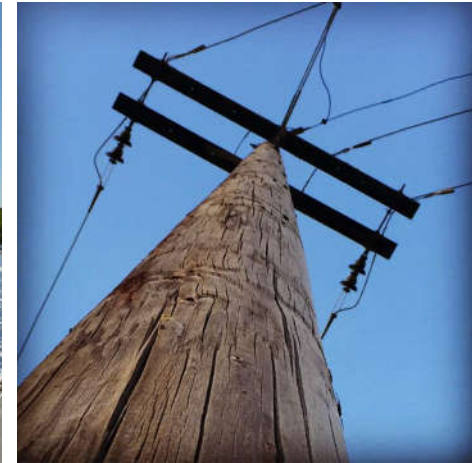


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Virtual Zoom Meeting

April 24, 2020
8:30 AM



Opening Items:

- Call to Order
- Roll Call
- Announcements



Announcements:

- Reminder that this meeting is being held in it's entirety via teleconference and webinar.
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and no not use the speakerphone feature, as it will create feedback.
- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.
- Those participating by phone, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call



Announcements continued:

- For those signed onto the webinar, please do not broadcast your webcam
- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Zoom to speak during the public comment period.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.



Agenda Item A

- Council Secretary Report



Agenda Item B (Action Item)

Bakeoven Solar Project Application for Site Certificate

April 24, 2020

Sarah Esterson, Senior Siting Analyst



Presentation Overview

Review Items:

- Proposed facility, facility location, and applicant
- Procedural history
- Proposed Order (PO) – Changes from DPO to PO
- Council Deliberation/Decision





Proposed Solar Photovoltaic Energy Facility

**Figure C-2
Facility Layout**

WASCO COUNTY, OREGON

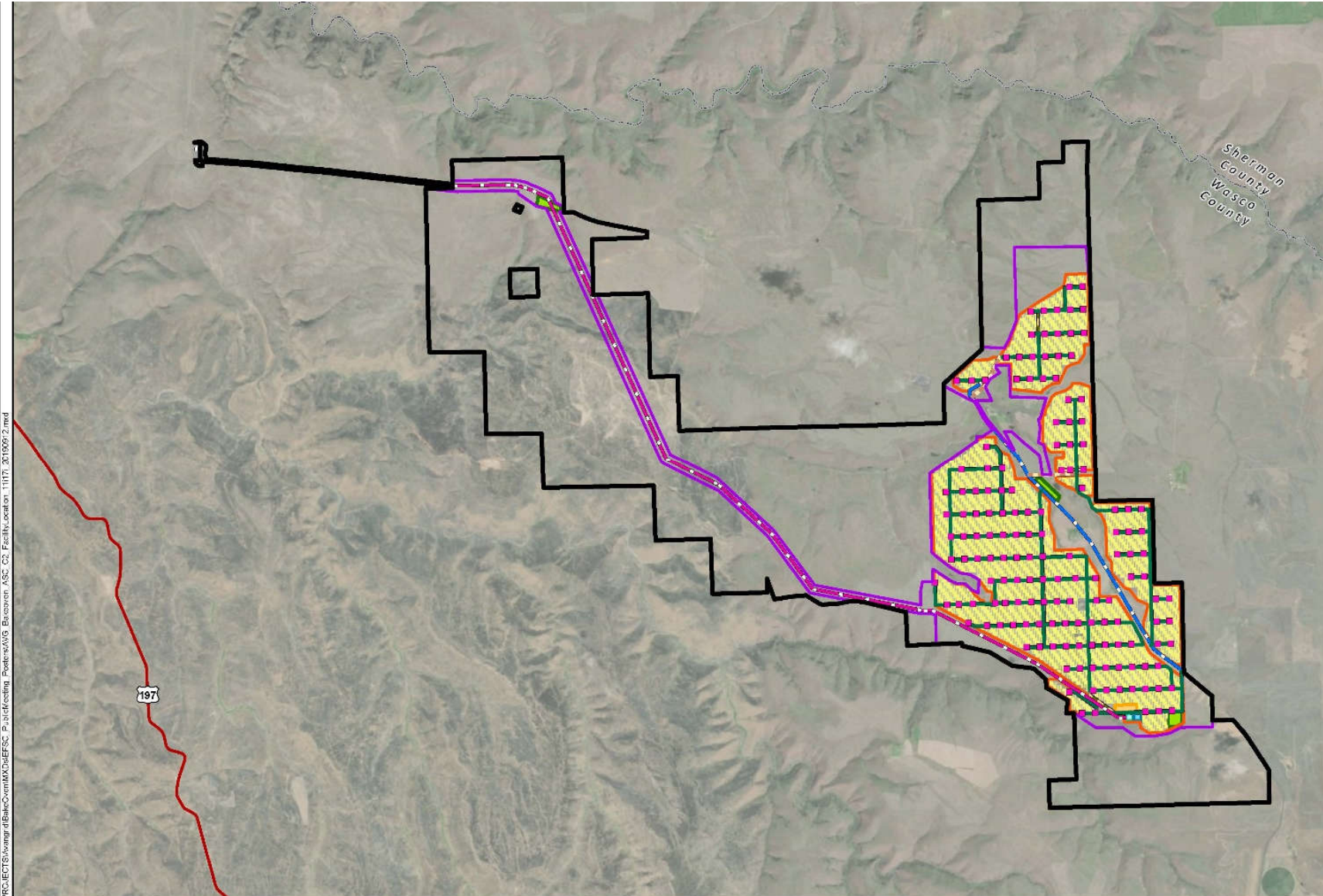
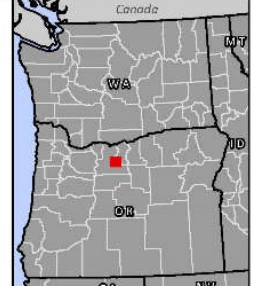
-  Proposed Site Boundary
-  Proposed Micrositing Corridor
- Basemap Features**
-  US Highway
-  County Boundary
- Proposed Facility Layout**
-  Inverter
-  Permanent New Road
-  Existing Road to Improve
-  Transmission Line (230 kV)
-  Overhead Collector Line
-  Underground Collector Line
-  Fence Line
-  Solar Array Area
-  Battery Storage System
-  O&M Building
-  Staging Area
-  Collector Substation



