Minutes approved at the December 14-15 EFSC Meeting

Energy Facility Siting Council
Thursday, October 19, 2017
Meeting Minutes

Oxford Suites Portland – Jantzen Beach
12226 N. Jantzen Drive
Portland, OR 97217

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Meeting materials presented to Council are available online at:

An audio recording of this EFSC Meeting can be requested via a Public Records Request at:

Call to Order: The meeting was called to order at 1:00 p.m. on October 19, 2017 by Chair Barry Beyeler.

Roll Call: Council Chair Beyeler, Council Members Betty Roppe, Direlle Calica, Hanley Jenkins, Jack Billings, and Marcy Grail were present. Vice Chair Renee Dowlin was present via phone.

Oregon Department of Energy representatives present were Council Secretary Todd Cornett, Senior Policy Advisor Maxwell Woods, Rulemaking Coordinator Jason Sierman, Operations Analyst Sean Mole, Administrative Assistant Megan Boardman and Public Affairs Specialist Cliff Voliva. EFSC Counsel Jesse Ratcliffe, Department of Justice (DOJ), was also present.
A. Consent Calendar (Information and Action Items) – Todd Cornett, Assistant Director/Council Secretary

1) Meeting Minutes
   Action: July, August, and September meeting minutes were unavailable at this meeting.
   Vote: N/A.

2) Council Secretary Report
   a. Agenda Modification: No agenda modifications.
   b. Staffing/Council Updates:
      i. New ODOE Director – Janine Benner is the new interim Director for the Oregon Department of Energy. Ms. Benner was the Assistant Director in charge of the Planning and Innovation Division. Ms. Benner has been with the agency for 9 months. Her background includes being Associate Assistant Secretary, Energy Efficiency and Renewable Energy and previously Deputy Assistant Secretary for House Affairs, both at the US Department of Energy in Washington DC. Prior to those assignments, she worked for Representative Blumenauer for 12 years in a variety of roles. Janine is from Oregon and grew up Portland. The Governor’s Office has begun the process of finding a permanent replacement. Former Director Mike Kaplan has joined the State Treasury’s Office to be the Chief Operating Officer.
      ii. New Council Member – As previously reported to Council, Direlle Calica was formally approved by the senate on September 18th. She replaces Trey Senn on the Council.
   c. Future Meeting Dates:
      i. November 16th & 17th – No November meeting. As indicated in an earlier email to Council, there were no agenda items driving a November Council meeting so everyone can have a well-deserved break.
      ii. December 14th & 15th – Staff is working to have the Boardman Solar Energy Draft Proposed Order hearing at this Council Meeting. This would put the meeting in Boardman with the hearing on Thursday afternoon/evening and the regular Council meeting on Friday.
   d. Project Updates
      i. Jordan Cove Energy Project, Pacific Connector Gas Pipeline - Sean Mole is the project lead. October 25th is the deadline for interested parties to file motions to intervene status. Intervenors have a right to request rehearing of FERC Orders and seek relief of final actions in the US Circuit Court of Appeals. There are currently between 30-40 individuals who have filed motions to intervene. In the prior iteration of this project, ODOE, DEQ, ODFW and DLCD were intervenors. The state is currently evaluating intervention options.
      ii. Montague Wind Power Facility Change Request #3 - Chase McVeigh Walker is the project lead. We received the request on August 4th. It was sent to Council by email on August 9th. It has been posted to the project page as “Change Request #3.” Avangrid (the developer) has made two requests; add two new areas to the site which will allow for the construction of more direct electrical collector lines and access roads at the facility; and adjust the transmission line corridor (but remain in the site boundary). ODOE is still seeking more information from the certificate holder in order to make a determination. Once staff makes a determination of whether or not an amendment is required, we will forward that to Council. Any Council member can request that determination come to the full Council for your review and determination.
iii. Columbia Ethanol Project Change Request #1 - Sarah Esterson is the project lead. The Change Request was received on May 25th. It has been posted to the project page as “Change Request #3”. The request is for a cooling tower modification to include a new cooling tower cell for increased efficiency in evaporation of facility-generated water. Once staff makes a determination of whether or not an amendment is required, we forward that to Council. Any Council member can request that determination come to the full Council for your review and determination. Staff transmitted its determination to Council on October 10th that the change does not trigger any of the “3 Coulds” (from OAR 345, Division 27) and therefore does not require an amendment. Staff have requested by October 27th if any Council Member would like this determination to be reviewed by the full Council.

