



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

To: Oregon Energy Facility Siting Council (Council)
From: Sisily Fleming, Fiscal Analyst
Date: October 12, 2018
Subject: **Agenda Item J:** Biennial Update to Schedule of Fees (Action Item) for the October 25-26 2018 EFSC Meeting

Requirements

ORS 469.421(2) requires any person submitting a notice of intent, request for exemption, request for expedited review, request for pipeline, application for site certificate, or request for amendment to:

".....submit the fee required under the fee schedule established under ORS 469.441 to the State Department of Energy when the notice or request is submitted to the council. To the extent possible, the full cost of the evaluation shall be paid from the fee paid under the subsection. However, if costs of the evaluation exceed the fee, the person submitting the notice or request shall pay any excess costs shown in an itemized statement prepared by the council."

ORS 469.441(1) requires the Council to:

"...Not later than January 1 of each odd-numbered year, the council by order shall establish a schedule of fees which those persons submitting a notice of intent, a request for an exemption, a request for pipeline described in ORS 469.405(3) or a request for expedited review must submit under ORS 469.421 at the time of submitting the notice of intent, request for exemption, request for pipeline or request for expedited review. The fee schedule shall be designed to recover the council's actual costs of evaluating the notice of intent, request for exemption, request for pipeline, or request for expedited review subject to any applicable expenditure limitation in the council's budget. Fees shall be based on actual, historical costs incurred by the council and department to the extent historical costs are available. The fees established by the schedule shall reflect the size and complexity of the project for which the notice of intent, request for exemption request for pipeline or request for expedited review is submitted, whether the notice of intent, request for exemption, request for pipeline or request for expedited review is for a new or existing facility and other appropriate variables having an effect on the expense of evaluation"

Background

Prior to 1989 Notice of Intent and Application review fees were set in statute, and were \$5,000 and \$10,000 respectively. In 1989 legislation was enacted that required the Council to adopt a schedule of fees for Notices of Intent and Applications for Site Certificate by January 1 of each odd numbered year, and the Council's first fee schedule was adopted in December 1990. In 1993, the statute was expanded to include Requests for Expedited Review, and Requests for Exemption, and changed the methodology from a set fee for Application Reviews to customized cost estimates. In 1999, the statute expanded to include the fee for the Request for Pipeline under ORS 469.405 (3), and the fee schedule requirements have remained unchanged since.

Staff Recommended Changes

Based on the analysis of actual expenses from the most recent projects, Staff recommends making modifications to the fee schedule as follows:

- Combine the Notice of Intent fee for “Wind Generation” with the “Other (Solar, Geothermal, etc)” category, titling it “Wind, Solar, Geothermal, & All Other Generation” and set the fee at \$40,000. This represents a \$5,000 increase to the fee for Wind Generation, and a \$10,000 increase to the fee for “Other Generation” over the current fee schedule.
 - *This increase is more aligned with the average actual expenses incurred in processing the three most recent Notices of Intent: Blue Marmot Solar, Obsidian Solar, and Nolin Hills Wind.*
 - *Additional Background: The NOI fee structure was modified in 2012 to establish an NOI fee based on the type of energy generation proposed. Prior to 2012 there was a single NOI fee set at \$25,000 and had remained unchanged for over a decade.*
- Increase the fee associated with the Determination for the Qualification for Expedited review from \$5,000 to \$15,000.
 - *This increase is more aligned with the actual expenses incurred in processing the most recent Determination for Qualification for Expedited Review: Boardman Solar Energy Project. The intention of the fee, historically, was to cover costs associated with determining if the proposed facility qualified for expedited review. However, siting division staff conduct a number of other tasks associated with a proposed energy facility prior to receiving the preliminary application for site certificate. Under a non-expedited facility review, the Notice of Intent fee would typically cover the Department's costs during this period of review. However, because the expedited review process contains no NOI step, the NOI fee is not collected. As such, the expedited review period consists of issuance of the Determination for Qualification for Expedited review, as well as all other pre-application coordination activities that are typically covered under a standard Notice of Intent Review, such as pre-application meetings with the developer, development of a cost estimate for Application Review and coordination with reviewing agencies and special advisory group(s) in anticipation of the Preliminary Application for Site Certificate.*
 - *Additional Background: The Expedited Review fee was originally established at \$5,000 in 1993 and has remain unchanged since.*