Data Sources

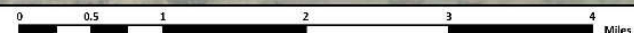
Avangrid Project Infrastructure;
USDA Aerial Imagery; Census Bureau Tiger Roads

Reference Map

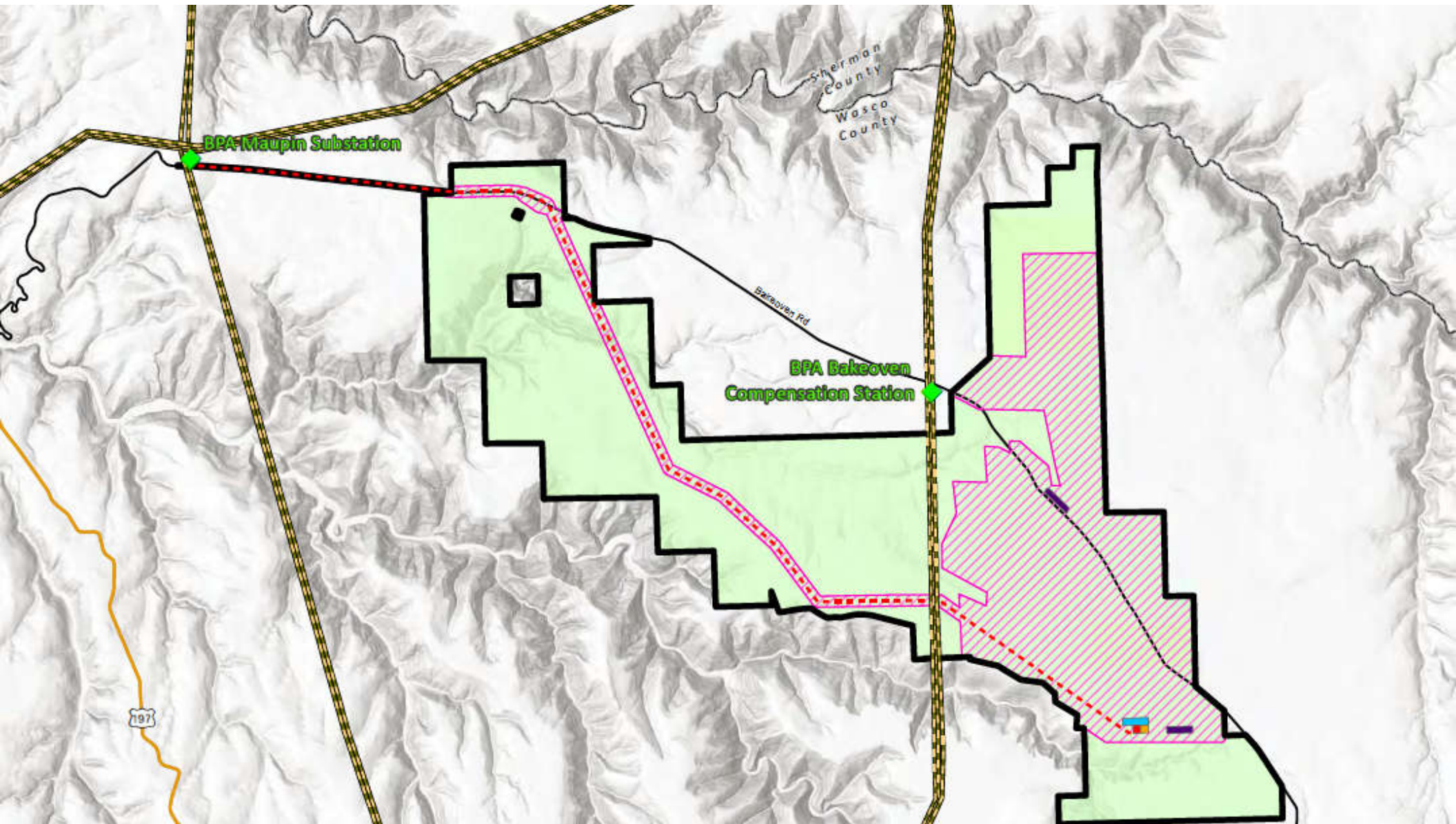


GIS PROJECTS\Avangrid\Baker\Comm\MX\DEFSC_P\GIS\Geotiffing_Features\WVG_BakeComm_ASC_C2_Facility_Location_111171_3010009_2.mxd

1:55,000 WGS 1984 UTM Zone 10N



NOT FOR CONSTRUCTION



Applicant

Applicant: Bakeoven Solar, LLC, wholly owned subsidiary of
Avangrid Renewables, LLC

Applicant Parent Company/Owner:
Avangrid Renewables, LLC



Procedural History

Requirement	Responsible Party	Date Completed
Notice of Intent	Applicant	Nov. 2, 2018
Project Order	ODOE	Feb. 1, 2019
Application for Site Certificate (ASC) Preliminary ASC (pASC) Complete ASC	Applicant	Jul. 5, 2019 Nov. 4, 2019
Draft Proposed Order	ODOE	Jan. 17, 2020
Proposed Order	ODOE	Mar. 20, 2020
Contested Case Proceeding	ODOE	Apr. 20 – Apr. 22.
Final Order & Site Certificate	ODOE/Council	Apr. 24, 2020



Proposed Order Review – DPO to PO Changes

Soil Protection:	Clarification of terms (arable, nonarable, Farmland of Statewide Importance, Prime)
Fish and Wildlife Habitat:	Habitat Mitigation Plan amendments
Retirement and Fin. Assurance:	Evaluation of applicant comments
Public Services/Water Rights:	Oregon Department of Water Resources evaluation of City of Maupin's water right/meet construction water demand

