Opening Items:

• Call to Order
• Roll Call
• Agenda Modifications
• Announcements
Announcements:

• For those attending in person:
  • Comment Registration Cards are available on the table
  • GovDelivery Sign Up Cards to receive project information by email are also on the table
• For those attending via teleconference, opportunity for public comment will occur at the end of today’s meeting. We will request that individuals interested in making a public comment identify themselves prior to the comment period
• Those participating via the AT&T phone line, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call
• If you would like to address the Council, please do not use the speaker phone feature, because it will create feedback
Announcements continued:

• For those signed onto the webinar, please do not broadcast your webcam
• Please silence your cell phones
• Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.
Agenda Item A

- Consent Calendar
- Council Secretary Report
Agenda Item B
(Action Item)

Rulemaking: Amendment Processes

October 19, 2017

Presented by:
Jason Sierman, Energy Policy Analyst
## Supplemental Materials

<table>
<thead>
<tr>
<th>Attachment</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attachment A</td>
<td>List of Acronyms used</td>
</tr>
<tr>
<td>Attachment B</td>
<td>Comprehensive Redline Div. 27 Proposed Rules - Rev4</td>
</tr>
<tr>
<td>Attachment C</td>
<td>Redline Div. 27 Proposed Rules - Rev4</td>
</tr>
<tr>
<td>Attachment D</td>
<td>Redline Div. 27 Proposed Rules - Rev3</td>
</tr>
<tr>
<td>Attachment E</td>
<td>Redline Div. 27 Proposed Rules - Rev2</td>
</tr>
<tr>
<td>Attachment F</td>
<td>Redline Div. 27 Proposed Rules - Original</td>
</tr>
<tr>
<td>Attachment G</td>
<td>Redline Div. 27 Proposed Rules - Original</td>
</tr>
<tr>
<td>Attachment H</td>
<td>Redline Div. 15 Proposed Rules</td>
</tr>
<tr>
<td>Attachment I</td>
<td>Redline Div. 25 Proposed Rules</td>
</tr>
<tr>
<td>Attachment J</td>
<td>Crosswalk Document</td>
</tr>
<tr>
<td>Attachment K</td>
<td>Process Charts</td>
</tr>
<tr>
<td>Attachment L</td>
<td>Historical Data on Amendments</td>
</tr>
<tr>
<td>Attachment M</td>
<td>Comprehensive Record of Written Comments</td>
</tr>
</tbody>
</table>
Proposed Rules Meet Council Goals

**Goal 1:** Enhance opportunity for public participation

- Proposed rules provide official notice and comment on a complete RFA and a Draft Proposed Order, before issuance of a Proposed Order (existing rules do not).
- Proposed rules include a mandatory public hearing on the DPO under Type A review (no public hearing in existing rules).

**Goal 2:** Minimize increases in review time while achieving Goal 1.

- Proposed rules remove official notice and comment period for the public and reviewing agencies prior to the RFA being deemed complete.
- Proposed rules retain Council discretion in granting contested case requests under Type A review.
- Proposed rules do not include an option contested case requests under Type B review.
Procedural History

- Aug. 19, 2011
- Feb. 3, 2012
- Aug. 24, 2012
- Feb. 19, 2013
- Oct. 7, 2011
- May 10-11, 2012
- Feb. 6, 2013
- March 15, 2013

- Council Meetings
- Public Workshops
Procedural History

Jun. 21, 2013
Jun. 19, 2014
Nov. 21, 2014
Aug. 19, 2016

Apr. 16, 2014
Oct. 16, 2014
June 17, 2016
Nov. 3-4, 2016

Council Meetings
RAC Meetings
Procedural History
2017: Official Notice & Comment

Jan. 2017
Feb. 24, 2017
Apr. 28, 2017
May. 25-26, 2017
July 28, 2017
Sept. 21-22, 2017
Sept. 29, 2017
Oct. 19, 2017

Initial Public Notice
Rulemaking Hearings
Council Meetings
Latest Comment Deadline
Latest Council Direction

1) Include a third review process ("Type C") for requests for amendment (RFA) qualified for expedited review.

