

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF ST.)
JOSEPH ENERGY CENTER, LLC FOR CERTAIN)
DETERMINATIONS BY THE COMMISSION WITH)
RESPECT TO ITS JURISDICTION OVER) CAUSE NO. 44246
PETITIONER'S ACTIVITIES AS A GENERATOR OF)
ELECTRIC POWER AND FOR CONSENT TO)
OCCUPY THE PUBLIC RIGHTS-OF-WAY)

OUCC REDACTED TESTIMONY OF

RONALD L. KEEN – PUBLIC'S EXHIBIT #1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

November 20, 2012

Respectfully submitted,

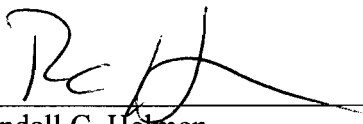


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Chief Deputy Consumer Counselor for State Affairs

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Office of Utility Consumer Counselor Redacted Testimony of Ronald L. Keen* has been served upon the following counsel of record in the captioned proceeding by electronic service on November 20, 2012.

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OUCC REDACTED TESTIMONY OF RONALD L. KEEN
CAUSE NO. 44246
ST JOSEPH ENERGY CENTER

I. INTRODUCTION AND WITNESS QUALIFICATIONS

1 **Q: Please state your name and your business address.**

2 A: My name is Ronald L. Keen. My business address is 115 West Washington
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom and in what capacity are you employed?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as a Senior Analyst within the Resource Planning and Communications
7 Division (RPC).

8 **Q: Please describe your educational background and experience.**

9 A: I hold a Masters Degree in Aeronautical Science from Embry-Riddle
10 Aeronautical University and have completed coursework toward a Masters in
11 Political Science. I also hold a Bachelors Degree in Management from Texas
12 State University at San Marcos.

13 Hired by the OUCC in December 2001, I've completed the regulatory
14 studies program at Michigan State University sponsored by the National
15 Association of Regulatory Utility Commissioners ("NARUC"), as well as a
16 number of other utility-related courses, seminars, and conferences focused on
17 traditional and renewable energy resources.

18 Prior to working at the OUCC, I served in and retired from the United

1 States Air Force. While in the service, I worked for a number of years as a
2 Community Planner on a facility populated with over 15,000 armed forces
3 personnel and their families. In that capacity, I was directly and/or indirectly
4 responsible for a number of projects from design to completion, including those
5 involving telecommunications, utility and fuel infrastructure. Other assignments
6 during my career required me to work closely with utility providers
7 provisioning service to critical infrastructure and facilities. Additionally, I
8 completed utility and telecommunications-related coursework, seminars, and
9 training and was instrumentally involved in policy, protocol, and regulation
10 development, as well as operational employment at all levels.

11 After retiring from the Air Force, I briefly worked as a Project Manager
12 for Aeronautical Radio, Incorporated (ARINC), developing training programs
13 and policy for Advanced Satellite Communications Management Systems and
14 general communications planning for the Department of Defense.

15 **Q: Have you previously testified before this commission?**

16 A: Yes, I testified in a number of dockets before the Indiana Utility Regulatory
17 Commission ("IURC") on issues in both the telecommunications and energy
18 utility arenas, including on a significant number of Certificate of Public
19 Convenience and Necessity ("CPCN") cases.

20 **Q: What have you done to identify and investigate issues presented in this**
21 **case?**

22 A: I reviewed the Petition, Direct Testimony (and attached Exhibits) from St.
23 Joseph Energy Center, LLC ("SJEC" or "Petitioner") regarding the 1,345

1 megawatt ("MW") combined cycle gas turbine ("CCGT") project ("the
2 Project") referenced in this case. I also reviewed IURC orders in a number of
3 merchant energy-generation facility related dockets, including those from Cause
4 Nos. 43068, 43097, 43259, 43328, 43338, 43484 and 43602¹, as well as
5 documents and the Final Order in Cause No. 43678.² Additionally, I
6 participated in technical conferences with Petitioner and with OUCC staff and I
7 also read the December 2011 report *Indiana Electricity Projections: The 2011*
8 *Forecast*, issued by the State Utility Forecasting Group ("SUFG") at Purdue
9 University.