Energy Facility Siting Council Authority

- EFSC Duties
 - Review, evaluate and issue orders approving or denying applications for energy facilities
 - Issue site certificates for the construction and operation of energy facilities that meet all Council standards
- EFSC Authority
 - To issue a site certificate, EFSC must determine the proposed facility complies with:
 - Council Standards (as adopted in accordance with ORS 469.503(1) and ORS 469.501)
 - All other statutes and administrative rules identified by the project order, as amended, as applicable to the issuance of the site certificate

Final Order on ASC – Council Deliberation and Action

Council Options

Option 1

- **ADOPT** Final order on ASC and issue Site Certificate

Option 2

- **MODIFY** Proposed Order
- (Note: If order is modified with material changes, hearing required to allow an opportunity to comment on any changes)

Option 3

- **REJECT** Proposed Order and Deny ASC
- (Note: If order is rejected, hearing required to allow parties an opportunity to comment on any changes)

BREAK



Agenda Item C (Action Item)

Solar PV Rulemaking Project Consideration of Proposed Rules

April 24, 2020

Christopher M. Clark, Siting Policy Analyst & Rules Coordinator



Overview

- Review purpose and scope of the rulemaking project
- Update on March 9, 2020 RAC meeting.
- Review of Draft Proposed Rules and policy recommendations.
- Request to issue Notice of Proposed Rulemaking and initiate formal rulemaking proceedings.
- Council may approve, modify, or reject staff's recommended rulemaking actions.

Purpose and Scope of Rulemaking Project

1. Clarify what is considered to be a “solar photovoltaic power generation facility” as that term is used in the definition of “energy facility” under ORS 469.300(11);
2. Determine if there are issues unique to solar PV facilities that require development of specific siting standards; and
3. Implement new statutory provisions related to solar facilities enacted by HB 2329 (2019).

Update on RAC meeting

- Based on Council feedback, staff presented RAC with draft proposed rule language to:
 - Provide a definition of “solar photovoltaic power generation facility” that is consistent with OAR 660-033-0130(38)(f) and uses proximity as a trigger for a multifactorial analysis;
 - Provide a multifactorial analysis to determine when solar projects are considered to be components of an “energy facility;”
 - Implement statutory changes in the types of facilities that can elect to obtain a site certificate under HB 2329 (2019).

Update on RAC meeting

- RAC reviewed draft proposed rule language and provided feedback:
 - Most RAC members generally supported using a multifactorial analysis to make Council determinations, but there was not a clear consensus on what factors are appropriate.
 - Feedback on proposal to use “tract” or “proximity” criteria in LCDC rule as a trigger for analysis was mixed.
 - Several RAC members suggested additional changes to make language more clear, unambiguous, and objective.

Definition of Solar Photovoltaic Power Generation Facility

Statutory Context

ORS 469.320(1)* * * no **facility** shall be constructed or expanded unless a site certificate has been issued for the site thereof * * *

ORS 469.300(14) “Facility’ means an **energy facility** together with any **related or supporting facilities.**”

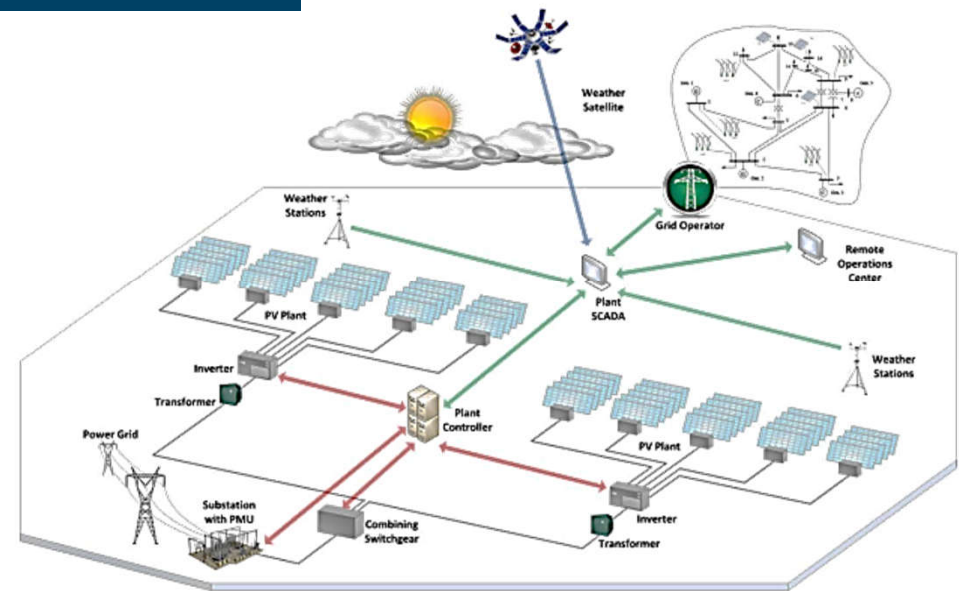


Figure 1. Components of a typical utility-scale PV power plant. Image from NREL

Definition of Solar Photovoltaic Power Generation Facility

Statutory Context

469.300(11)(a)(D) [**“Energy facility”** means a] solar photovoltaic power generation facility using more than:

- (i) 160 acres located on high-value farmland as defined in ORS 195.300;
- (ii) 1,280 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United States Department of Agriculture; or
- (iii) 1,920 acres located on any other land.

Definition of Solar Photovoltaic Power Generation Facility

Statutory Context

ORS 469.300(13) “**Related or supporting facilities**” means any structure, proposed by the applicant, to be constructed or substantially modified in connection with the construction of an energy facility, including associated transmission lines, reservoirs, storage facilities, intake structure, road and rail access, pipelines, barge basins, office or public buildings, and commercial and industrial structures. * * *

Definition of Solar Photovoltaic Power Generation Facility

Base Definition

ENERGY FACILITY COMPONENTS

Solar Modules
Tracker Systems
Posts
Cabling
Inverters
Transformers
Collection Systems

RELATED OR SUPPORTING FACILITIES

Project Substations
Gen-Tie Lines
Operations and Maintenance Buildings
Communications and SCADA Systems
Service Roads
Perimeter Fencing
Battery Storage Systems

Definition of Solar Photovoltaic Power Generation Facility

Base Definition (pg. 1)

- Second sentence of LCDC Rule contains a lists of facility components that are included as part of the energy facility.
- Draft Proposed Rule modifies the list to better align with descriptions in site certificate applications:
 - “(XX) ‘Solar photovoltaic power generation facility’ includes * * * includes photovoltaic modules, mounting and tracking equipment, posts, electrical cabling, inverters, transformers, collection systems, and other components.”

