



# Oregon

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**To:** Oregon Energy Facility Siting Council

**From:** Luke May, Siting Analyst

**Date:** February 8, 2019

**Subject:** Agenda Item D (Action Item) – Summit Ridge Wind Farm – Council Review of Draft Proposed Order on Request for Amendment 4 for the February 22, 2019 EFSC Meeting

**Attachments:** Attachment 1: Draft Proposed Order on Request for Amendment 4  
Attachment 2: Comments Received on the DPO as of February 8, 2019

## Background

The Oregon Energy Facility Siting Council (Council) issued a site certificate for the Summit Ridge Wind Farm (facility) on August 19, 2011, which originally authorized the construction and operation of a wind-energy generation facility that would include up to 87 wind turbines. The Council issued its *Final Order on Amendment 1* and an amended site certificate on August 7, 2015, which approved a construction timeline extension and also allowed flexibility in turbine layout and design. The Council issued its *Final Order on Amendment 2* and a second amended site certificate on November 4, 2016, which approved a transfer of certificate holder ownership, a construction timeline extension, flexibility in turbine layout and design, and authorized a variance to a road setback requirement for 17 wind turbines. The Council issued its *Final Order on Amendment 3* and a third amended site certificate on December 15, 2017, which approved a transfer of certificate holder ownership to the current certificate holder owner and parent company, Pattern Renewables 2 LP. Since the issuance of the original Site Certificate, the facility was amended and approved to consist of up to 72 wind turbines. The facility is approved to be located entirely within Wasco County, and within a site boundary of 11,000 acres. The facility is not constructed, and is expected to generate approximately 194.4 megawatts.

Pattern Energy Group 2 LP (certificate holder) submitted a complete Request for Amendment 4 (amendment request or RFA4) to the Summit Ridge Wind Farm site certificate on January 10, 2019. The amendment request seeks Council approval of a fourth amended site certificate to allow for construction deadline extensions; the certificate holder requests an amendment to the site certificate to extend the deadline (1) to begin construction from August 19, 2018 to August 19, 2020, and (2) to complete construction from August 19, 2021 to August 19, 2023.

The preliminary amendment request was submitted prior to the August 19, 2018 deadline, and as such stays the deadline pending Council decision on the amendment request.

On January 16, 2019, the Oregon Department of Energy (Department) issued its Draft Proposed Order and public notice of a public comment period on the amendment request and Draft Proposed Order beginning on January 16 and lasting through February 11, 2019. The amendment request was initially processed under Council's Type B review. However, the Department received notice on February 1, 2019 that the certificate holder withdrew its request to process under Type B and requested Type A review. The Department re-issued its Draft Proposed Order on February 1, 2019 under Type A review with a new public comment period ending at the conclusion of the public hearing. The public hearing is scheduled for 10:00 A.M. on the same day as the Council meeting, Friday February 22. All comments received on the January 16, 2019 Draft Proposed Order are valid and will be addressed in the Department's Proposed Order on the amendment request.

During the Department's review of the amendment request (prior to the issuance of the Draft Proposed Order), the Department received comments from: Oregon Department of Fish and Wildlife; Oregon State Historic Preservation Office; Wasco County Board of Commissioners / Planning Department; Oregon Department of Geology and Mineral Industries; and the certificate holder. These comments are included in Attachment B of the Draft Proposed Order.

### **Summary of Draft Proposed Order**

Pursuant to OAR 345-027-0065, the Draft Proposed Order addresses each of the Council standards, and comments received on the record during the completeness review phase, and recommends that Council find that the facility, with proposed construction deadline extensions, would comply with, or based on compliance with existing and recommended amended site certificate conditions, each of the Council standards.

As presented in the Draft Proposed Order, the Department does not recommend any changes in findings or conditions between the Site Certificate on Amendment 3 and the Draft Proposed Order for the following standards:

- Soil Protection
- Protected Areas
- Threatened and Endangered Species
- Scenic Resources
- Historic, Cultural and Archeological Resources
- Recreation
- Public Services
- Waste Minimization
- Cumulative Effects Standard for Wind Energy Facilities
- Removal-Fill Law
- Water Rights

Based on changes in fact and law, the Department incorporated additional reasoning and analysis, and in some instances, recommends amending conditions to the following standards:

- **General Standard of Review:**
  - Based on the Department’s review of RFA 4, the Department recommends Council allow the certificate holder until August 19, 2020 to begin construction of the facility, and to allow the certificate holder until August 19, 2023 to complete construction of the facility.
  - The Department recommends changes to the site certificate to remove reference to total megawatts that may be generated by the facility. The Council’s standards are based on potential impacts that could arise from an energy facility; as such, the total electrical output that the facility could generate is not directly related to a change in impacts to resources.
  - The Department recommends administrative changes to clarify size of the transmission line micro-siting corridor. The administrative change is based on exhibits and findings contained within the record and is not a change based on the certificate holder’s request.<sup>1</sup>
  
- **Organizational Expertise:**
  - The Department provides updated findings relating to the certificate holder’s absence of regulatory citations.
  - The Department made updated findings relating to the certificate holder’s ability to design, construct, and operate the proposed facility in a manner that protects public health and safety.
  
