



# Oregon

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**To:** Oregon Energy Facility Siting Council

**From:** Chase McVeigh-Walker, Senior Siting Analyst

**Date:** August 15, 2019

**Subject:** Agenda Item L (Supplement) – Montague Wind Power Facility, Council Final Decision on RFA4 for the August 22-23, 2019 EFSC Meeting

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## NOTE TO COUNCIL MEMBERS

The Montague Wind Power Facility Request for Amendment 4 is being evaluated by the Oregon Department of Energy and the Energy Facility Siting 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 staff proposal for temporary and permanent rulemaking.

## BACKGROUND

In preparation for the August 22-23, 2019 Energy Facility Siting Council (Council) meeting, the Oregon Department of Energy (Department) provided a staff report to Council on August 8, 2019, for Agenda Item L Council Decision on Contested Case and the Proposed Order on Montague Wind Power Facility Request for Amendment 4 (RFA4) of the Site Certificate. Agenda Item L includes two potential Council decisions: first, whether to grant or deny a contested case proceeding on the proposed order; second, if a contested case proceeding is not granted, whether to approve, amend, or deny the staff’s proposed order, and issue an amended site certificate. The deadline for submittal of the contested case requests occurred on Friday, August 9, 2019, the day after the staff report was provided to Council. Therefore, this supplemental staff report is provided to Council as staff’s assessment of the requests for contested case received by the deadline. No requests for contested case proceedings on the proposed order were received.

## COUNCIL SCOPE OF REVIEW ON REQUEST TO AMEND A SITE CERTIFICATE TO ADD AREA TO THE SITE BOUNDARY, UNDER TYPE A REVIEW

Montague Wind Power Facility is seeking to amend its site certificate to add area (expand) to the site boundary, which would allow flexibility to install a combination of wind, solar, and battery storage energy components described in the RFA4. When considering the requests for a

contested case, the Council should bear in mind the scope of its review when an existing certificate holder seeks an amendment to add new area to the site boundary:

To issue an amended site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions: . . . (a) For a request for amendment proposing to add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application.<sup>1</sup>

### **COUNCIL SCOPE OF REVIEW OF AMENDMENT REQUESTS**

Because there were no requests for contested case on the Proposed Order on Request for Amendment 4 received by the August 9, 2019 deadline, OAR 345-027-0071(11) applies. These rules, which contain the scope of Council’s review of the Proposed Order state:

“If there is no request for a contested case proceeding as described in section (6) or subsection (10)(b), the Council, may adopt, modify or reject the proposed order based on the considerations described in OAR 345-027-0075. In a written order, the Council shall either grant or deny issuance of an amended site certificate. If the Council grants issuance of an amended site certificate, the Council shall issue an amended site certificate, which is effective upon execution by the Council Chair and by the certificate holder.”

Therefore, at the August 22-23, 2019 Council meeting, Council will conduct its final review of the amended proposed order and request for amendment, and issue a final order on the amendment request, either granting or denying issuance of an amended site certificate.

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<sup>1</sup> OAR 345-027-0075(2).