Definition of Solar Photovoltaic Power Generation Facility

Inclusion of Related and Supporting Facilities (pg. 1)

- Third sentence of LCDC Rule provides that related or supporting facilities are part of the solar facility for the purposes of calculating acreage.
- Draft Proposed Rule removes this provision and:
 - Specifies that land occupied by related and supporting facilities counts toward “energy facility” acreage threshold.
 - Clarifies that related and supporting facilities are not otherwise considered to be part of the “solar photovoltaic power generation facility”

Definition of Solar Photovoltaic Power Generation Facility

Inclusion of Related and Supporting Facilities (pg. 1)

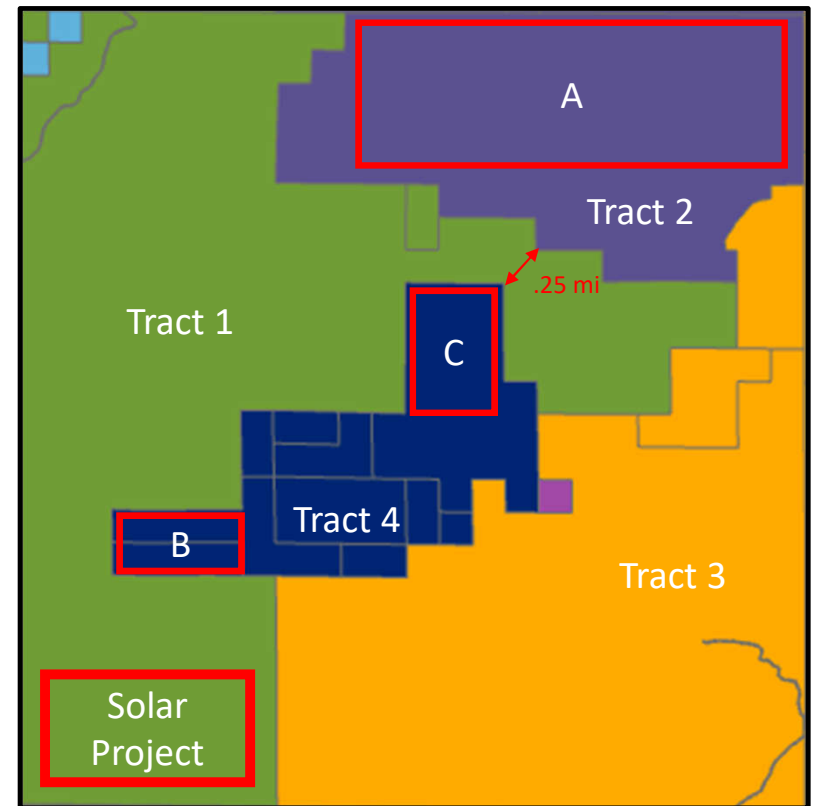
Draft Proposed Rule Language:

“(a) For the purposes of applying the acreage standards of ORS 469.300(11)(a)(D), the land used by a solar photovoltaic power generation facility includes the land occupied by its related or supporting facilities. Related or supporting facilities are not otherwise considered to be components of the solar photovoltaic power generation facility”

Definition of Solar Photovoltaic Power Generation Facility

Tract & Proximity Criteria (pg. 1)

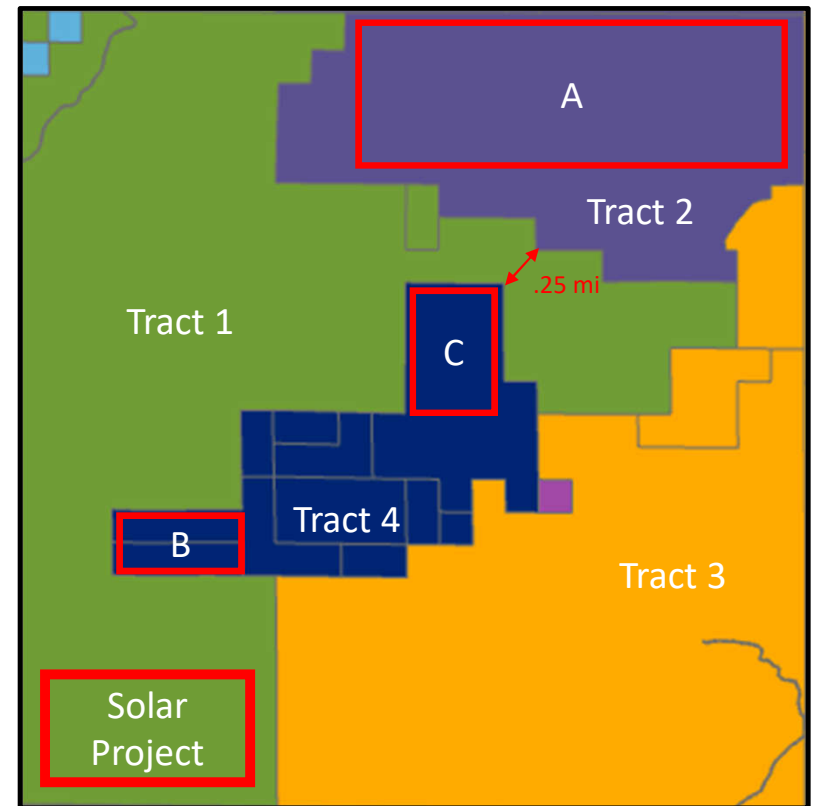
- **LCDC Tract Criteria:** “a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract”
- Under this criteria B and C are combined regardless of project ownership because they are both located on Tract 4.