- **Structural Standards:**
  - The Department recommends administrative updates to site certificate conditions based on rule updates to mandatory conditions contained within OAR Chapter 345 Division 25.
  - The Department recommends administrative changes to require the certificate holder to submit its geotechnical report to the Department at least 90 days prior to beginning construction, and for the geotechnical report to include investigations at all turbine locations, transmission line dead-end and turning structures, substation(s), and at the operations and maintenance building.
  - The Department made findings relating to “Disaster Resilience and Climate Change Adaptation,” based on rule updates to Chapter 345 Division 21.
  
- **Land Use:**
  - The Department provides updated findings relating to the facility’s ability to comply with ORS 215.274 (associated transmission lines located within an exclusive farm use zone area), which was not evaluated in prior Final Orders.
  - The Department provides updated findings that confirm the previously-Council reviewed and approved reasoning to allow for turbine setbacks, as previously approved through WCLUDO Section 19.030(D)(1)(c).

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<sup>1</sup> The record is based on materials submitted in relation to the application for site certificate, and requests for amendments 1 through 3.

- **Retirement and Financial Assurance:**
  - Based on comments provided by the certificate holder and Department analysis, the Department updated its findings relating to the total estimated cost of facility decommissioning. Comments provided by the certificate holder indicate that the cost of decommissioning should be increased from \$6.95 million to \$12.019 million.
  - The updated financial decommissioning estimate was formulated based on discrete facility unit retirement costs; as such, the Department recommends an administrative change to allow for the certificate holder to adjust the total amount of the bond or letter if the certificate holder demonstrates a change in the anticipated “quantity” of required materials to build the facility based on final design prior to construction. The clarification is that the final bonding amount must be consistent with the unit costs reviewed and recommended approved by Council.
  
- **Fish and Wildlife Habitat:**
  - The Department recommends an administrative clarification that pre-construction plant and wildlife surveys be conducted within 400 feet of all areas that would be disturbed during construction within the site boundary.
  - Based on comments from the Oregon Department of Fish and Wildlife (ODFW), and based on the fact that wildfires recently occurred adjacent to and within the site boundary, the Department recommends that the certificate holder provide an updated habitat assessment of mitigation sites.
  - The Department recommends an amendment to a condition to allow for the certificate holder to engage in construction activities between December 1 and April 15, if the certificate holder is able to demonstrate to the satisfaction of the Department and ODFW that it would avoid, minimize, or mitigate impacts to big game and big game habitat.
  
- **Public Health and Safety Standards for Wind Energy Facilities:**
  - The Department recommends that the certificate holder include, within its compliance plan, the process or protocol to be implemented that ensure the manufacturer’s handling instructions and procedures are followed during equipment delivery.
  - The Department recommends a requirement that the certificate holder submit, for approval by the Department, an operational safety monitoring program. The program must include protocols relating to the monitoring and inspection of turbine blade and turbine tower components. Furthermore, the certificate holder would be required to report any blade or tower failure events to the Department within 72 hours of occurrence, and must also submit a root-cause analysis for compliance evaluation.
  
- **Siting Standards for Transmission Lines:**
  - The Department recommends the removal of a mandatory condition that requires the certificate holder to design the facility, specifically in accordance with a National Electric Safety Code (NESC) from 2012. The 2012 code is

outdated, and the certificate holder is already required to comply with Oregon Public Utility Safety standards, which references the NESC; as such, the current mandatory condition language, as proscribed by rule, does not dictate the appropriate standard that is relevant to the facility.

- **Noise Control Regulation:**

- The Department recommends condition update to require a monitoring plan for all noise sensitive properties that have not agreed to a noise waiver and are within one dBA of the anti-degradation threshold, or within one dBA of the maximum noise levels (50 dBA) are measured at any noise sensitive property.

### **Comments Received**

The Department has included comments received as of February 8, 2019. The Department has received approximately 238 identical comments, and comments that are either distinct or distinguishable from the identical comments were received from: Judy Tood; Carol Macbeth; Sandra Wallsmith; Melinda Bronsdon; Scott Dady, Benjamin Ward; Suzanne Bader; Michael Hendricks and; John Goeckermann. These comments are attached to this Staff Report.<sup>2</sup>

### **Staff Recommendations**

The Department recommends Council direct staff to issue the Proposed Order incorporating administrative changes from the Draft Proposed Order, such as change “draft proposed order” to “proposed order” and updates to the procedural history section.

The Department also recommends Council direct staff to address relevant public comments that are within Council jurisdiction in the Proposed Order.

### **Attachments**

Attachment 1: Draft Proposed Order on Request for Amendment 4

Attachment 2: Public Comments Received on the Draft Proposed Order as of February 8, 2019

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<sup>2</sup> One copy of the identical 238 submissions is submitted with this Staff Report.