10 **Q: Why did you review the orders for Cause Nos. 43068, 43097, 43259, 43328,**
11 **43338, 43484 and 43602?**

12 A: These are recent orders in which the IURC addressed petitioners' request for
13 declination of jurisdiction. A review of these dockets provides guidance on the
14 issues the Commission deems pertinent in cases of this nature.

15 **Q: What is the purpose of your testimony?**

16 A: First, I describe Petitioner, St. Joseph Energy Center, LLC, the project and
17 Petitioner's request to use the public right-of-way. I also discuss MISO and

¹ IURC Cause No. 43068 addressed the declination of jurisdiction for the Benton County Wind Farm and was decided in a Final Order dated December 6, 2006. IURC Cause No. 43097 addressed the PPA between Duke and the Benton County Wind Farm and was decided in a Final Order dated December 6, 2006. IURC Cause No. 43259 addressed the PPA between Vectren and the Benton County Wind Farm and was decided in a Final Order dated December 5, 2007. IURC Cause No. 43328 addressed the Power Purchase Agreement (PPA) between Fowler Ridge Wind Farm and Indiana & Michigan Power Company and was decided in a Final Order dated November 28, 2007. IURC Cause No. 43338 addressed the declination of jurisdiction for the Fowler Ridge Wind Farm and was decided in a Final Order dated November 20, 2007. IURC Cause No. 43484 addressed declination of jurisdiction for the Hoosier Wind Project and was decided in a Final Order dated October 1, 2008. IURC Cause No. 43602 addressed declination of jurisdiction for the Meadow Lake Wind Farm LLC project, Phase I and was decided in a Final Order dated February 18, 2009.

² IURC Cause No. 43678, which addressed declination of jurisdiction for the Meadow Lake Wind Farm LLC project, Phase II, was decided in a final order dated August 19, 2009.

1 PJM Interconnection, as well as whether Petitioner is a public utility. I address
2 the public interest aspect of this project then discuss reporting requirements and
3 finally recommend the Commission approve the requested relief.

II. ST JOSEPH ENERGY CENTER, LLC

4 **Q: What is Petitioner requesting from the Commission?**

5 A: Pursuant to Ind. Code 8-1-2.5-5, Petitioner is requesting that the IURC decline
6 to “exercise any jurisdiction to (a) require Petitioner to obtain a CPCN to
7 construct the Project under Ind. Code 8-1-8.5, the “Powerplant Construction
8 Act” and (b) regulate. Under Ind. Code 8-1-2, the “Public Service Commission
9 Act,” Petitioner’s construction, ownership and operation of, and other activities
10 associated in connection with the Project.”³

11 **Q: Please describe St. Joseph Energy Center, LLC (“SJEC”).**

12 A: SJEC is headquartered in White Plains, New York. The company specializes in
13 development, construction, ownership and operation of independent power and
14 electric utility industry assets and owns/operates 26 power plants with a total
15 capacity of approximately 3,600 MWs. SJEC is a subsidiary of an investment
16 fund managed by EIF Management (“EIF”).

17 **Q: Please describe the Project.**

18 A: Petitioner intends to construct, own and operate at 1,345 MW CCGT electrical
19 generation plant in St. Joseph County, Indiana near New Carlisle, Indiana. The

³ *In the Matter of the Petition of St. Joseph Energy Center, LLC for Certain Determinations by the Commission with Respect to its Jurisdiction over Petitioner’s Activities as a Generator of Electric Power and for Consent to*, IURC Cause No. 44246 Filed September 7, 2012, page 3, paragraph 3, lines 1-6.

1 facility will consist of two power blocks – each block will consist of two gas
2 turbines (“GT”), two heat recovery steam generators (“HRSG”) and a single
3 steam turbine (“ST”). The facility will be powered solely by natural gas and
4 will receive its supply from one or more natural gas suppliers through service
5 lines which remain to be constructed.