Definition of Solar Photovoltaic Power Generation Facility

Tract & Proximity Criteria (pg. 1)

- **LCDC Proximity Criteria:** “a photovoltaic solar power generation facility includes * * * any existing and proposed facilities determined to be under common ownership on lands with fewer than 1320 feet of separation from the tract on which the new facility is proposed to be sited.
- Under this criteria if A, B, and C are under common ownership they are combined because they are both located on tracts with 1320 feet of separation.

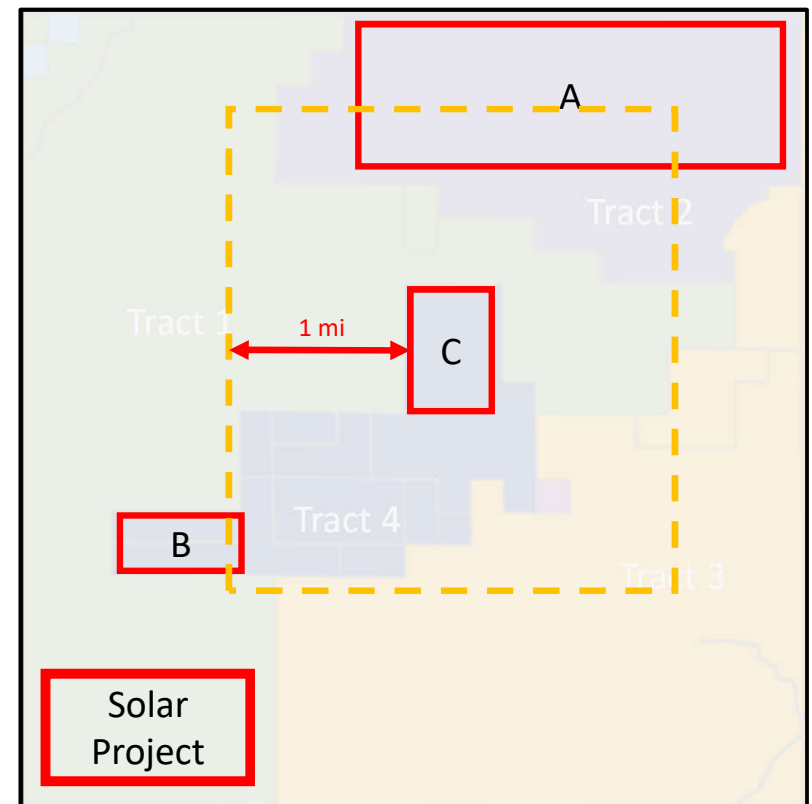


Definition of Solar Photovoltaic Power Generation Facility

Tract & Proximity Criteria (pg. 1)

- **Draft Proposed Rules:**

- Amend criteria to be trigger for review, not criteria for automatic combination of solar projects.
 - Delete tract criteria and increase proximity criteria to one mile.
 - Distinguish between proposed “projects” and “facilities”
- Under the proposed criteria, if A, B, and C are under common ownership, they would trigger jurisdictional review because they are less than 1 mile from each other.



Definition of Solar Photovoltaic Power Generation Facility

Tract & Proximity Criteria (pg. 1)

Draft Proposed Rule language:

“(b) A proposed solar photovoltaic power generation project may be determined to be an expansion of any existing or proposed solar photovoltaic power generation facility that is:

(A) Within one mile of the proposed project; and

(B) Determined to be under common ownership with the proposed project. Projects connected to the same parent company or individuals will be considered to be in common ownership, regardless of the operating business structure;”

Definition of Solar Photovoltaic Power Generation Facility

“Solar project” vs “solar facility” (pg. 2)

Draft Proposed Rule language:

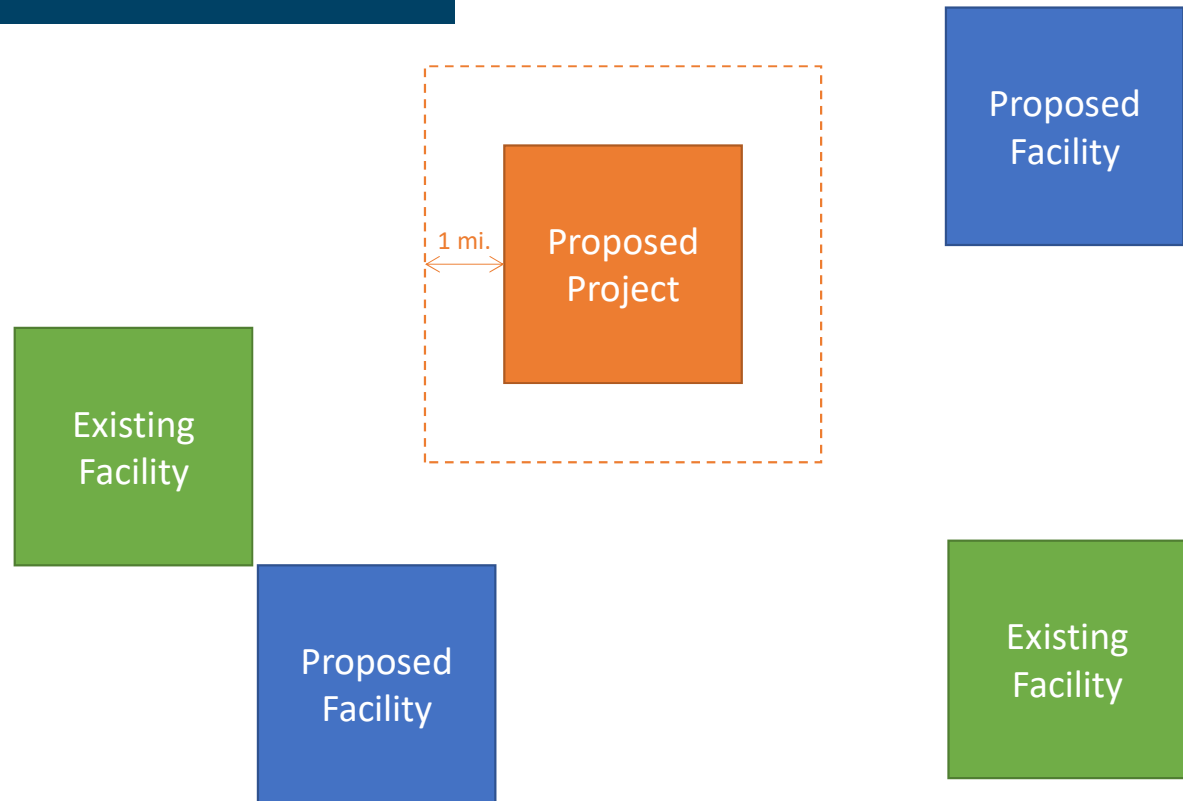
“(c) As used in this rule and OAR 345-001-XXXX, a “proposed solar photovoltaic power generation project” means:

- (A) The proposed development of a separate and independent solar photovoltaic power generation facility; or
- (B) The proposed expansion or modification of a proposed or existing solar photovoltaic power generation facility.”

