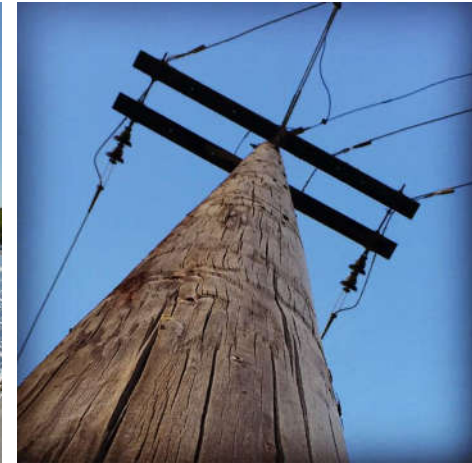


# Oregon Department of **ENERGY**

Energy Facility Siting  
Council Meeting

Virtual Meeting  
Teleconference - Webex

June 25-26, 2020



# Opening Items:

- Call to Order
- Roll Call
- Announcements



# Announcements:

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- 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:

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- 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 Webex 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



# Rulemaking Hearings



# Agenda Item B (Rulemaking Hearing)

## Proposed Carbon Monetary Offset Rate Increase

June 25, 2020

Christopher M. Clark, Hearing Officer



# Agenda Item C (Rulemaking Hearing)

## Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments

June 25, 2020

Christopher M. Clark, Hearing Officer





# Agenda Item D (Rulemaking Hearing)

## Proposed Solar Photovoltaic Facility Rules

June 25, 2020

Christopher M. Clark, Hearing Officer



# Agenda Item E (Possible Action Item)

## **Carbon Monetary Offset Rate Update, Council Review of Comments & Possible Final Decision**

June 26, 2020

Christopher M. Clark, Siting Analyst & Rules Coordinator



# Overview

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- Background & Summary of Proposed Rules
- Procedural History
- Review of Public Comments & Recommended Responses
- Council Decision on Permanent Rules

# Background

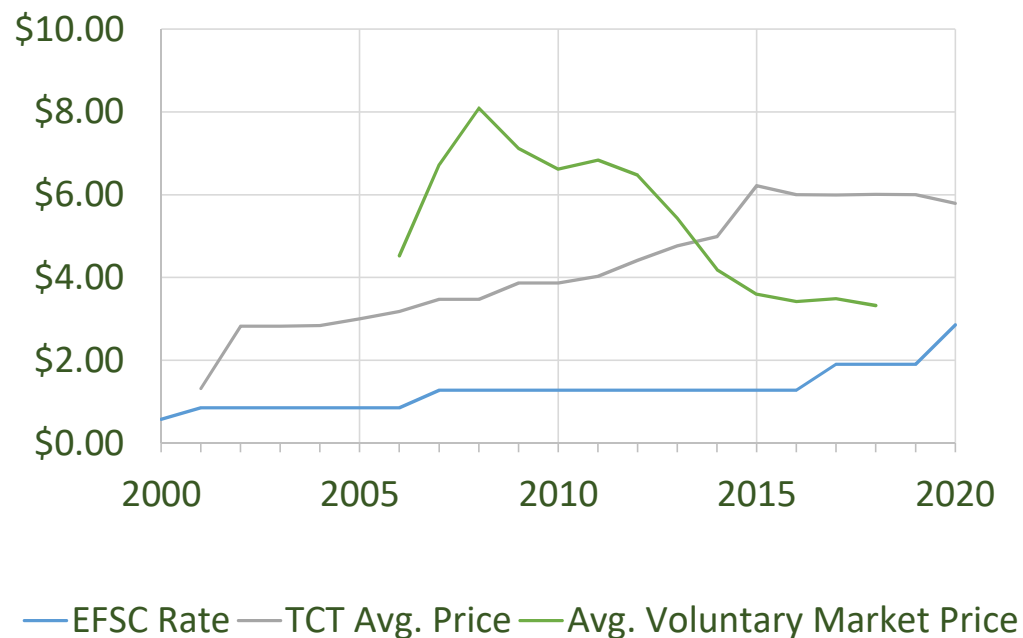
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- To be issued a site certificate, applicants proposing to develop a carbon dioxide emitting energy facility must demonstrate compliance with the applicable Carbon Dioxide Emissions Standard.
- Most applicants demonstrate compliance by agreeing to provide funds to The Climate Trust (TCT) in “an amount deemed sufficient to produce any necessary reduction in greenhouse gas emissions.”
- The amount is determined using the Monetary Offset Rate in OAR 345-024-0580. Council may increase or decrease the monetary offset rate by up to 50 percent in any two year period based on:
  - Empirical evidence of the cost of offsets; and
  - Council’s finding that the standard will be economically achievable with the modified rate.

