August 21, 2020 Energy Facility Siting Council Meeting, Agenda Item C
Rulemaking to Clarify Standard for Contested Case Requests for Type A Amendments
Attachment 2: Public Comments
Updated August 7, 2020

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REEVES, KAHN, HENNESSY & ELKINS

ATTORNEYS · AT · LAW

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
J. MICHAEL HARRIS
PEGGY HENNESSY*
GARY K. KAHN*
MARTIN W. REEVES*

*Also Admitted in Washington

P.O. BOX 86100
PORTLAND, OREGON 97286-0100

Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

direct e-mail:
gkahn@rke-law.com

June 24, 2020

Oregon Energy Facility Siting Council
c/o EFSC Rules Coordinator
Via email to EFSC.rulemaking@oregon.gov

Re: EFSC Rulemaking Hearing – Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments

Dear Chair Jenkins and Council Members:

The following comments regarding the above-referenced proposed rulemaking are submitted on behalf of Friends of the Columbia Gorge, Northwest Environmental Defense Center, Oregon Natural Desert Association, Oregon Wild, Thrive Hood River, Columbia Riverkeeper, WildLands Defense, Greater Hells Canyon Council, Oregon Coast Alliance, Central Oregon LandWatch, Audubon Society of Portland, and East Cascades Audubon Society (collectively, "Commenters").

Commenters are nonprofit public interest organizations, with more than 65,000 collective members and supporters, with strong interests in responsible energy generation and the proper implementation of state law governing the approval, construction, and modification of large energy facilities in Oregon. Commenter Friends of the Columbia Gorge is a nonprofit organization with approximately 6,500 members dedicated to protecting and enhancing the resources of the Columbia River Gorge. Commenter Northwest Environmental Defense Center ("NEDC") is a nonprofit organization with approximately 500 members. NEDC's mission is to preserve and protect the environment and natural resources of the Pacific Northwest. Commenter Oregon Natural Desert Association ("ONDA") is a nonprofit, public interest organization dedicated to the conservation of eastern Oregon's public lands. ONDA's mission is to protect, defend, and restore Oregon's high desert. ONDA represents more than 10,000 members and supporters. Commenter Oregon Wild represents approximately 20,000 members and supporters who share Oregon Wild's mission to protect and restore Oregon's wildlands, wildlife, and waters as an enduring legacy. The mission of Commenter Thrive Hood River is to protect Hood River County's farms, forests, special wild places and the livability of our urban and rural communities. Thrive Hood River has approximately 325 members. Commenter Columbia Riverkeeper ("Riverkeeper") is dedicated to protecting and restoring the Columbia River and its tributaries. With over 10,000 members and supporters, Riverkeeper and its supporters have an interest in EFSC maintaining a fair and open process for evaluating site certificate amendments for large energy facilities. Commenter WildLands Defense works to inspire and empower the preservation of wild lands and wildlife in the West. WildLands Defense has more than 1,500 members, activists, and supporters. Founded in 1967, Commenter Greater Hells Canyon Council ("GHCC") is a grassroots conservation organization whose mission is to connect, protect, and restore the wild lands, waters, native species and habitats of the Greater Hells Canyon Region, ensuring a legacy of healthy ecosystems for future generations. GHCC has approximately 1,000 members. The mission of Commenter Oregon Coast Alliance ("ORCA") is to

protect the Oregon coast by working with coastal residents for sustainable communities; protection and restoration of coastal and marine natural resources; providing education and advocacy on land use development; and adaptation to climate change. ORCA has approximately 300 members and supporters. Commenter Central Oregon LandWatch ("LandWatch") is a conservation organization with more than 200 members that has advocated for the preservation of natural resources in Central Oregon for more than thirty years. LandWatch plays a vital role in achieving a responsible, balanced approach to planning for and conserving Central Oregon's land and water resources, while recognizing the needs of future generations. LandWatch works to protect and conserve the region's ecosystems and wildlife habitats; to foster thriving, sustainable communities; and to spread the costs and benefits of growth equitably across the community as a whole. Founded in 1902, Commenter Audubon Society of Portland ("Portland Audubon") is a nonprofit conservation organization with more than 15,000 members whose mission is to inspire all people to love and protect birds, wildlife, and the natural environment upon which life depends. Through conservation advocacy, environmental education, and wildlife rehabilitation, Portland Audubon promotes the understanding, enjoyment, and protection of native birds, other wildlife and their habitats. Commenter East Cascades Audubon Society ("ECAS") is a nonprofit organization with approximately 400 members. ECAS is involved in conservation projects throughout Central Oregon and promotes enjoyment of birds, birdwatching, and habitat improvement.