III. PETITIONER'S USE OF PUBLIC RIGHT-OF-WAY

6 **Q: In the OUCC's review of prior cases involving declination of jurisdiction,**
7 **were the petitioners required to relinquish their rights to use public rights-**
8 **of-way?**

9 A: In my review of prior Orders involving requests for declination of jurisdiction
10 by wind farms, the Commission had ordered in one case that the independent
11 power producer "shall not exercise any of the rights, powers, and privileges of
12 an Indiana public utility in the construction and operation of the Project, *e.g.*,
13 the power of eminent domain, use of public rights-of-way, exemption from
14 zoning, and land use regulation."⁴ In another wind farm case, the Commission
15 provided a limited use of the public rights-of way and stated “Petitioner shall
16 not exercise an Indiana public utility's rights, powers, and privileges of eminent
17 domain and of exemption from local zoning and land use ordinances in the
18 construction and operation of the Facility. Petitioner specifically retains the
19 rights, powers and privileges of a public utility . . . to use public rights-of-way .
20 . . for Facility transmission lines.”⁵

⁴ Benton County Wind Farm, LLC, IURC Cause No. 43068, December 6, 2006 Order, Ordering Paragraph 4.

⁵ Fowler Ridge Wind Farm, LLC, IURC Cause No. 43338. November 27, 2007 Order. Ordering Paragraph 4.

1 **Q: Has SJEC sought permits to utilize public rights-of-way for this project?**

2 A: Yes. SJEC is requesting IURC approve its request for the license, permit, or
3 franchise necessary for SJEC to occupy the public rights-of-way.⁶

4 **Q: Has SJEC agreed not to exercise the power of eminent domain to acquire**
5 **any real estate interest needed for the project?**

6 A: Yes.⁷

7 **Q: Does the OUCC agree with the SJEC request regarding public rights-of-**
8 **way?**

9 A: No regarding the use of public rights-of-way and yes to the use of eminent
10 domain. A granting of the rights-of-way without explanation should not be
11 granted. In IURC Cause No. 43338, Fowler Ridge Wind Farm, the petitioner
12 provided a specific reason and explanation why the rights-of-way was requested
13 and the OUCC, after examination of the circumstances, agreed to support that
14 specific request. Without specific reason, the OUCC does not support a
15 granting of rights-of-way by the IURC for SJEC.

16 **Q: Does the OUCC agree with the SJEC request regarding the use of the**
17 **power of eminent domain?**

18 A: Only in a limited manner. It is the OUCC's understanding that Petitioner is
19 requesting rights of eminent domain for the limited purpose of siting twelve
20 (12) miles of transmission line. This seems consistent with prior commission

⁶ *In the Matter of the Petition of St. Joseph Energy Center, LLC for Certain Determinations by the Commission with Respect to its Jurisdiction over Petitioner's Activities as a Generator of Electric Power and for Consent to*, IURC Cause No. 44246 Filed September 7, 2012, Direct Testimony of Willard Ladd, Filed October 23, 2012, page 40, lines 1-6.

⁷ *In the Matter of the Petition of St. Joseph Energy Center, LLC for Certain Determinations by the Commission with Respect to its Jurisdiction over Petitioner's Activities as a Generator of Electric Power and for Consent to*, IURC Cause No. 44246 Filed September 7, 2012, Direct Testimony of Willard Ladd, Filed October 23, 2012, page 44, lines 1-3.

1 orders and the OUCC has no objection to this limited request. Should SJEC
2 feel it may need additional eminent domain authority, the OUCC recommends
3 the IURC require Petitioner to come before the Commission and demonstrate
4 the need to exercise such power and why such an option is required to
5 accomplish the project.

IV. MISO/PJM INTERCONNECTION

6 **Q: Will this project interconnect with the wholesale electric transmission grid?**

7 A: Yes, the Project will interconnect one 670 MW power block with the MISO
8 regional transmission system at Northern Indiana Public Service Company
9 ("NIPSCO") Stillwell substation, while the second 675 MW power block will
10 interconnect with the PJM regional transmission system at the American
11 Electric Power ("AEP") Dumont-Olive substation.

12 **Q: Has Petitioner conducted any studies to determine the feasibility of**
13 **interconnecting with MISO transmission system?**

14 A: Yes. Petitioner completed a feasibility study for the 345 kV Interconnect Route
15 Options to the Stillwell substation through [REDACTED]
16 [REDACTED] and subsequently as MISO Project No.
17 J215 (Petitioner's Confidential Exhibit WL-8 and WL-9)

18 **Q: Has Petitioner conducted any studies to determine the feasibility of**
19 **interconnecting with PJM transmission system?**

20 A: Yes. Petitioner completed a feasibility study for the Project for interconnection
21 to the 345 kV line at the Dumont-Olive substation (Project X2-052) in March
22 2012 (Petitioner's Confidential Exhibit WL-10).