2) Require certificate holders to submit an Amendment Determination Request (ADR) for proposed additions of area to the site boundary. Give staff discretion to determine if an RFA is required. Council review upon certificate holder’s request.

3) Eliminate language requiring certificate holder to participate in a Pre-Amendment Conference prior to submitting a RFA to add area to site boundary.
4) Retain ability for certificate holder to submit an ADR to ask staff whether an RFA can be reviewed through the process with fewer steps (“Type B”).

5) Eliminate any specific factors staff and the Council should consider when determining whether an addition of area to the site boundary requires an RFA, and strictly rely on the analysis of the “3 coulds” test under 345-027-0050.

6) Refine the factors staff and the Council consider when determining whether to review an RFA through the Type B review process rather than Type A.

7) Require the Preliminary RFA and all ADRs to be posted to the EFSC website.
Latest Revisions

Council Directed Revisions – Rev3

  – Written Comment Deadline: 5 p.m. PST on September 29, 2017.

Staff Revisions – Rev4

Council Directed Revisions

Revision 3

“Division 27 Proposed Rules – Rev3”
Type C Review

• Can only be requested during construction.

• RFAs must be complete for staff to determine Type C review.

• Staff has 3 days to consider criteria and determine whether to approve Type C.

• If Type C is denied, Certificate Holder (CH) may request Council review of staff’s determination.

• After Type C approved, staff has 7 days to issue a draft temporary order (DTO) and recommend Type A or Type B review.

• 1st Council meeting after DTO issued, Council considers DTO and considers completion thru Type A or B review.
Type C Review (cont.)

• Council temporarily grants an amended site certificate in a temporary order (TO) or denies an amended site certificate.

• Before implementing any change approved in a TO, CH must acknowledge and accept all terms and conditions.

• Review is completed through either Type A or Type B review with the TO replacing all references to the DPO in procedural steps.

• Actions taken by the CH under authority of the TO that are inconsistent with the final order are not violations so long as inconsistencies are remedied by the CH as directed by the Council in the FO.
Amendment Determination Request (ADR)

• ADR results in staff making a decision on whether a proposed change requires a RFA and/or whether RFA is Type A or Type B review.

• When proposing to add area to the site boundary, Certificate Holder (CH) must either submit a RFA or submit an ADR.

• When proposing any other change, CH may submit an ADR (not required).

• After receiving ADR, ADR is posted to EFSC website.

• After receiving ADR, staff issues written determination as promptly as possible (sends to CH, Council, and posts to web).
ADR (cont.)

• Staff, Council, or the CH may refer determinations of whether a RFA is required to the Council.

• Only the CH may refer determinations of whether a RFA is reviewed thru Type A or Type B to the Council.

• Staff and the Council may consider the following factors when determining Type A or Type B review:
  - Complexity of the change
  - Anticipated level of interest from public and reviewing agencies
  - Likelihood of significant adverse impact
  - Type and amount of mitigation, if any.
All Comments Considered

• The Council has heard and considered all oral comments provided to it at the three rulemaking hearings that have been held:

• The Council has received and considered all written comments made on the record of this rulemaking (beginning in January 2017 until the most recent written comment deadline of Sept. 29, 2017).
  • Original comment period: 15 written comments
  • Extended comment period 1: 10 written comments
  • Extended comment period 2: 2 written comments
  • Extended comment period 3: 158 written comments
Latest Revisions

Staff Revisions

Revision 4

“Division 27 Proposed Rules – Rev4”
Applicability, Safe Harbor, Minor Corrections

OAR 345-027-0011:
Removed language allowing Council to extend construction deadlines under the existing timing provisions found under 345-027-0030 for facilities not yet in construction, but already approved for construction prior to the effective date of the proposed rules.

OAR 345-027-0085:
Language removed from -0011 was revised & added to -0085 to accomplish same purpose.

OAR 345-027-0080(13):
Revised the “safe harbor” provision to prevent a CH from being in violation when actions taken under authority of TO are inconsistent w/ language and conditions of a FO, so long as inconsistency is remedied as specified in FO.