The proposed rule would modify the threshold standard at OAR 345-027-0371(9) for Council decisions on whether to conduct a contested case proceeding on site certificate amendments reviewed under the "Type A" process as follows:

> 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.

Although the proposed rule would result in only a few words being changed, the effects would be significant. Commenters oppose the proposed rule language for several reasons. The proposed rule language would put the Council in the awkward position of having to prematurely weigh and adjudicate the merits of specific issues in deciding whether to hold a contested case—yet the merits and likelihood of success on specific issues are supposed to be the subject of the contested case. Second, the proposed rule language would impose new burdens on interested persons to justify a contested case by satisfying a new burden of proof, thus decreasing even further the likelihood that there would ever be a contested case on a proposed site certificate amendment. Finally, in many scenarios it could be impossible for interested persons to satisfy the proposed rule language—for example, situations where satisfying the new burden would depend on evidence that would be produced in the future, *via* a contested case. There is no need to change the Council's rules to impose new, difficult (and potentially insurmountable) burdens on interested persons requesting contested cases.

In addition, if the Council is not inclined to immediately reject the proposed rule language, then the Council should delay final action on the proposed rule until a later date. Commenters believe that both the Council and the public do not yet have sufficient information for meaningful review of

the proposed rule. In addition, the notice of proposed rulemaking and the meeting agenda for this rulemaking fail to accurately describe the proposed rule change, because they refer to the rule change as merely "clarifying" the Council's rules, when in fact the rule would *modify* the threshold standard for requesting—and determining whether to hold—a contested case. If the Council is not inclined to immediately reject the proposed rule language outright, then it should request more information from the ODOE Staff (as described below) and should authorize the distribution of a revised notice of proposed rulemaking to specify that the proposed rule would do more than merely "clarify" the Council's rules, but in fact would change the operative standards for the public to request and the Council to authorize a contested case. The public should also be given additional time to comment following this revised rulemaking notice. Finally, at the end of this letter below, Commenters formally request an extension of the rulemaking process by at least 21 days pursuant to ORS 183.335(4).

1. The Council should reject the proposed rule language.

The proposed rule language would substantially change the threshold standard for interested persons to request a contested case, and the standard for the Council to determine whether to hold a contested case. The Council should reject the proposed rule language.

Under the current rules at OAR 345-027-0371(9), if a request for a contested case is filed and if that "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," then the Council is empowered to authorize a contested case, which will be held before a hearings officer. This is an appropriate threshold standard to apply at the time a contested case is requested: if an issue is raised that "may affect" the ultimate determination of compliance with the applicable law, then a contested case should be held to vet and adjudicate that issue.

The proposed rule language, however, would turn the current process on its head. It would require the Council to evaluate the merits of each issue at the outset and determine whether it is "reasonably likely to affect" the ultimate determination of compliance with the applicable law. This would put the Council in the awkward position of having to prejudge the merits of each issue at an early stage, without the benefit of that issue having been vetted and adjudicated by a hearings officer in a contested case. While the Council is the ultimate decision-maker on applications for certificate amendments, the Council also utilizes the expertise and assistance of hearings officers to resolve complex evidentiary and legal issues via contested cases. Under current law, the Council waits until each contested case is concluded and then relies on the recommendations of the hearings officer to evaluate the merits of each issue. Again, the proposed rule change would turn that process on its head.

Compounding these problems, the evidence for each issue might not yet be available at the time a contested case is requested. Indeed, that is the very *purpose* of a contested case: for each party to litigate the issues in dispute by producing evidence, including the sworn testimony of expert witnesses. In addition, ODOE has recently taken the position that when a person requests a contested case, that person is prohibited from supplying new evidence to support the request if the evidence was not previously supplied with the person's initial comments on the amendment request. Commenters disagree with that position, but assuming ODOE is correct, then under the proposed rule change, a

person requesting a contested case in order to pursue evidentiary issues will find themselves in an unfair "Catch-22" predicament: they will be prohibited from submitting new evidence in support of a request for a contested case, and yet they will also be unlikely to convince the Council that a contested case should be held to produce that evidence in the future, because they will now be required to meet the high burden of demonstrating that the issue is "reasonably likely to affect" the Council's determination of compliance, based on evidence that does not yet exist. In essence, a person requesting a contested case would be required to prove her case, before the case even starts. This is unfair and inappropriate.

