



Oregon

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To: Oregon Energy Facility Siting Council

From: Sarah Esterson, Senior Siting Analyst

Date: August 8, 2019

Subject: Agenda Items A (Information Item) and D (Public Hearing):
Wheatridge Wind Energy Facility – Staff Report on the Draft Proposed Order on Request for Amendment 4 of the Site Certificate for the August 22-23, 2019 EFSC Meeting

Attachments: Attachment 1: Draft Proposed Order on Request for Amendment 4

NOTE TO COUNCIL MEMBERS

Request for Amendment 4 of the Wheatridge Wind Energy Facility Site Certificate is being evaluated by the Oregon Department of Energy (Department) and Energy Facility Siting Council (Council) under the “Type A” site certificate amendment process rules contained in Oregon Administrative Rule (OAR) 345, Division 27. Please see the staff report on Agenda Item C for additional information regarding the August 1, 2019 Supreme Court decision concerning the amendment rules and the Department’s proposal for temporary and permanent rulemaking.

BACKGROUND

The Council issued a site certificate for the Wheatridge Wind Energy Facility (facility) on April 28, 2017, authorizing construction and operation of a 500 megawatt (MW) wind energy generation facility located within Morrow and Umatilla counties. The approved but not yet constructed facility would consist of up to 292 wind turbines and would include as related or supporting facilities: up to 32 miles of up to two parallel overhead 230 kilovolt (kV) intraconnection transmission lines that would traverse one of four approved routing options. Related or supporting facilities, as approved, would also include an electrical collection system, up to two collector substations, up to 12 meteorological towers, supervisory control and data acquisition (SCADA) systems, up to two operations and maintenance (O&M) buildings, up to two battery storage systems (20 and 30 MW, each), up to 72 miles of new or improved access roads, and temporary construction areas.

Wheatridge Wind Energy, LLC (certificate holder) submitted a complete Request for Amendment 4 (amendment request or RFA4) of the Wheatridge Wind Energy Facility site certificate on July 1, 2019. RFA4 requests Council approval to add 1,527 acres to the site boundary for construction and operation of 150 MW's of photovoltaic solar power generation equipment and up to 41 distributed energy storage (battery) systems. The proposed photovoltaic solar power generation equipment would be configured into two solar arrays (Solar Array 1 and Solar Array 2). Solar arrays would include a combination of solar modules, tracker systems, posts, and related electrical equipment. The certificate holder also seeks Council approval to amend four previously imposed condition including Land Use Condition 9 (GEN-LU-03), Land Use Condition 18 (PRE-LU-08), Fish and Wildlife Condition 3 (CON-FW-01), and Fish and Wildlife Habitat Condition 5 (CON-FW-02).

On July 25, 2019, the Oregon Department of Energy (Department) issued public notice of a public comment period on the amendment request and draft proposed order, and of a public hearing on the draft proposed order to be held at 5:00 p.m. on August 22, 2019 at Port of Morrow in Boardman, Oregon. The Department is accepting comments on the draft proposed order from July 25 through September 9, 2019, which represents a 45-day comment period.

To date, the Department has not received any comments on the amendment request or draft proposed order. Comments received between the date of this staff report and the August 22, 2019 public hearing will be provided electronically and in hard-copy under separate cover to Council, prior to the August 22, 2019 Council meeting. Additional comments received after the August 22, 2019, on or before the September 9, 2019 comment deadline will be provided to Council prior to the September 26-27, 2019 Council meeting. Consistent with OAR 345-027-0071, the Council will review and provide comments to the Department on the draft proposed order after the close of the comment period, anticipated to occur at the September 26-27, 2019 Council meeting, where the Department will provide a description of the draft proposed order and comments received.

Following the Council's review and consideration of comments received on the record of the public hearing, anticipated to occur at the September EFSC meeting after the close of the record, staff will issue a proposed order in accordance with OAR 345-027-0071, taking into consideration the comments of the Council, public comments received on the record of the draft proposed order public hearing (i.e. July 25 – September 9, 2019), and agency consultation. In conjunction with the issuance of the proposed order, the Department will issue a notice of an opportunity to request a contested case, which will include an opportunity for those who commented, either orally or in writing, on the record of the public hearing to request a contested case on the proposed order.

This memo is intended to assist the Council in its review of the draft proposed order.