Definition of Solar Photovoltaic Power Generation Facility

Examples

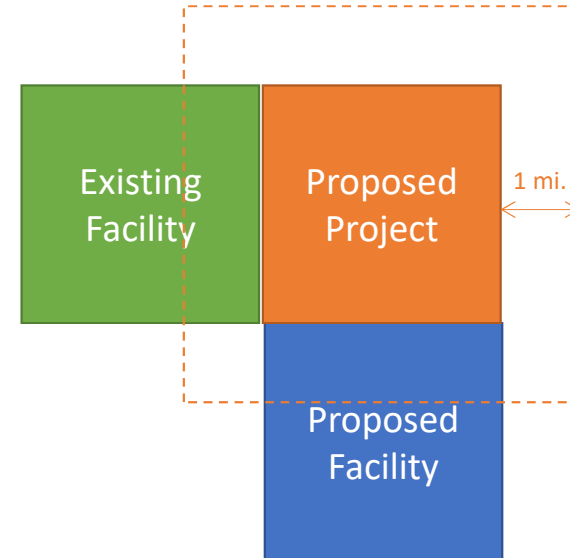
- **Scenario 1:** A project is proposed to be sited more than 1 mile from any existing or proposed facility.
- The project is determined to be a separate and independent facility without further analysis.



Definition of Solar Photovoltaic Power Generation Facility

Examples

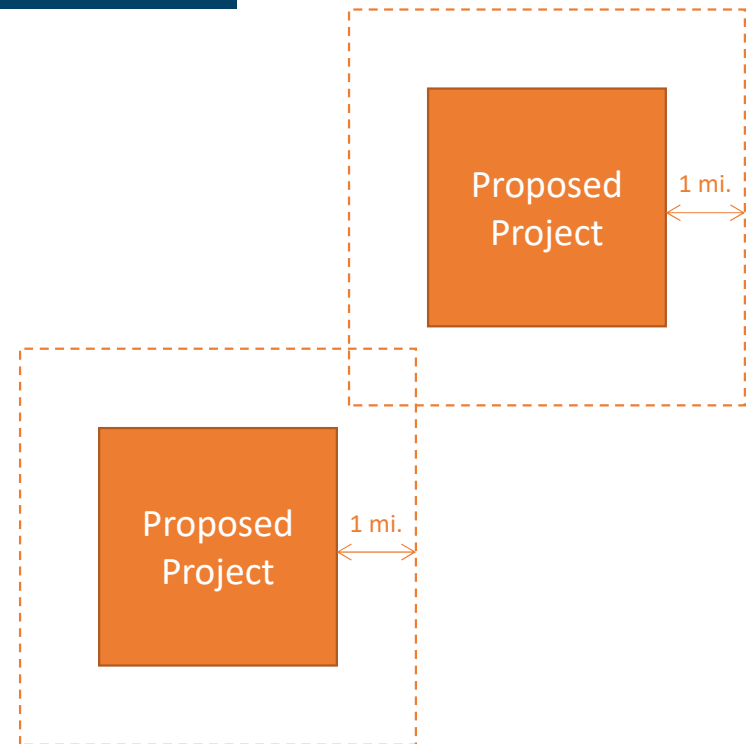
- **Scenario 2:** A project is proposed to be sited less than 1 mile from existing or proposed facilities.
- If the project is determined to be under common ownership with the existing or proposed facilities, further analysis is needed to determine if project is separate and independent from the existing and proposed facilities.



Definition of Solar Photovoltaic Power Generation Facility

Examples

- **Scenario 3:** Two projects are proposed to be sited less than 1 mile from each other.
- If the projects are determined to be under common ownership with one another, analysis is needed to determine if facilities are separate and independent facilities or one proposed facility.



Definition of Solar Photovoltaic Power Generation Facility

Net metering and Feed-in-Tariff projects (pg. 1-2)

- Last sentence of LCDC Rule excludes net metering and feed-in-tariff projects from definition.
- Draft Proposed Rule removes this provisions because it is not relevant to energy facility siting.

Procedural Rule

Required findings and Analysis (pg. 3)

- Draft Proposed Procedural Rule:
 - Describes findings and factors needed to determine if a “solar photovoltaic power generation project” is a separate an independent facility or an expansion or modification of an existing facility.
 - Requires findings to be based on based on preponderance of evidence on record of a declaratory ruling or other proceeding before the Council.
 - Contains inexhaustive list of factors that may be considered.

Procedural Rule

Required findings and Analysis (pg. 3)

- Recommended factors include:
 - The permitting or operational status of the existing or proposed solar photovoltaic power generation facility;
 - Whether or not operational and financing decisions for the proposed project would be made independently from the existing or proposed solar photovoltaic power generation facility;
 - Whether or not the output of the proposed project and the proposed or existing solar photovoltaic power generation facility would be sold under separate power purchase agreements; and
 - Whether or not the output of the project and the proposed or existing solar photovoltaic power generation facility would be transmitted under separate interconnection agreements.