iv. Project Guide – This document has been printed and is available today. It has also been included on our website. This document is intended for the public so we anticipate changes when we start hearing feedback on how it could be more helpful. Again, want to acknowledge Shanda Shribbs, former Operations Analyst, for the initial substantive work, Rachel Wray, Communications Manager, for making this very accessible and most importantly Sean Mole, current Operations Analyst, for getting this project to this significant milestone.

e. Rulemaking

i. CO2 – Filed on October 18th and is effective.

ii. Structural – Filed on October 18th and is effective.

iii. Public Health and Safety – Jason Sierman, Rulemaking Coordinator has set up the 1st Rulemaking Advisory Committee (RAC) meeting on November 2nd in Boardman, Oregon and included Council member participation.

B. Rulemaking: Amendment Processes (Action Item) – Jason Sierman, Rulemaking Coordinator

Jason Sierman, Rulemaking Coordinator, led the discussion after considering all comments received on the record for this rulemaking, with the Council deliberating and deciding whether to approve final rule language and/or whether to provide additional direction to staff. Discussion included:

- Staff change is to specify 3 “business days”;
- Type C review is necessary for the unavoidable and unforeseeable events (for example, weather, economy) surrounding construction;
- Secretary Cornett commented on special limited circumstances citing the applicant’s responsibility during the application process to anticipate situations and planning site boundary big enough to accommodate changes;
- Councilor Jenkins commented that on unavoidable and unforeseeable events, the burden is on the applicant to tell us why it’s unavoidable or unforeseeable so that the door is open and while there’s concern about those terms there’s opportunity also. Councilor Jenkins also suggested a rule as complex as this needs a commitment to revisit to see how the process works and come up with different ways to conduct the amendment process;
- Mr. Ratcliffe answered Councilor Jenkins’ suggestion there should be a pre-amendment conference with suggestions rather than mandatory requirements, responding that is fine, it provides guidance to the applicant and is an available tool to provide a service to the applicant if they wish to take advantage of it;
- Discussion on the timeline to get the Draft Proposal Order out as efficiently as possible and to make sure there is good clear documentation in the record;
• Discussion on ensuring the public has the opportunity to provide public comment on a complete request for amendment;
• Discussion on issuing and taking public comment on a Draft Proposed Order before issuing a Proposed Order;
• Discussion in ensuring the public has the opportunity to provide oral comments directly to the Council through a mandatory public hearing on the DPO in the Type A review process.

Action: A motion was made by Councilor Jenkins and seconded by Councilor Roppe that the Council approve Division 27 Proposed Rule Division 4 and Division 25 as presented by staff as permanent with the following changes 1) delete “limited” in type C process in title as well as in the following text; 2) add the word business days to the 3 days on line 24, item number 4 same section within 3 business days after receiving a request under sections 1 and 2.

Vote: Roppe, Yes; Jenkins, Yes; Dowlin, Yes; Billings, Yes; Beyeler, Yes; Grail; Yes, Calica, Abstain
Motion carried.

C. The Climate Trust Annual Update (Information Item) – Sean Penrith and Sheldon Zakreski, The Climate Trust.

Sheldon Zakreski, Director of Asset Management, The Climate Trust, provided a Climate Trust update presentation highlighting its mission in mobilizing conservation finance to maximize environmental returns.

Please refer to The Climate Trust Annual Update located on the Council Meetings website for additional details pertaining to the presentation.

D. Financial Assurance Update (Action Item) – Maxwell Woods, Senior Policy Advisor

Maxwell Woods, Senior Policy Advisor, requested an addition to the Approved Financial Institution List for EFSC Financial Assurance. Staff recommends Council approve Liberty Mutual Insurance Group as a pre-approved financial institution for site certificate holder’s use in obtaining the financial assurance instruments for the retirement of their facilities, and direct staff to add Liberty Mutual Insurance Group to the pre-approved list for 2017.