23 **Q: Does the OUCC agree with the conclusions presented in each of the**

1 **interconnection studies?**

2 A: Yes.

V. PETITIONER'S CLASSIFICATION AS A UTILITY

3 **Q: Is the Petitioner a public utility?**

4 A: Yes. Under Ind. Code § 8-1-8.5-1, the "Power Plant Act" defines a "public
5 utility" to mean a "(1) public, municipally owned or cooperatively owned
6 utility; or (2) a joint agency created under Ind. Code § 8-1-2.2." Petitioner is a
7 company which will generate electricity to ultimately be consumed by residents
8 and businesses. The company has satisfied the definition of "public utility"
9 found in Ind. Code § 8-1-2-1, because Petitioner's ownership, development,
10 financing, construction, and operation of the facilities involved in this project
11 will be specifically used to sell the generated power in the wholesale market to
12 one or more public utilities, energy service providers, or power marketers to
13 satisfy retail market requirements. In previous causes before the IURC, the
14 Commission has determined a business engaged in the generation of energy
15 from renewable resources which then sells that electricity directly to public
16 utilities is itself a public utility.⁸ Because the SJEC project is also a merchant
17 electric generation facility in the same vein as wind farms, the OUCC believes
18 the principles outlined in those previous cases apply here as well.

VI. PUBLIC INTEREST ISSUES

19 **Q: Is the SJEC Project in the public interest?**

⁸ IURC Cause No. 43068, Benton County Wind Farm, Final Order dated December 6, 2006 and IURC Cause No. 43338, Fowler Ridge Wind Farm, Final Order dated November 20, 2007.

1 A: Yes. The OUCC believes this Project will offer the consumer a generation
2 resource that will also have a positive impact on the state's economy, especially
3 at the local level. Petitioner has shown in testimony the project has the
4 capability to foster economic growth within the local community through the
5 potential creation of over 1,762 direct, indirect and induced jobs during the
6 construction phase of the project and 187 direct, indirect and induced full-time
7 permanent positions associated with the completed project.⁹

8 **Q: Does the OUCC believe there are other benefits to this project?**

9 A: Yes. In addition to the creation of both direct and indirect jobs, Petitioner will
10 be able to competitively bid for energy generation contracts offered by Indiana
11 utilities to provide additional sources of electric generation as required by the
12 state's ratepayers. This competitive bidding process has the potentially to offer
13 reduced energy costs to both the utility and the ratepayer while offering more
14 effective, efficient and environmentally friendly methods of energy generation.
15 Because the project is essentially a modularized concept – it can be expanded as
16 requirements for generation exist which would support the increased expansion
17 of the facility with the addition of new power modules – there is a possibility of
18 increased economic impact. That economic impact could then extend beyond
19 Indiana as increased requirements for natural gas supply could lead to increased
20 development of natural gas resources in various parts of the U.S.

⁹ *In the Matter of the Petition of St. Joseph Energy Center, LLC for Certain Determinations by the Commission with Respect to its Jurisdiction over Petitioner's Activities as a Generator of Electric Power and for Consent to, IURC Cause No. 44246 Filed September 7, 2012, Direct Testimony of Willard Ladd, Filed October 23, 2012, page 32, lines 10-21.*

1 **Q: Has the OUCC seen this plug-n-play concept already in merchant power**
2 **generation?**

3 A: Yes. The Biotown generation facility, which uses methane generated from
4 waste bioproducts, has the capability to expand energy generation by adding
5 additional generation modules as the requirement for energy generation
6 increases through additional purchase power agreements and sufficient biomass
7 “fuel” becomes available.