OAR 345-027-0100:
Minor corrections to cross-references and ensure consistency.
Review of Issues in Proposed Rules
(from July 28, 2017 Hearing)
1) Applicability of Any New Rules
2) Construction Deadlines
General Issues

3) Adding Area to the Site Boundary
General Issues

4) Timing of Review
Issues – Type A Review (more steps)

5) Pre-Amendment Conference
Issues – Type A Review (more steps)

6) Notice of Receipt of Preliminary RFA to Reviewing Agencies
7) Notice of Receipt of Preliminary RFA to the Public
Issues – Type A Review (more steps)

8) Determination of Completeness (DOC)
Issues – Type A Review (more steps)

9) Draft Proposed Order (DPO)
Issues – Type A Review (more steps)

10) Mandatory Public Hearing
11) “Raise It or Waive It” Requirement For Comments and Contested Case Requests
Issues – Type B Review (fewer steps)

12) Council Discretion on Contested Case Requests
13) Should there be a review process with fewer steps than the Type A review? If so, what should those steps be?
14) How should the Type B review process with fewer steps be exercised?
15) Should there be a Type C review process? If so, should it be limited to construction phase only?
16) Should there be an emergency review process in addition to a Type C review?
All Call for Any Other Issues

17) Other issues from the Council?
Council Options: Action or Direction

1) Approve proposed rules w/out any changes

2) Direct modifications w/in noticed scope & w/out extending comment period
   A. Staff modifies proposed rules and files w/ Sec. of State; or
   B. Staff modifies proposed rules and returns to Council for its review.

3) Direct modifications w/in noticed scope & extend comment period.

4) Direct modifications outside noticed scope with new official public notice and comment period.

5) Direct staff in any other manner consistent with noticed scope of this rulemaking, including ceasing all rulemaking activity on this project.
AFTERNOON BREAK

• 15 minute

Next: 4:10 p.m.
Agenda C – The Climate Trust
Annual Update
Agenda Item C
(Information Item)

The Climate Trust: Annual Update

October 19, 2017

Presented by:
Sean Penrith and Sheldon Zakreski, The Climate Trust
Agenda Item D
(Action Item)

Financial Assurance Update

October 19, 2017

Presented by:
Maxwell Woods, Senior Policy Advisor
Agenda Item E
(Action Item)

Nolin Hills Wind Power Project:
Appointment of Special Advisory Group

October 19, 2017

Presented by:
Maxwell Woods, Senior Policy Advisor
Facility Background

**Applicant:** Nolin Hills Wind LLC (Capital Power Corp.)

**Type of Facility:** Wind Power

**Location:** Umatilla County

**Status:** Notice of Intent submitted September, application expected in early 2018
Agenda Item F
(Action Item)

Eugene to Medford Transmission Line,
Request for Amendment 4:
Appointment of Special Advisory Group

October 19, 2017

Presented by:
Maxwell Woods, Senior Policy Advisor
Background

Certificate Holder: PacifiCorp (dba Pacific Power and Light Company)

Existing Facility: 500 kV transmission line, 137 miles from Medford to Eugene (site cert approved in 1980s, facility built in 1990s)

Requested Amendment: New substation, new appx. 18-mile 230 kV transmission line double-circuited with existing 115 kV transmission line from Grants Pass substation to the new substation, related or supporting facilities (“Sams Valley Reinforcement Project”)

Amendment Location: Josephine and Jackson Counties, City of Rogue River

Status: Request for Amendment 4 anticipated in 4th Qtr 2017
Special Advisory Group Appointment

Request for Amendment 4: components located within Jackson and Josephine counties; City of Rogue River

Appointment:
- Josephine County Board of Commissioners
- City of Rogue River City Council

Re-affirm Original Appointment:
- Jackson County Board of Commissioners
Agenda Item G
(Action Item)

Boardman Solar Energy: Hearing Officer Appointment

October 19, 2017

Presented by:
Maxwell Woods, Senior Policy Advisor
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.
Adjourn

Next Council Meeting (anticipated):

- December 14-15
- Boardman, OR