- Increase the fee associated with “All Requests for Exemption” from \$3,000 to \$10,000.
 - *This increase is more aligned with the average actual expenses incurred in processing the most recent Requests for Exemption: Wellon’s Biogreen and Jordan Cove Energy.*
 - *Additional Background: The Request for Exemption fee was originally established in 1993 and included three categories: High Efficiency Cogeneration Exemption (\$2,500), Request for Temporary Power Plant Exemption (\$1,000), and All other Requests for Exemption (\$1,000).*

All other Notice of Intent fee categories, and the Request for Pipeline fee have been adjusted for inflation from 1st quarter 2017 to 1st quarter 2019 and rounded to the nearest thousand. This inflation calculation is consistent with the methodology used in site certificate conditions for calculating annual inflation adjustments for financial assurance instruments required for retirement.

No changes are proposed to the structures associated with Application Review, Request to Amend a Site Certificate, or Site Certificate Annual Fees.

Staff recommends Council adopt the proposed fee schedule with an effective date of January 1, 2019, to meet the requirements of ORS 469.441(1).

Attachments

- Current Fee Schedule with Proposed Changes
- Order Adopting a Schedule of Fees with Fee Schedule Attachment

ATTACHMENT A: SCHEDULE OF FEES

Effective 1/20/17



All processes of the Energy Facility Siting Council are subject to full cost recovery per ORS 469.421. While the fees below reflect the anticipated costs, the applicant or Site Certificate Holder is responsible for all costs associated with their proposal.

NOTICE OF INTENT (NOI)		Proposed 1/1/19	Explanation of Change
OPTION A: Customized NOI Approach (Applies to all Facility Types)			
Initial Filing Fee	\$5,000	No Change	
Custom NOI Fee (Based on Cost Estimate)	not less than \$40K	No Change	
OPTION B: Standard NOI Approach			
Natural Gas Fired Generation	\$55,000	\$57,000	Increased for Inflation (4.5%)
BioFuels	\$65,000	\$68,000	Increased for Inflation (4.5%)
Electrical Transmission	\$125,000	\$131,000	Increased for Inflation (4.5%)
Pipeline Transmission	\$125,000	\$131,000	Increased for Inflation (4.5%)
Wind Generation	\$35,000		
Other (Solar, Geothermal, etc)	\$30,000	\$40,000	Combine categories with the title Wind, Solar, Geothermal, & All Other Generation, and increase fee based on actual expenses incurred in processing most recent NOI's
EXPEDITED REVIEW		Proposed 1/1/19	Explanation of Change
Determination of Qualification for Expedited Review	\$5,000	\$15,000	Increase aligns fee with the actual expenses incurred in processing the most recent request for Determination of Expedited Review
APPLICATION REVIEW		Proposed 1/1/19	Explanation of Change
All Facility Types	Cost estimate is generated by ODOE. 25% of total cost estimate required upon submittal. When costs approach 75%, project will be evaluated to determine if costs will go over 110%. If yes, a revised estimate will be completed.	No Change	
REQUEST TO AMEND A SITE CERTIFICATE		Proposed 1/1/19	Explanation of Change
All Facility Types	Site Certificate holders will be invoiced monthly to recover the cost of the review of the Amendment.	No Change	
SITE CERTIFICATE ANNUAL FEE		Proposed 1/1/19	Explanation of Change
Specific Regulation (All Facility Types)	To ensure that facilities are being operated consistently with the terms and conditions of their site certificate. Amount based on size and complexity of facility.	No Change	
General Regulation (All Facility Types)	To cover the costs of work conducted for general EFSC related activities related to the council's business. Based on not more than 35% of the annual Specific Regulation amount collected.	No Change	
OTHER TYPES OF REQUESTS		Proposed 1/1/19	Explanation of Change
All Requests for Exemption	\$3,000	\$10,000	Increase aligns fee with the actual expenses incurred in processing the most recent Requests For Exemption
Request for Pipeline under ORS 469.405 (3)	\$2,500	\$3,000	Increased for Inflation (4.5%)

BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of Fees for Submitting)	
Notices of Intent, Site Certificate)	
Applications, Amendments to Site)	Order Adopting
Certificates, Expedited Reviews,)	A Schedule of Fees
Exemptions, and Pipelines Described in)	
ORS 469.405(3))	

1 Oregon Revised Statute (ORS) 469.441 requires the Energy Facility Siting Council (Council) to periodically
2 establish a schedule of fees to be paid for specified Notices and Requests. Attachment A to this Order
3 includes that schedule of fees. ORS 469.421 requires a person submitting specified requests or notices,
4 including those listed in ORS 469.441, to pay all expenses incurred by the Council, the Oregon Department
5 of Energy (Department) related to the review and decision of the Council. Payment of the amount listed
6 on the schedule of fees in Attachment A is required at the time that the notice or request is submitted. If
7 actual costs exceed the fee, excess costs will be itemized with invoice(s) prepared by the Department. If
8 costs are less than the fee paid, the Department shall refund the excess.

9
10 In the case of an Application for a Site Certificate, ORS 469.421(3) requires the Department to estimate
11 the costs expected to be incurred in processing the application. 25 percent of the total estimated fee is
12 due at the time of application submittal, and monthly invoices will be issued for actual expenses. If total
13 costs exceed the estimate, excess costs will be itemized with invoices prepared by the Department. If
14 costs are less than the fee paid, the Department shall refund the excess.

15
16 In the case of a Request to Amend a Site Certificate, the Department will issue monthly invoices for actual
17 costs incurred. The amount will be due upon receipt of each billing statement.

18
19 With this order, the Council sets the schedule of fees listed in Attachment A to be effective January 1,
20 2019.

21
22

State of Oregon
Energy Facility Siting Council

By: _____
Barry Beyeler, Chair

Dated: October 26, 2018

ATTACHMENT A: SCHEDULE OF FEES

Effective 1/1/19

All processes of the Energy Facility Siting Council are subject to full cost recovery per ORS 469.421. While the fees below reflect the anticipated costs, the applicant or Site Certificate Holder is responsible for all costs associated with their proposal.

NOTICE OF INTENT (NOI)

OPTION A: Customized NOI Approach (Applies to all Facility Types)

Initial Filing Fee	\$5,000
Custom NOI Fee (Based on Cost Estimate)	not less than \$40,000

OPTION B: Standard NOI Approach

Natural Gas Fired Generation	\$57,000
BioFuels	\$68,000
Electrical Transmission	\$131,000
Pipeline Transmission	\$131,000
Wind, Solar, Geothermal, & All Other Generation	\$40,000

EXPEDITED REVIEW

Determination of Qualification for Expedited Review	\$15,000
---	----------

APPLICATION REVIEW

All Facility Types	Cost estimate is generated by ODOE. 25% of total cost estimate required upon submittal. When costs approach 75%, project will be evaluated to determine if costs will go over 110%. If yes, a revised estimate will be completed.
--------------------	---

REQUEST TO AMEND A SITE CERTIFICATE

All Facility Types	Site Certificate holders will be invoiced monthly to recover the cost of the review of the Amendment.
--------------------	---

SITE CERTIFICATE ANNUAL FEE

Specific Regulation (All Facility Types)	To ensure facilities are being operated consistently with the terms and conditions of their site certificate. Amount based on size and complexity of facility.
General Regulation (All Facility Types)	To cover the costs of work conducted for general EFSC related activities related to the council's business. Based on not more than 35% of the annual Specific Regulation amount collected.

OTHER TYPES OF REQUESTS

All Requests for Exemption	\$10,000
Request for Pipeline under ORS 469.405 (3)	\$3,000