# Proposed Rate Increase

- Based on the empirical evidence of the cost of offsets negotiated by TCT, the Council proposed to increase the rate by 50 percent at its May meeting.
- The proposed rule would establish a new rate of \$2.85 per US ton of CO<sub>2</sub> emissions offset.
- The Council found the standard would be economically achievable with the proposed rate.

Carbon Offset Rate, Prices & Costs 2000-2020  
(\$/US Ton CO<sub>2</sub>e)



# Procedural History

| Permanent Rulemaking Steps   | Completion Date       |
|--|-----------------------|
| Council initiated permanent rulemaking process.                          | <b>April 24, 2020</b> |
| Notice of proposed rate increase provided to legislators                 | May 5, 2020           |
| Rules Advisory Committee Meeting   | May 13, 2020          |
| Council review of Draft Proposed Rules and Notice of Proposed Rulemaking | May 22, 2020          |
| Notice of Proposed Rulemaking provided to Rulemaking List                | May 26, 2020          |
| Notice appeared in SOS Bulletin  | June 1, 2020          |
| Rulemaking Hearing   | <b>June 25, 2020</b>  |
| Council consideration of public comments/permanent rules                 | <b>June 26, 2020*</b> |
| Staff submits permanent rule filing to Secretary of State                | June 29, 2020*        |
| Permanent rules are effective  | July 1, 2020*         |

# Review of Public Comments

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- Before adopting permanent rules, the Council must fully consider:
  - All oral testimony provided at the remote hearing scheduled to begin at **5:00 PM on Thursday, June 25.**
  - All written comments received before **5:30 PM on Thursday, June 25, 2020,** which is the close of the public comment period.
- The Council may not consider comments received after the close of the public comment period unless it extends the comment period for everyone.
- If no substantive issues are raised in public comments, staff recommends Council adopt permanent rules as proposed in the Notice of Proposed Rulemaking.\*

*Note: This section will be updated with a summary of substantive issues raised in comments received before the close of the comment period, and staff's recommendations for Council responses.*



# Council Decision on Proposed Rules

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## Option 1

Adopt permanent rules as recommended by staff.

## Option 2

Adopt permanent rules with changes based on public comments.

## Option 3

Do not adopt permanent rules at this time.



# Agenda Item F (Possible Action Item)

## **Rulemaking to Clarify Standard for Contested Case Requests for Type A Amendments Council Review of Comments & Possible Final Decision**

June 26, 2020

Christopher M. Clark, Siting Policy Analyst & Rules Coordinator



# Overview

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- Background & Summary of Proposed Rules
- Procedural History
- Review of Public Comments & Recommended Responses
- Council Decision on Permanent Rules

# Background

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- OAR 345-027-0371(9) provides that to determine that an issue justifies a contested case proceeding:
  - “\* \* \* the Council must find that the request raises 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 and Council standards included in chapter 345 divisions 22, 23 and 24 (emphasis added.)”
- At its January meeting Council clarified that the word “*may*” in the rule means an issue is “*in some degree likely to*” affect a Council determination and directed staff to issue an order clarifying how the rule would be applied to future contested case requests.
- Council also recommended the rule be further amended to clarify this meaning in rulemaking.



