 may have moved for its admission, but if we
18 could I would like to respectfully move that
19 Joint Exhibit 1 be admitted.

20 ADMINISTRATIVE LAW JUDGE SEE: Okay.
21 Let's go off the record for just a second.

22 (DISCUSSION OFF THE RECORD)

23 ADMINISTRATIVE LAW JUDGE SEE: Let's
24 go back on the record. Mr. McDonnell, I have
25 confirmed with our court reporter that Company

Exhibits 1 through 14 and Joint Exhibit 1 have
been admitted into the record.

MR. MCDONNELL: Thank you, your
Honor.

ADMINISTRATIVE LAW JUDGE SEE: You
are welcome. Is there anything further?

MS. MILAM: No, your Honor.

MR. MCDONNELL: No, your Honor.

ADMINISTRATIVE LAW JUDGE SEE:
Hearing none, I thank you all, and the hearing
is adjourned.

(At 10:15 A.M. the hearing was
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
November 16, 2021, and carefully compared with
my original stenographic notes.

Michael O. Spencer,
Registered Professional
Reporter.

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**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

Case No(s). 21-0004-EL-BGN

Summary: Transcript November 16th 2021 In the Matter of the Application of Tymochtee Solar, LLC for a Certificate of Environmental Compatibility and Public Need to Construct a Solar-Powered Electric Generation Facility in Wyandot County, Ohio. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Spencer, Michael O. Mr.