Moreover, there will be scenarios where persons requesting a contested case will not be capable of producing certain supporting evidence on their own, but rather will need to pursue that evidence from other parties, through discovery in a contested case. For example, a contested case may be necessary in order to pursue from site certificate holders, through discovery, evidence such as underlying data that was used to prepare application materials, or surveys or analyses that may have been conducted by the certificate holders but not furnished to the Department or the Council or otherwise made available to the public. Because most energy projects are proposed on private property (to which the general public does not have access), it can be critical for interested persons to obtain this type of evidence from energy certificate holders or their consultants via discovery. Similarly, persons requesting a contested case may need to use the discovery process to obtain evidence from the Department, such as legislative history of specific rules or communications with relevant persons. The discovery process is one of the fundamental reasons to hold a contested case: to pursue relevant evidence and furnish it to a hearings officer for adjudication and resolution of the disputed issues. The proposed rule language would circumvent that process by not allowing contested cases unless the supporting evidence already exists.

Ultimately, there is no need to change the standards for requesting and deciding whether to hold a contested case. The current rules are appropriate and fair. The proposed new rule language would upset the apple cart, substantially modifying the standards in ways that would put the Council in the awkward position of having to pre-judge issues, and that would unfairly hamstring persons requesting contested cases by requiring them to satisfy new burdens based on evidence that does not yet exist (and that, according to ODOE, could not be attached to the requests even if it did exist), and by requiring them to effectively prove their cases before the cases even begin. This substantial change in the rules would be unfair and inappropriate, and should be rejected.

Recommendation: Reject the proposed rule language.

2. If the Council is not inclined to immediately reject the proposed language, then the Council should delay final action on the proposed rule change until a later date, so that additional information can be supplied by ODOE Staff, so that a revised rulemaking notice can be distributed to the public, and so that the comment period on the proposed rule can be extended.

If the Council is not inclined to immediately reject the proposed rule language, then the Council should delay final action on the proposed rule until a later date and should authorize several actions to take place in the meantime.

First, Commenters believe that both the Council and the public do not yet have sufficient information for meaningful review of the proposed rule. The rulemaking notice states that the proposed rule change would be "consistent with the Council's current interpretation . . . of the rule." (Notice of Proposed Rulemaking at 2.) Yet nothing in the notice or in the ODOE Staff Report identifies any source(s) for this "current interpretation." The notice also states that the rule change would be "consistent with the Council's . . . past application of the rule." (*Id.*) Again, nothing in the ODOE Staff Report nor in the rulemaking notice identifies any relevant "past application[s]" of the rule. Without this information, it is difficult if not impossible to evaluate the statement that the proposed rule change would be consistent with the Council's past applications of and current interpretation of the rule. Similarly, the agency materials do not state when the "may affect" language in the rule was first adopted,[1] nor provide any legislative history behind the "may affect" language to show its intent, nor any discussion of the Council's interpretation and application of this language over time.[2] Finally, the notice states that one of the purposes of the rule is "to be consistent with other rules that convey a similar standard of proof." (*Id.*) But neither the notice nor the Staff Report identifies these other rules. The Council should request all of this information from ODOE Staff, so that the public and the Council can have a full picture of the history and intent behind the current rule, how it has been implemented and interpreted, whether the proposed rule change would indeed be consistent with that implementation and interpretation, and the relevance of any other unrelated rules that are being relied on by Staff.

In addition, the notice of proposed rulemaking and the meeting agenda for this rulemaking fail to accurately describe the proposed rule change, because they state that the purpose of the intended action is to "clarify" the Council's rules, when in fact the rule would *modify* the threshold standard for requesting—and determining whether to hold—a contested case. For example, the caption in the rulemaking notice is "*Clarification* of standard for issue to justify a Contested Case in Type A Amendment Review." (*Id.* at 1 (emphasis added).) The use of the word "clarification" is inaccurate and misleading, because the operative standard would in fact be modified, not merely clarified. Specifically, the standard would be changed from "may affect" to "reasonably likely to affect." These are two different standards.[3] The caption in the rulemaking notice fails to comply with ORS

[1] Commenters have begun to research this question, and have determined that the "may affect" language in question appears to have been first adopted on February 2, 2000, via a rulemaking order numbered EFSC 2-2000, and was first adopted at OAR 345-027-0070(6) (2000). ODOE Staff should provide the Council with the full rule language when it was first adopted, along with any prior and/or subsequent legislative history that might evidence the intent of this language. It is especially important for ODOE to do so, given the contentions in the rulemaking notice that the rule language is merely being "clarified," presumably to capture EFSC's intended interpretation.

