



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

Date: June 15, 2018

To: Oregon Energy Facility Siting Council (EFSC or "the Council")

From: Jason Sierman, Energy Policy Analyst
Todd Cornett, ODOE Assistant Director / Council Secretary

Subject: Agenda Item D (Action Item): Rulemaking - Single Solar PV Facility - For June 29, 2018
EFSC Meeting

Summary of Agenda Item & Request

- 1) Define the purpose and scope of a rulemaking project addressing what constitutes a single EFSC jurisdictional solar PV facility.
- 2) Define the purpose and scope of a Rulemaking Advisory Committee (RAC) for this rulemaking project;
- 3) Appoint a RAC for this rulemaking project.

Overview

At its December 14-15, 2017 Council meeting, the Council approved its rulemaking schedule for 2018 (see **Attachment A**). Staff has completed preliminary work on the Council's third scheduled rulemaking project for 2018, the project evaluating whether or not the Council needs to establish a definition or criteria for what constitutes a single solar PV facility for purposes of EFSC-jurisdiction, and evaluating whether or not specific EFSC siting standards should be developed for solar PV facilities.

Recommended Purpose & Scope of Rulemaking Project

The recommended purpose of this rulemaking project is to:

- 1) Evaluate whether multiple non-EFSC jurisdictional solar PV facilities could aggregate in a way that the aggregate is functionally the size of an EFSC jurisdictional solar PV facility;
- 2) If it's determined that multiple non-EFSC jurisdictional solar PV facilities could functionally aggregate to the size of an EFSC jurisdictional solar PV facility, to develop new rules that identify objective criteria for determining the circumstances of when multiple non-EFSC jurisdictional solar PV facilities functionally aggregate to the size of an EFSC jurisdictional solar PV facility; and
- 3) Evaluate whether or not specific standards should be developed for the siting of solar PV facilities, and if so, to develop such standards.

Background on the Issue of PV Solar Facilities

Staff anticipates several related prior issues that should be examined to help inform this rulemaking project:

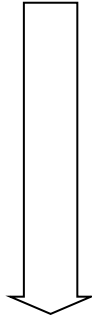
- **Attachment B** - Prior Efforts Used to Determine Single Wind Energy Facilities (the “15 Questions”)
- **Attachment C** - LCDC: Solar PV Siting Rule on EFU Land, OAR 660-033-0130(38)
 - Solar Definition
 - Tract Criterion
 - 1,320 Ft. Criterion
- **Attachment D** - ONDA Petition for Rulemaking (2008)
- **Attachment E** - EFSC Energy Generation Area Rules, OAR 345-001-0200 thru -0220

Recommended Rulemaking Process:

At its December 14-15, 2017 Council meeting, the Council approved a rulemaking process with early public participation for this rulemaking project. The rulemaking process the Council approved is outlined below:

EARLY PUBLIC PARTICIPATION

* = EFSC Meeting
bold = optional

Start	Council Approves Pub. Part. Process*	<input type="checkbox"/>	
	Rulemaking Advisory Committee (RAC)	<input type="checkbox"/>	
	Staff Draft of Proposed Language	<input type="checkbox"/>	
	Council Authorization to File Notice*	<input type="checkbox"/>	
	Staff Issues Official Public Notice	<input type="checkbox"/>	
	Public Comment Period	<input type="checkbox"/>	
	Rulemaking Hearing*	<input type="checkbox"/>	
	Hearing Officer Report	<input type="checkbox"/>	
	Council Adopts Final Rule Language*	<input type="checkbox"/>	
	Finish	Staff Files Final Rule Language	<input type="checkbox"/>

Estimated time 4 – 6 months

Because the changes proposed for this rulemaking require staff to complete a complex evaluation of how to draft proposed rule language, the Council identified a need for early public participation in the form of a Rulemaking Advisory Committee (RAC).

Purpose & Scope of a Rulemaking Advisory Committee (RAC)

The purpose and scope of the RAC shall be defined by the Council. Staff recommends the purpose of the RAC is to offer a group of entities/people with diverse interests the opportunity to provide input to help inform staff’s evaluation of the Council defined purpose of the rulemaking project

(see above for staff's recommended purpose of this project), and to provide input on the drafting of any proposed rule language.

Staff recommends the purpose of the RAC is not for it to be a forum for diverse interests to come together and provide unified input by way of agreement or consensus, but rather, for it to be a forum for staff to hear a variety of individual input from diverse interests, regardless of any agreement or consensus.

Staff recommends the scope of the RAC's input be limited to the scope and purpose identified by the Council.

Staff proposes to hold three RAC meetings, with the possibility of additional meetings as deemed necessary by staff after gauging input from RAC members, with the locations and times yet to be determined. Staff proposes to engage with the RAC and seek its input before, during, and after the drafting of any proposed language.

Composition of a RAC

Staff recommends the Council appoint a RAC to provide input to staff commensurate with the RAC's purpose and scope as defined by the Council.

Staff recommends that any RAC appointed by the Council for this rulemaking project be composed of diverse stakeholders representing some or all of the following interest groups: NGOs and Non-Profits; Private Industry and Investor Owned Utilities; and Tribal, Local, State, and Regional Government.

Staff has compiled a recommended list of entities that have expressed an interest to staff in participating on a RAC for this rulemaking (see **Attachment F**). Staff recommends the Council consider appointing approximately 20-25 entities from this list to potentially serve on a RAC for this rulemaking project. When appointing members to the RAC, the Council could consider appointing either entities or persons.

In making its appointments, the Council may add or subtract entities or persons from the attached list of staff's recommendations. When appointing entities or persons to potentially serve on the RAC, staff also requests that the Council appoint one or two Council members to serve on the RAC.

Next Steps

Staff will reach out to the entities and persons the Council appoints as potential RAC members to confirm their interest and availability to participate in three RAC meetings. Staff will then schedule the RAC meetings. Staff expects the first meeting could take place as early as the end of July or early August. The purpose and scope of the RAC will be commensurate with the Council's direction.

After concluding its meetings with the RAC and considering all input received, staff would report the results of its evaluation back to the Council, results that could include proposed rule language for the Council to review. After the Council reviews any proposed rule language, the Council could deliberate and decide on whether to authorize staff to issue official public notice of this rulemaking project. If authorized to issue official public notice, staff would issue official public notice and schedule a rulemaking hearing to take place at a future Council meeting. The public would then have the opportunity to provide comments on this rulemaking, both in writing and orally at the rulemaking hearing.