

Sarah Esterson, Siting Analyst
Oregon Department of Energy
550 Capitol St. NE., 1st Floor
Salem, Oregon 97301

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**REQUEST FOR RECONSIDERATION OF THE DENIAL OF CONTESTED CASES
RELATED TO AMENDMENT 4 OF THE SUMMIT RIDGE WIND DEVELOPMENT**

Please do not deny this request for reconsideration by simply ignoring it's existence for 60 days. While this is allowable, it is not consistent with the public need for clarity and transparency in relation to the actions of the Oregon Department of Energy and Energy Facility Siting Council. It also denies the public access to a process to resolve the conflict between the Oregon Department of Energy and Energy Facility Siting Council interpretation of rules and that of other agencies and the public.

Background:

At the November, 2019 Energy Facility Siting Council meeting, the Oregon Department of Energy provided an "educational" training regarding the application of the rules related to Contested Cases. At that meeting, Todd Cornett and Maxwell Woods represented the Oregon Department of Energy. In response to a question from a council member regarding the EFSC role in determining whether to allow a contested case, it was stated by ODOE that the role was to determine whether or not the standard was being met. If it was, they were to deny contested case requests. This is contrary to the statutes and administrative rules and applying this interpretation denies due process for the public. The public usually requests a contested case due to disagreement with the ODOE and EFSC determination that a standard has been met. They are denied the opportunity to provide the additional documentation supporting their case when there is no contested case allowed. Also, there can be multiple reasons for requesting a contested case. In the following, the issue that has created the need for a contested case is the fact that the Friends of the Grande Ronde Valley, multiple state agencies, the public at large as determined by the volume of comments submitted, and I disagree with the interpretation that ODOE is using regarding what constitutes a significant impact on the protected Wild and Scenic Deschutes River.

The actual language of OAR 345-027-0071(9) establishes the determination include a finding that there is a significant "issue of fact or law that may affect the Council's determination that the facility, with the change proposed by the amendment, meets the applicable laws....."

Typically, and as is the fact in this request for redetermination, the issue being contested is factual in nature and results from a disagreement with the ODOE interpretation of the requirement of the statute and/or rule being applied. I made it clear in my contested case addendum dated May 3, 2019 that the issues being contested were related to the ODOE and EFSC interpretation of what is considered factual and the use of their "opinions" which were contrary to those of the public and agencies involved in the process.

Issues for which a reconsideration of the council decision is being requested:

1. The site certificate and response to my request for a contested case failed to do an assessment of the combined impacts of the “design, construction and operation of the facility” resulting in a determination that there would not be significant impacts to protected areas. The ODOE recommendation only addresses the first portion of OAR 345-027-0075(1) requiring identification of changes since the original site certificate was issued. They ignore the additional requirement that the “FACILITY complies with all laws and Council standards applicable to an original site certificate application.” In spite of my clear request that the assessment include all impacts in combination, the department has only addressed impacts individually in making their recommendation. This significantly understates how the public will experience the impact of the development.
The issue of the need to evaluate the impacts as occurring at the same time continues to need to be addressed as a contested case due to a conflict with the interpretation of fact when applying OAR 345-027-0071.
2. I am requesting a reconsideration of the denial of the request for a contested case regarding the evaluation of the visual impacts of the development as a stand alone item. The recommendation to deny a contested case on this issue was based upon an inaccurate interpretation of the rule the Council is required to use. The council statement that limiting the evaluation sites to those easily accessible by vehicle rather than assessing the entire route is flawed. Using that interpretation would mean that an evaluation of impacts on a Wilderness Area would be limited to areas that can be viewed from public roads. It is also not consistent with the interpretations of Mr. Neal, Friends of the Columbia Gorge, BLM, Oregon Parks and Recreation, Wasco County Planning Department, Friends of the Grande Ronde Valley, Oregon Wild, myself and hundreds of other Oregonians. Obviously, there is significant concern with the interpretation of the rule OAR 345-024-0015 requirements including the need to “design components of the facility to minimize adverse visual features.” Given the level of disagreement with the interpretation being applied by ODOE and EFSC, denying this request due to a Council decision that they are correct is not consistent with the purpose of contested cases. The case should have been allowed to go forward due to the disparity between the interpretation being applied by ODOE as well as EFSC and that being applied by the public and other agencies.

Thank you in advance for seeing the need to have the above two issues addressed through a contested case so that they do not have to be reviewed through future contested case requests and the public and EFSC can have clarity regarding the application of these rules.

Irene Gilbert
Friends of the Grande Ronde Valley
2310 Adams Ave.
La Grande, Or 97709