8 **Q: Is there a need for this additional source of electric generation?**

9 A: Yes. According to the latest available information produced by the State Utility
10 Forecasting Group (“SUF”) at Purdue University, over 2,960 MW of
11 additional generation will be required by 2020, including 720 MW of peaking,
12 1,040 MW of cycling and 1,200 MW of baseload resources.¹⁰

VII. REPORTING REQUIREMENTS

13 **Q: Does the OUCC have reporting requirement recommendations?**

14 A: Yes. Consistent with this agency’s recommendations in prior dockets and
15 IURC Final Orders in previous wind energy dockets, the OUCC recommends
16 Petitioner file its Initial Quarterly Report within thirty (30) days of an IURC
17 Final Order in this docket. The initial report would contain, to the extent such
18 information was available, at a minimum, the following:

- 19 1) Project ownership and name(s) of the Facility;
20 2) Name, title, address and phone number(s) for primary contact
21 person(s) for the Facility;

¹⁰ *Indiana Electricity Projections: The 2011 Forecast*, State Utility Forecasting Group, Purdue University, September 2011.

- 1 3) Type and Number of turbines deployed;
- 2 4) Anticipated total output for the Facility;
- 3 5) Manufacturer, model number, and operational characteristics of
- 4 each type of turbine;
- 5 6) Connecting utility(s), if any Purchase Power Agreements ("PPA")
- 6 are developed;
- 7 7) Copy of all Interconnection System Impact Studies prepared by the
- 8 MISO and/or PJM ISO;
- 9 8) Expected in-service (commercial operation) date;
- 10 9) An estimate of the engineering/construction timeline and critical
- 11 milestones for the Facility;
- 12 10) The status of the Large Generator Interconnection Agreement with
- 13 MISO and/or PJM ISO; and
- 14 11) The information listed below in the Subsequent Reports section to
- 15 the extent such information is available.

16 The OUCC recommends Petitioner file subsequent quarterly reports within
17 thirty (30) days following the end of each calendar quarter until the quarter
18 which occurs after commercial operation has been achieved and which
19 immediately precedes the Annual Report filing date. Thereafter, subsequent
20 reports would be filed as an addendum to Petitioner's Annual Report. Each
21 quarterly report would contain, as a minimum:

- 22 1) Any changes of the information provided in the Initial Report;
- 23 2) Any reports of Interconnection System Impact Studies not

1 previously submitted to the Commission;

2 3) Copy of the Interconnection Service Agreement ("ISA") as filed
3 with FERC.

4 4) Notice of the establishment of an independent financial instrument,
5 including its form and amount;

6 5) Achievement of construction milestones described in the ISA and
7 such events as the procurement of major equipment, receipt of
8 major permits material to the construction and operation of the
9 Facility, construction start-up, initial energization and commercial
10 operation; and

11 6) When commercial operation is achieved, the nameplate existing
12 for utility sales, contingency plans detailing emergency response
13 plans as required by state and/or local units of government, the
14 interconnecting transmission owner and/or the MISO and/or PJM
15 ISO, and the Project's certified (or accredited) dependable capacity
16 rating.

17 **Q: Did the OUCC propose any additional reporting requirements?**

18 A: Yes. The OUCC recommends Petitioner seek prior Commission approval for a
19 variety of potential conditions, including but not limited to a material increase
20 or decrease by 3 MW or more, some other change in the Project's capacity or
21 operation, or if the Project is modified or suspended under the terms of the ISA
22 and Petitioner does not reinstate work within three (3) years following

1 commencement of such suspension.

VIII. OUCC RECOMMENDATIONS

2 **Q: What does the OUCC recommend regarding Petitioner's request?**

3 A: The OUCC recommends the Commission:

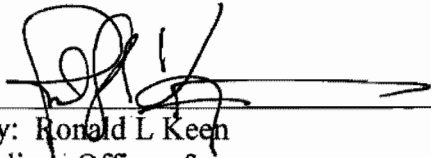
- 4 1. Grant Petitioner a CPCN for the SJEC Project; and
- 5 2. Approve Petitioner's request for the IURC to decline to exercise any
- 6 jurisdiction in all respects over Petitioner's construction, ownership and
- 7 operation of, and other activities in connection with the SJEC Project as
- 8 described in this testimony;
- 9 3. Order Petitioner to submit reports on the status of the SJEC Project as
- 10 outlined in my testimony.

11 **Q: Does this conclude your testimony?**

12 A: Yes.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.


By: Ronald L. Keen
Indiana Office of
Utility Consumer Counselor

Date: Nov 20, 2012