

BEFORE THE STATE OF WASHINGTON  
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of  
Application No. 2003-01

SAGEBRUSH POWER PARTNERS, L.L.C.

KITTITAS VALLEY WIND  
POWER PROJECT

PREHEARING ORDER NO. 2  
COUNCIL ORDER NO. 778

ORDER ON MOTION TO DISQUALIFY  
COUNCIL MEMBERS IFIE AND  
FRYHLING, MOTION TO CLARIFY  
ISSUES, AND MOTION FOR  
RECONSIDERATION OR  
ALTERNATIVELY OBJECTION TO  
LIMITATION OF ISSUES

This matter having come initially on June 26, 2003, in Ellensburg, Washington, at the first prehearing conference in the adjudication regarding Application No. 2003-01 of Sagebrush Power Partners L.L.C., on the oral motion of F. Steven Lathrop, based on the oral statement of his legal counsel, and now upon the written Motion, dated July 1, 2003, to Disqualify Energy Facility Site Evaluation Council (EFSEC or Council) Members; Motion to Clarify Issues; and Motion for Reconsideration or Alternatively Objection to Limitation of Issues, supported by the Declaration of Counsel for Intervenor F. Steven Lathrop; the Council, with Messrs Ifie and Fryhling abstaining, having considered the Motion and the Declaration and being fully advised, makes the following:

IT IS HEREBY ORDERED as follows:

1. In connection with the Motion to Disqualify Energy Facility Site Evaluation Council Members, involving Mr. Ifie and the Department of Natural Resources and Mr. Fryhling and the Department of Community, Trade and Economic Development (paragraphs 1 and 2 of the Motion), RCW 34.05.425 (3) through (5) provides the basis for any Motion to disqualify and further provides that the decision on this Motion shall be determined by the person or persons asserted to be disqualified, this being an adjudicative proceeding covered by the Washington state Administrative Procedures Act; therefore, it is ordered that any party to these proceedings who wishes to respond to the Motion of F. Steven Lathrop shall have until July 21, 2003, to file a written response, with copy to F. Steven Lathrop and his legal counsel and all other parties, after which the Moving Party, F. Steven Lathrop shall have 5 days in which to further respond, with copies to all parties, after which Mr. Ifie and Mr. Fryhling will promptly render their individual decisions on the Motion.

2. In connection with the Motion to Clarify Issues (paragraph 3 of the Motion), this issue was considered by the Council in its first Prehearing Order dated July 3, 2003, which is being mailed to the parties at the time this order is issued and provides, in paragraph 7 thereof, for the filing of objections pursuant to WAC 463-30-270(3); therefore it is ordered that this portion of the Motion is denied as being premature.

3. In connection with the Motion For Reconsideration or Alternatively Objection to Limitation of Issues (paragraph 4 of the Motion), this issue was considered by the Council in its first Prehearing Order dated July 3, 2003, which is being mailed to the parties at the time this order is issued and provides, in paragraph 7 thereof, for the filing of objections pursuant to WAC 463-30-270(3); therefore it is ordered that this portion of the Motion is denied as being premature.

**DATED** at Olympia, Washington and effective this \_\_\_\_\_ day of July, 2003.

WASHINGTON STATE ENERGY FACILITY SITE EVALUATION COUNCIL

By

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Julian C. Dewell, Administrative Law Judge