# Proposed Rule Change

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At its March meeting, the Council authorized staff to issue Notice of Proposed Rulemaking to amend OAR 345-027-0371(9) to provide:

“\*\*\* To determine that an issue justifies a contested case proceeding, the Council must find that the request raises a significant issue of fact or law that ~~may~~ **is reasonably likely to** affect the Council’s determination that the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.  
\*\*\*”

# Procedural History

| <b>Permanent Rulemaking Steps</b>   | <b>Completion Date</b> |
|---|------------------------|
| Council initiated permanent rulemaking process & approved Notice of Proposed Rulemaking | <b>March 13, 2020</b>  |
| Notice of Proposed Rulemaking provided to legislators and rulemaking list               | May 6, 2020            |
| Notice appeared in SOS Bulletin   | June 1, 2020           |
| Rulemaking Hearing  | <b>June 25, 2020</b>   |
| Council consideration of public comments/permanent rules                                | <b>June 26, 2020*</b>  |
| Staff submits permanent rule filing to Secretary of State                               | TBD                    |
| Permanent rules are effective.  | TBD                    |

# Review of Public Comments

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- Before adopting permanent rules, the Council must fully consider:
  - All oral testimony provided at the remote hearing scheduled to begin at **5:00 PM on Thursday, June 25.**
  - All written comments received before **5:30 PM on Thursday, June 25, 2020,** which is the close of the public comment period.
- The Council may not consider comments received after the close of the public comment period unless it extends the comment period for everyone.
- If no substantive issues are raised in public comments, staff recommends Council adopt permanent rules as proposed in the Notice of Proposed Rulemaking.

*Note: This section will be updated with a summary of substantive issues raised in comments received before the close of the comment period, and staff's recommendations for Council responses.*



# Council Decision on Proposed Rules

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## Option 1

Adopt permanent rules as recommended by staff.

## Option 2

Adopt permanent rules with changes based on public comments.

## Option 3

Do not adopt permanent rules at this time.

# Agenda Item G

## **PUBLIC COMMENT**





# Agenda Item H (Action Item)

## Swan Lake North Pumped Storage Hydroelectric Project Council Consideration of Need for Power

June 26, 2020

Maxwell Woods, Senior Policy Advisor



BREAK



# Agenda Item I (Possible Action Item)

## **Solar Photovoltaic Facilities Rulemaking Project Council Review of Comments & Possible Final Decision**

June 26, 2020

Christopher M. Clark, Siting Policy Analyst & Rules Coordinator



# Overview

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- Background & Overview of Proposed Rules
- Procedural History
- Review of Public Comments & Recommended Responses
- Council Decision on Permanent Rules

# Background

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- The scope of the Solar PV rulemaking project includes the following issues:
  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).
- In consultation with a Rules Advisory Committee, staff developed draft proposed rules to address the first and third issues.

# Proposed Rules

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- At its April meeting, Council approved a Notice of Proposed Rulemaking to adopt permanent rules that would:
  - 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;” and
  - Implement statutory changes in the types of facilities that can elect to obtain a site certificate under HB 2329 (2019).

# Procedural History

| Permanent Rulemaking Steps   | Completion Date  |
|--|--|
| <b>Council initiated rulemaking process.</b>                             | <b>Jun. 18, 2018</b>   |
| Rules Advisory Committee Meetings  | Aug. 30, 2018<br>Nov. 7, 2018<br>Jan. 16, 2019<br>Mar. 6, 2019<br>Mar. 9, 2020 |
| Council review of Draft Proposed Rules and Notice of Proposed Rulemaking | April 24, 2020   |
| Notice of Proposed Rulemaking provided to Rulemaking List                | May 6, 2020  |
| Notice appeared in SOS Bulletin  | June 1, 2020   |
| <b>Rulemaking Hearing</b>  | <b>June 25, 2020</b>   |
| <b>Council consideration of public comments/permanent rules</b>          | <b>June 26, 2020*</b>  |
| Staff submits permanent rule filing to Secretary of State                | TBD  |
| Permanent rules are effective  | TBD  |

# Review of Public Comments

---

- Before adopting permanent rules, the Council must fully consider:
  - All oral testimony provided at the remote hearing scheduled to begin at **5:00 PM on Thursday, June 25.**
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*Note: This section will be updated with a summary of substantive issues raised in comments received before the close of the comment period, and staff's recommendations for Council responses.*





# Council Decision on Proposed Rules

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## Option 1

Adopt permanent rules as recommended by staff.

## Option 2

Adopt permanent rules with changes based on public comments.

## Option 3

Do not adopt permanent rules at this time.

# Council Deliberation



# Adjourn