STAFF EVALUATION OF AMENDMENT REQUEST AND SUMMARY OF DRAFT PROPOSED ORDER

The draft proposed order addresses each of the Council standards, and recommends that the Council find that the amendment request would comply with, or, based on compliance with

existing, recommended new and amended site certificate conditions would comply with each of the Council standards.

Pursuant to OAR 345-027-0050(4)(a), the Department assessed the amendment request to determine whether the proposed RFA4 facility components could result in a significant adverse impact that affects a resource or interest protected by a Council standard that the Council has not addressed earlier, and whether the proposed RFA4 facility components would remain in compliance without new or amended conditions. As presented in the draft proposed order, the Department recommends Council rely on previously imposed site certificate conditions in its evaluation of the ability of the proposed RFA4 facility components to maintain compliance for the following standards and other applicable regulations:

- Structural Standard (OAR 345-022-0020)
- Soil Protection (OAR 345-022-0020)
- Protected Areas (OAR 345-022-0040)
- Scenic Resources (OAR 345-022-0080)
- Recreation (OAR 345-022-0100)
- Public Services (OAR 345-022-0110)
- Waste Minimization (OAR 345-022-0120)
- Noise Control Regulations (OAR 340-035-0035)
- Removal Fill Law OAR 141-085-0500 through 141-085-0785
- Water Rights (ORS Chapters 537 and 540 and OAR Chapter 690)

Based on the potential impacts from construction and operation of the proposed RFA4 facility components, the draft proposed order includes recommended findings for granting an exception to Statewide Planning Goal 3 (To Preserve and Maintain Agricultural Lands) and recommended new or amended conditions for the following standards:

- **General Standard of Review (OAR 345-022-0000) (Recommended New Conditions):** Recommended new conditions to specify a construction commencement and completion deadline for the proposed RFA4 facility components, allowing 3-years to commence construction and 6-years to complete construction following approval and execution of an amended site certificate.
- **Organizational Expertise (OAR 345-022-0010) (Recommended Amended Condition):** Recommended amended condition requiring that the certificate holder provide a list of third-party permits necessary for construction and report, to the Department, any cited violations of third-party requirements.
- **Land Use (OAR 345-022-0030) (Recommended New and Amended Conditions):** Recommended new condition to align with county yard setback requirements; recommended amended condition requiring that the certificate holder minimize potential impacts to agricultural practices based on siting considerations for the 34.5 kV transmission line (part of the electrical collection system), if the line is aboveground.

- **Retirement and Financial Assurance (OAR 345-022-0050) (Recommended Amended Condition):** Recommended amended condition to address the bond or letter of credit amount to be provided to the Department prior to construction based on the decommissioning estimate (\$9.4 million) for proposed RFA4 facility components.
- **Fish and Wildlife Habitat (OAR 345-022-0060) (Recommended Amended Conditions):** Recommended amended conditions to provide mitigation options if, after consideration of special circumstances, the certificate holder demonstrates that avoidance of construction activities within 0.25-mile raptor nest buffers and big game winter range sensitive period (Dec – March) is not possible.
- **Threatened or Endangered Species (OAR 345-022-0070) (Recommended Amended Conditions):** Recommended amended condition to provide a process for evaluating population status of Laurent’s milkvetch, a state-listed threatened plant species, and significance of potential disturbance impacts, if the certificate holder demonstrates that impacts cannot be avoided and also would not be significant to the likelihood of survival or recovery of the species.
- **Historic, Cultural and Archeological Resources (OAR 345-022-0090) (Recommended Amended Conditions):** Recommended amended condition to provide a process for allowing implementation of an archeological resource mitigation plan, or concurrence is obtained from the Oregon State Historic Preservation Office that four identified archeological resources are not likely-eligible for listing on the National Registry of Historic Places.
- **Siting Standards for Transmission Lines (OAR 345-024-0090) (Recommended Amended Condition):** Recommended amended condition to address 34.5 kV collector lines that would extend outside of the perimeter fenceline of proposed photovoltaic solar power generation equipment, and to replace date reference of “2012” to “current version” of the National Electric Safety Code.

Based on compliance with existing, recommended new and amended conditions, as summarized above and as described in the draft proposed order, the Department recommends that Council conclude that the facility, with proposed changes, would comply with all applicable Council standards and other applicable rules and statutes, and that the Council should approve the final order and issue an amended site certificate.