Procedural Rule

Required findings and Analysis (pg. 3)

Draft Proposed Rule Language:

(1) To determine that a proposed solar photovoltaic power generation project is an expansion of an existing or proposed solar photovoltaic power generation facility as described under OAR 345-001-0010(XXX)(b), the Council must find that the preponderance of the evidence on the record of a declaratory ruling issued under this rule, or other proceeding before the council, supports such a conclusion. In making findings under this section, the Council may consider factors including, but not limited to:

- (a) The permitting or operational status of the existing or proposed solar photovoltaic power generation facility;
- (b) Whether or not operational and financing decisions for the proposed project would be made independently from the existing or proposed solar photovoltaic power generation facility;
- (c) Whether or not the output of the proposed project and the proposed or existing solar photovoltaic power generation facility would be sold under separate power purchase agreements; and
- (d) Whether or not the output of the project and the proposed or existing solar photovoltaic power generation facility would be transmitted under separate interconnection agreements.

Procedural Rule

Options for process for jurisdictional determinations

Non-Contested Cases

- Flexible proceeding
- No formal hearing, testimony, or argument
- Subject to review by Circuit Court

Declaratory Rulings

- Parties must agree on facts
- Opportunity to submit briefs and oral argument
- Subject to review by Court of Appeals

Contested Cases

- Quasi-Judicial Proceeding
- Opportunity for briefs, testimony, and oral argument
- Subject to review by Court of Appeals

Procedural Rule

Process for jurisdictional determinations (pg. 3-4)

- Draft Proposed Rule:
 - Provides that any person, including the Department, may petition the Council to issue a declaratory ruling with respect to the applicability of ORS 469.300(11)(a)(D) to a proposed solar photovoltaic power generation project.
 - Describes the review process and information needed to submit a petition.
 - Requires Department to post notice of petition on website.
 - Allows developer to opt out of process by submitting NOI.
 - Clarifies that developer is not subject to fees under ORS 469.421(1) for declaratory ruling.

Procedural Rule

Applicability of rule (p. 4)

- Draft Proposed Rule clarifies that any facility permitted before the rule becomes effective will not be subject to a declaratory ruling unless a new project is proposed.
- Draft Proposed Rule language:
 - “(3) The Council will not make a ruling on the applicability of ORS 469.300(11)(a)(D) or section (1) of this rule to any solar photovoltaic power generation facility with a land use permit approved by a local government on or before the effective date of this rule unless a solar photovoltaic power generation project is proposed on lands within one mile of the solar photovoltaic power generation facility.”

Implementation of HB 2329

Statutory Context

ORS 469.320(8)(2019 Version): “(a) If the developer of a facility elects, or the governing body of the local government after consulting with the developer elects, to defer regulatory authority to the Energy Facility Siting Council, the developer of a facility shall obtain a site certificate * * * for a facility that, notwithstanding the definition of “energy facility” in ORS 469.300, is:

- (A) An electric power generating plant with an average electric generating capacity of less than 50 megawatts produced from wind energy at a single energy facility or within a single energy generation area;
- (B) An associated transmission line; or
- (C) A solar photovoltaic power generation facility that is not an energy facility as defined in ORS 469.300 (11)(a)(D).”

Implementation of HB 2329

Draft Proposed Rule (pg. 5-7)

- Draft Proposed Rule removes existing opt-in provisions and amends definition of “energy facility” to conform with new law.
- Draft Proposed Rule Language:
 - Amend OAR 345-001-0010(18):

“Energy facility’ includes:

 - (a) An energy facility as defined in ORS 469.300;
 - (b) A small generating plant for which an applicant must have a site certificate according to OAR 345-001-0210; and
 - (c) A facility for which a developer or governing body has elected to defer regulatory authority to the Council under ORS 469.320(8).”
 - Delete OAR 345-020-006(3); 345-021-0000(2)

Recommendation

Staff requests Council authorize staff to:

- Issue the Notice of the Proposed Rulemaking and initiate formal proceedings to adopt the proposed rule changes provided in Attachment 1 to the staff report.
- Schedule a rulemaking hearing for June 25, 2020 at 5:00 pm to be conducted by telephone or other electronic means to comply with social distancing guidelines related to the COVID-19 pandemic.

Council Decision on Proposed Rules

Option 1

Authorize staff to issue notice of proposed rulemaking as recommended.

Option 2

Authorize staff to issue notice of proposed rulemaking with modifications.

Option 3

Deny authorization and provide additional direction to staff.

Agenda Item D (Action Item)

Carbon Monetary Offset Rate Update Initiation of Rulemaking

April 24, 2020

Christopher M. Clark, Siting Policy Analyst & Rules Coordinator



Overview

- During this Agenda Item, the Council will:
 - Review staff's preliminary recommendations to update the monetary rate for Carbon offsets in OAR 345-024-0580.
 - Consider staff's request to initiate the rulemaking process.
- Council may approve, modify, or reject staff's recommendations for the conduct of rulemaking proceedings.

Need and Authority for Rules

- Applicants must demonstrate that a proposed energy facility complies with any applicable carbon dioxide emissions standard. To comply, most facilities must reduce net carbon dioxide emissions.
- Most applicants reduce net emissions through the “monetary pathway” by agreeing to provide funds to The Climate Trust (TCT) in “an amount deemed sufficient to produce any necessary reduction in greenhouse gas emissions.”