[2] The ODOE Staff Report also fails to acknowledge that when the "may affect" language was first added to EFSC's rules (in February 2000), it was accompanied by the following sentence in the rules: "If the Council determines that even if the alleged facts are taken as true the outcome of the Council's determination would not change, but that conditions of performance might need revision, the Council may deny the request and may adopt appropriate conditions." OAR 345-027-0070(6) (2000). This sentence, which did require the Council to effectively weigh the merits of each issue in deciding whether to allow a contested case, was subsequently removed from EFSC's rules. The Council's subsequent choice to remove this sentence from its rules, while retaining the "may affect" language, helps demonstrate that the Council no longer intends for the merits of issues to be prematurely weighed in determining whether to hold a contested case.

[3] Indeed, in a prior Staff Report dated March 13, 2020 in this matter, ODOE Staff appears to

183.335(2)(a)(A) by misleadingly using the word "clarification." Second, the summary of the proposed rule in the rulemaking notice violates ORS 183.335(2)(a)(B), because it similarly states that "[t]he purpose of the rule amendment is to *clarify* the Council's standard." (Notice of Proposed Rulemaking at 2 (emphasis added).) The inaccurate and misleading use of the word "clarify," rather than a word such as "modify," fails to "inform a person that the person's interests may be affected," and thus violates ORS 183.335(2)(a)(B). The Council could and should rectify these procedural errors by authorizing the distribution of a revised notice.

If the Council is not inclined to reject the proposed rule language outright, then it should authorize the distribution of a revised notice of proposed rulemaking specifying that the proposed rule would do more than merely "clarify" the Council's rules, but in fact would modify or change the operative standard for the public to request and the Council to authorize a contested case. The public should also be given additional time to comment following this revised rulemaking notice.

Finally, pursuant to ORS 183.335(4), Commenters request that EFSC and ODOE postpone the process for this rulemaking by at least 21 days in order to allow Commenters and other interested persons a sufficient opportunity to submit data, views, or arguments concerning the proposed action.[4] Specifically, Commenters request that the Council postpone the June 25, 2020 deadline for written comments on this proposed rulemaking by at least 21 days, and also postpone the June 26, 2020 date (the scheduled date when the Council may take final action) by at least 21 days. This will allow the Department to supply more information to the Council regarding the proposed rule, will allow for a revised rulemaking notice to be distributed to the public specifying that the standards for requesting a contested case would be modified and not merely "clarified," and would allow interested persons to review this information, to continue researching and evaluating the proposed rule, and to respond appropriately.

Recommendation: If the Council is not inclined to immediately reject the proposed language, then the Council should request additional information from ODOE staff, should delay final action on the proposed rule change by at least 21 days, should extend the comment period on the proposed rule by at least 21 days, and should authorize the distribution of a revised rulemaking notice to the public.

3. Conclusion

For the reasons stated above, please retain the current language and reject the proposed rule, which would substantially change the threshold standards for requesting and determining whether to

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acknowledged that "may affect" and "reasonably likely to affect" are two different standards. The March Staff Report equates "may affect" with "in some degree likely to affect" and acknowledges that this standard could "include any non-zero probability." (Mar. 13, 2020 Staff Report at 2.) It also describes the proposed rule change to "reasonably likely to" as being "consistent with other rules which convey a *standard of proof*." (*Id.* (emphasis added).) If the "reasonably likely to affect" language indeed imposes a standard of proof similar to other rules, then this is a substantive change to the applicable standard in this rule.

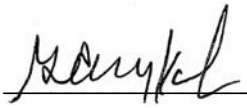
[4] This request is timely under ORS 183.335(4) because it is made before the earliest date that the rules could become effective pursuant to ORS 183.335(1). The notice of the proposed rulemaking was distributed to Commenters and others on May 6, 2020. The earliest date the proposed rules could become effective is June 25, 2020 (50 days after notice was given pursuant to ORS 183.335(1)(d)). The deadline to make requests under ORS 183.335(4) is thus June 24, 2020 (one day before the earliest date the rules could become effective).

hold a contested case. Otherwise, if the Council is not inclined to immediately reject the proposed language, then it should delay final action on the proposed rule, request additional information from ODOE staff, authorize the distribution of a revised rulemaking notice, and extend the time period for interested persons to comment on the proposed rule.