Action: A motion was made by Councilor Billings and seconded by Councilor Calica to approve the addition of Liberty Mutual Insurance Company to the 2017 pre-approved financial institutions list for purposes of issuing bonds or letters of credit related to compliance with the Council’s Retirement and Financial Assurance standard.

Vote: Billings, Yes; Calica, Yes; Grail, Yes; Roppe, Yes; Jenkins, Yes; Beyeler, Yes; Dowlin, Yes.

Motion carried.

Please refer to the Council Meetings materials on the ODOE website for additional details pertaining to the presentation.

E. Nolin Hills Wind Power Project, Appointment of Special Advisory Group (Action Item) – Maxwell Woods, Senior Policy Advisor

Council to appoint a Special Advisory Group, consisting of the governing body of a local government within the jurisdiction a facility is proposed to be located, consistent with ORS 469.480. The proposed Nolin Hills Wind Power project would be located in Umatilla County, and as such, the Umatilla County Board of Commissioners shall be appointed as the Special Advisory Group.

Action: A motion was made by Councilor Jenkins and seconded by Chair Beyeler that the Council appoint the Umatilla County Board of County Commissioners as the Special Advisory Group to advise the
Council in the proceedings related to the review of the Application for Site Certificate for the Nolin Hills Wind Power Project.

**Vote:** Jenkins, Yes; Beyeler, Yes; Dowlin, Yes; Billings, Yes; Calica, Yes; Grail; Yes, Roppe; Yes.

Motion carried.

F. Eugene to Medford Transmission Line, Request for Amendment 4 of Site Certificate, Appointment of Special Advisory Groups (Action Item) – Maxwell Woods, Senior Policy Advisor

Council will consider appointment of Special Advisory Groups, consisting of the governing body of any local government within the jurisdiction the facility is proposed to be located, consistent with ORS 469.480. The PacifiCorp Eugene-Medford Site Certificate Amendment 4 project would be located in Josephine County, Jackson County, and the City of Rogue River. As such, the Josephine County Board of Commissioners and the City of Rogue River City Council shall be appointed as Special Advisory Groups, and the Jackson County Board of Commissioners shall be re-appointed as Special Advisory Group.

**Action:** A motion was made by Councilor Roppe and seconded by Councilor Billings that the Council appoint the Josephine County Board of Commissioners and the City of Rogue River City Council as Special Advisory Groups to advise the Council in the proceedings related to the review of the Site Certificate Amendment Request #4 for the Eugene-Medford Transmission Line facility. It was also moved that the Council re-affirm the appointment of the Jackson County Board of Commissioners as a Special Advisory Group for the same project.

**Vote:** Calica, Yes; Roppe, Yes; Jenkins, Yes; Beyeler, Yes; Dowlin, Yes; Billings; Yes.

Motion carried

Councilor Grail recused herself from the vote based on previously being employed by PacifiCorp, the site certificate holder.

G. Boardman Solar Energy, Hearing Officer Appointment (Action Item) – Maxwell Woods, Senior Policy Advisor

Council will consider appointment of a Hearing Officer for the contested case proceeding on the proposed order to be issued for the proposed Boardman Solar Energy project.

**Action:** A motion was made by Councilor Roppe and seconded by Councilor Billings that Council appoint Ms. Alison Greene Webster from the Oregon Office of Administrative Hearings as the Hearings Officer for the Boardman Solar Energy Facility Draft Proposed Order Hearing and Contested Case.

**Vote:** Beyeler, Yes; Dowlin, Yes; Billings, Yes; Calica, Yes; Grail, Yes; Jenkins; Yes; Roppe, Yes

Motion carried

**Public Comment**

This time is reserved for the public to address the Council regarding any item within the Council’s jurisdiction that is not otherwise closed for comment.

Ms. Irene Gilbert commented on the Eugene to Medford RFA #4 project as being processed as an amendment when the certificate holder is adding new infrastructure and that it should be a new application, not an amendment. In regards to the Council amendment process rulemaking, Ms. Gilbert also mentioned PGE’s concerns for failure to follow the rule procedures and the Environmental Lobby comments requiring lack of consistency for due process.

**Meeting Adjourned at 5:51 p.m.**