Need and Authority for Rules

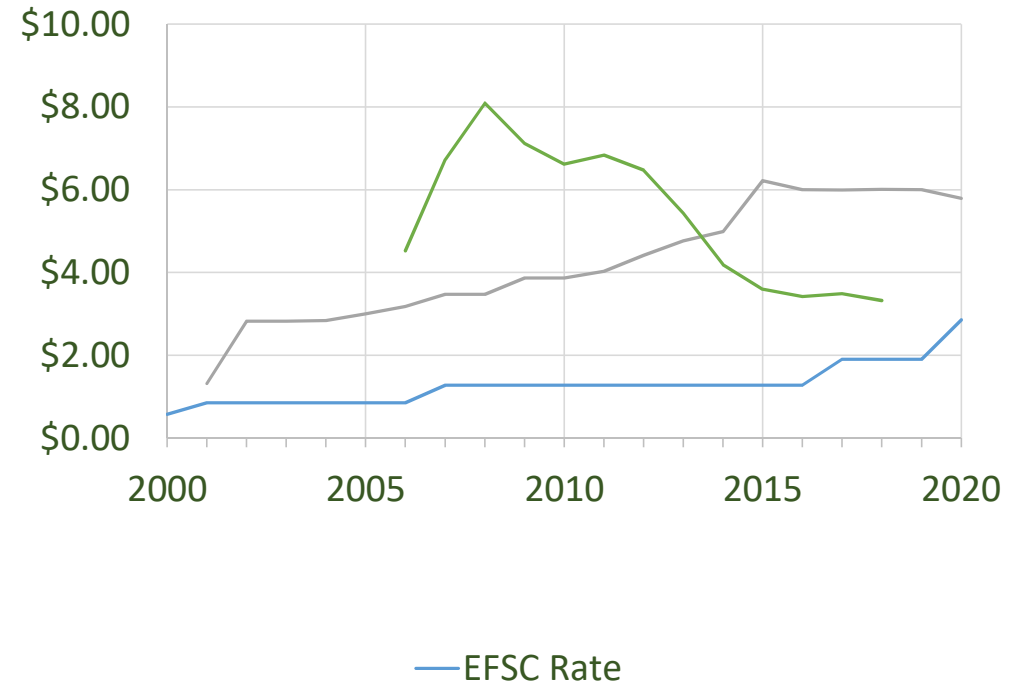
- The monetary pathway uses an assumed monetary offset rate to determine the amount of funds that is sufficient to produce the equivalent of a one ton reduction in carbon dioxide emissions.
- ORS 469.503(2)(c)(C) authorizes the Council to increase or decrease the monetary offset rate by up to 50 percent in any two year period.
- Any change in the rate must be based on empirical evidence of the cost of offsets and the council's finding that the standard will be economically achievable.

Need and Authority for Rules

Staff recommends rulemaking is needed for the following reasons:

- More than two years have passed since the rate was last increased.
- Empirical evidence shows that the current rate is below actual costs of offsets negotiated by TCT.
- The Governor has issued Executive Order 20-04 directing state agencies to take actions to reduce and regulate greenhouse gas emissions.

Carbon Offset Rate, Prices & Costs 2000-2020
(\$/US Ton CO₂e)



Scope and Objective

- Staff recommends that the objective of this project be to ensure that, to the extent allowed by law, carbon monetary offset funds provided to meet the carbon standard are sufficient to produce a reduction in greenhouse gas emissions equivalent to the reduction in net carbon dioxide emissions required to meet the Council's standard.
- Consistent with the goals and objectives stated in the Governor's Executive Order, staff recommends the Council limit the scope of this rulemaking project to adjusting the monetary offset rate in OAR 345-024-0580.

Method of Obtaining Public Input

- Principals for appointing RAC:
 - RAC can provide valuable input when considering policy options, when issues have broad interest, or when fiscal impacts are expected.
 - RAC must represent interests of persons likely to be affected
 - 5-8 stakeholders is ideal from a facilitation perspective
 - Others stakeholders can provide written advice or provide formal public comments.

Method of Obtaining Public Input

- Because the recommended increase in the monetary offset rate would result in increased costs of compliance, staff recommends Council appoint a RAC to provide input on fiscal impact statements and statements of economic achievability. Potential Interested RAC members include:
 - Perennial Power Holdings, Inc.
 - Portland General Electric Company
 - NW Natural
 - Columbia Riverkeeper
 - The Climate Trust

Rulemaking Timeline

Permanent Rulemaking Steps	Completion Date
Council initiates permanent rulemaking process.	April 24, 2020
Staff convenes advisory committee stakeholders	Early May 2020
Staff drafts notice and sends early notice to legislators	Early May 2020
Council considers proposed rules and authorizes staff to file Notice of Proposed Rulemaking	May 21-22, 2020
Staff issues Public Notice	May 25, 2020
Public Comment Period	May 25 – June 25, 2020
Rulemaking Hearing	June 25, 2020
Staff prepares draft final rules for Council	June 25, 2020
Council considers public comments and testimony and adopts, amends, or repeals permanent rules	June 26, 2020
Staff submits permanent rule filing to Secretary of State	June 29, 2020
Permanent rules are effective	July 1, 2020

Recommendations

- Initiate rulemaking to update the monetary offset rate in OAR 345-024-0580 by 50 percent to \$2.85, the maximum increase allowed by statute.
- Appoint an advisory committee to provide input on the potential fiscal impacts and economic achievability of this recommended rate increase made up of representatives from the following organizations:
 - Perennial Power Holdings, Inc.
 - Portland General Electric Company
 - NW Natural
 - Columbia Riverkeeper
 - The Climate Trust
- Approve the proposed timeline described in this project and authorize staff to send notice of Council's intended rulemaking action to legislators prior to the public notice.

Council Decision on Proposed Rules

Option 1

Initiate rulemaking with the recommended scope, timeline, and method of obtaining public input.

Option 2

Initiate rulemaking with modifications to the recommended scope, timeline, and method of obtaining public input.

Option 3

Deny request to initiate rulemaking and provide additional direction to staff.

Agenda Item E (Action Item)

Financial Assurance Update

April 24, 2020

Sisily Fleming, Fiscal Analyst



Proposed Financial Institutions

Energy Facility Siting Council - Proposed* Financial Institution List 4/24/20	
Letter of Credit	Bond
Bank of Nova Scotia (NY Agency)	Federal Insurance Co
MUFG Bank, N.A.	Liberty Mutual Insurance Company
JP Morgan/Chase Bank, N.A.	SAFECO Insurance Co of America
Wells Fargo Bank, N.A.	Westchester Fire Insurance Co
Royal Bank of Scotland Connecticut Branch	Traveler's Casualty & Surety Co of America
Bank of America N.A.	Fidelity & Deposit Co of MD
CoBank	Hanover Insurance Group*
Bank of the West	
Helaba (NY Branch of Landesbank Hessen-Thueringen GZ)	
Natixis (NY Branch)	
Royal Bank of Canada (NY Branch)	
Barclay's Bank, PLC (NY Branch)	

Agenda Item F

PUBLIC COMMENT



Adjourn

