



Oregon

Kate Brown, Governor



550 Capitol St. NE

Salem, OR 97301

Phone: 503-378-4040

Toll Free: 1-800-221-8035

FAX: 503-373-7806

www.oregon.gov/energy

September 23, 2019

Mr. Dennis Winn

Klamath Energy, LLC

4940 Hwy 97 S.

Klamath Falls, OR 97603

Sent via email: Dennis.winn@Avangrid.com, Darren.cavanaugh@Avangrid.com

RE: Amendment Determination Request 2 Pursuant to OAR 345-027-0357

Mr. Winn,

On May 20, 2019 the Oregon Department of Energy (Department) received a request from Klamath Energy LLC for a determination whether a proposed change at the Klamath Cogeneration Project (KCP) Facility would require an amendment to the site certificate. The requested change to the facilities is to install a new treatment to “more efficiently disinfect cooling water...”. As part of the upgrade, Klamath Energy would supplement the existing cooling water disinfectant system with a chlorine dioxide system. In accordance with OAR 345-027-0357, the Department reviewed Klamath Energy, LLC’s amendment determination request. As presented in Attachment 1, the Department determined that the request: 1) includes all information required by OAR 345-027-0357(4), and 2) the requested addition of a chlorine dioxide cooling water disinfectant system would not require a site certificate amendment for the reasons provided in Attachment 1.

Under OAR 345-027-0357 a certificate holder may submit an amendment determination request in writing to the Department for a determination regarding whether a proposed change requires a site certificate amendment. The rule requires that the change request include a description of the proposed change, any maps or geospatial layers representing the effects, and/or location of the proposed change(s), the certificate holder’s evaluation of the requested determination(s) under OAR 345-027-0357(1), (2), and (3), and any additional information that the certificate holder believes will assist the Department’s evaluation.

OAR 345-027-0357(6) requires that after issuing its determination, the Department must provide the determination and ADR to Council, post the determination to the ODOE website, and at the next Council meeting, inform Council of the ADR and determination during the consent calendar agenda item.

Additionally, OAR 345-027-0357(6) also allows that at the request of a Council member, or the certificate holder, the Department must refer its determination to the Council for concurrence, modification, or rejection. Should such a request be made by a Councilmember or the certificate holder, the determination would be presented before EFSC at an upcoming Council meeting.

If there are any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean E. Mole", is centered on a light gray rectangular background.

Sean E. Mole, Siting Operations Analyst
Oregon Department of Energy
E: Sean.Mole@oregon.gov
P: (503)934-4005

Attachment 1: ODOE Amendment Determination Request Evaluation and Determination

Cc (via email distribution)

Oregon Energy Facility Siting Council
Todd Cornett, Oregon Department of Energy
Maxwell Woods, Oregon Department of Energy
Duane Kilsdonk, Oregon Department of Energy
Patrick Rowe, Oregon department of Justice

Attachment 1: ODOE Amendment Determination Request Evaluation and Determination

Oregon Administrative Rule (OAR) 345-027-0350 contains the criteria for when a site certificate amendment is required, or, when a change request may be allowable. In reviewing the request from Klamath Energy, the Department assessed the provisions of that rule under 345-027-0350:

Except for changes allowed under OAR 345-027-0353 of this rule, an amendment to a site certificate is required to:

- (1) Transfer ownership of the facility or the certificate holders as described in OAR 345-027-0100;***
- (2) Apply later-adopted law(s) as described in OAR 345-027-0390;***
- (3) Extend the construction beginning or completion deadline as described in OAR 345-027-0385;***
- (4) Design, construct or operate a facility in a manner different from the description in the site certificate if the proposed change:***
 - (a) Could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by a Council standard;***
 - (b) Could impair the certificate holder's ability to comply with a site certificate condition; or***
 - (c) Could require a new condition or a change to a condition in the site certificate.***

As this request was not for; transfer of ownership, application of later adopted laws, nor extension of a construction deadline, the Department focused its evaluation on the provisions under subsection (4) of this rule.

OAR 345-027-0350(4)(a) provides that an amendment be required if the proposed change "could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by a Council standard," The Department finds that this would not be the case as a result of the proposed change. This finding is supported by the documentation provided by Klamath Energy in its request in the form of a letter from the City of Klamath Falls describing their approval of the implementation of the described system pursuant to the continued compliance with existing Industrial Waste Discharge Permit for the facility and existing conditions of the Recycled Water Use Plan. The

requirement to comply with both of these conditions exists within the fifth amended site certificate,

***“(2) The Certificate Holder shall monitor, in accordance with its Reclaimed Water Use Plan approved by DEQ, the effluent it receives from the SSWTP for the presence of pathogens. The Certificate Holder shall operate its cooling tower water system in accordance with the Reclaimed Water Use Plan and the industrial wastewater discharge permit for the Facility so as to prevent public health hazards from cooling tower drift (aerosols).*”**

OAR 345-027-0350(4)(b) provides that an amendment is required if the proposed change “could impair the certificate holder’s ability to comply with an existing site certificate condition...” Having reviewed the original as well as amended Site Certificate, the Department finds that there exist no conditions which address the particular chemical composition of the facility’s disinfectant system. That being the case, the department finds that the proposed change would not “impair the certificate holder’s ability to comply with a site certificate condition.”

OAR 345-027-0350(4)(c) provides that an amendment is required if the proposed change “could require a new condition or a change to a condition in the site certificate.” The Department finds that the proposed change would not require a new condition, nor a change to an existing condition. The proposed change is not of a significant nature as the new system is substantively similar to the existing system which is a part of the currently operating facility. As such the existing conditions contained within the fifth amended site certificate will apply to the proposed change.

Pursuant to these findings, the Department determines that Klamath Energy LLC does not require an amendment to the site certificate for Klamath Cogeneration Project to add a chlorine dioxide treatment system to the existing effluent pretreatment system.

In accordance with the requirements of OAR345-027-0055(2), the certificate holder shall include a description of the modifications and the written evaluation in the Facility Modification Report as required by OAR 345-026-0080. ODOE will also document the change in an order associated with the next site certificate amendment. Finally, as noted in the cover letter, OAR 345-027-0057(6) requires that at the request of an Energy Facility Siting Council member, the Department’s determination must be referred to the Council for concurrence, modification, or rejection. The Department will provide its determination to EFSC, informing Council of their rights under the rule. Should a Council member request to review the determination, the determination would go before EFSC at an upcoming Council meeting.