Thank you for your time and consideration.

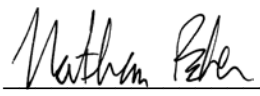
Sincerely,

REEVES, KAHN, HENNESSY & ELKINS



Gary K. Kahn, OSB No. 814810
Of Attorneys for Commenters Friends of the Columbia Gorge, Northwest Environmental Defense Center, Oregon Natural Desert Association, Oregon Wild, Thrive Hood River, Columbia Riverkeeper, WildLands Defense, Greater Hells Canyon Council, Oregon Coast Alliance, Central Oregon LandWatch, Audubon Society of Portland, and East Cascades Audubon Society

FRIENDS OF THE COLUMBIA GORGE



Nathan J. Baker, OSB No. 001980
Senior Staff Attorney, Friends of the Columbia Gorge

GKK/blb
cc (via email): Clients
Patrick Rowe, Oregon Department of Justice
Todd Cornett, Oregon Department of Energy

OREGON DEPARTMENT OF ENERGY

ENERGY FACILITY SITING COUNCIL

Hanley Jenkins, Chair ■ Marcy Grail, Vice-Chair ■ Kent Howe ■ Mary Winters ■ Jordan Truitt ■ Cynthia Condon

Energy Facility Siting Council
June 25-26, 2020
Meeting Minutes

Thursday, June 25, 2020 at 4:30 p.m.
Friday, June 26, 2020 at 8:30 a.m.
Virtual Webex Teleconference Meeting

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The meeting materials presented to Council are available online at: https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx

Thursday, June 25, 2020 – Virtual Webex Teleconference

Call to Order: The meeting was called to order at 4:32 p.m. on June 25, 2020 by Chair Jenkins.

Roll Call: Council Chair Hanley Jenkins, Vice Chair Marcy Grail, Council Members Kent Howe, Jordan Truitt and Cynthia Condon were present by teleconference. Council Member Winters joined by teleconference at 4:56 pm.

Oregon Department of Energy representatives present by telephone were Assistant Director for Siting/Council Secretary, Todd Cornett, Senior Policy Advisor Maxwell Woods, Rules Coordinator Christopher Clark, and Division Assistant Michiko Mata. EFSC Counsel Patrick Rowe of the Department of Justice was also present.

A. Consent Calendar (Action Item) – Approval of minutes, Council Secretary Report, and other routine Council business.

No agenda modifications.

May Meeting Minutes
Vice Chair Grail motioned that the Council approve the minutes of the May 21-22, 2020 meeting minutes as presented.

Council Member Truitt seconded the motion.

Motion carried.

Council Secretary Report

Staffing/Council Updates
Operations and Policy Analyst 2 interviews: The Department held first round interviews for Sean Mole's replacement last week. Second round interviews are scheduled for next week hoping to wrap up the recruitment and have someone on board prior to the July Council meeting.

Project Updates

- Obsidian DPO Hearing – The Department has rescheduled the Obsidian Draft Proposed Order public hearing . The public hearing is now scheduled for July 20th starting at 5:30 PM. The hearing will occur in person, via webinar and on the phone. The in-person location will be at the Christmas Valley Community Hall. Vice Chair Grail, Council Member Howe and Council Member Condon all indicated they would be attending in person. Chair Jenkins, Council member Winters and Council member Truitt, and Joe Allen, the Council appointed hearing officer will be attending via webinar.

  Staff will also be attending in person. However, other than Secretary Cornett, they have not yet determined who will be attending. For anyone attending in person they will make sure to adhere to all current social distancing requirements.

- Archway Solar Energy Project – On Tuesday the Department received a Notice of Intent from Invenergy, who is the site certificate holder for the Boardman Solar Project, for a new project named the Archway Solar Energy Project. The project is currently proposed at 400 MW with a site boundary of approximately 4,300 acres on private land. The project would be located southeast of Christmas Valley. For context, the Obsidian Solar Center is proposed northwest of Christmas Valley. These two projects appear to be a little over 20 miles away from each other.

The project would include: Solar panels on single axis trackers; battery storage system; collector substation; point of interconnect substation; new 500 kV transmission line; and an O & M building.

A perimeter fence will encompass an area of 3,650 acres that will house the solar facility and most of the related and supporting facilities.

Since ODOE just received the Notice of Intent the project information is not yet on our website and we have not yet sent out a notice soliciting public and reviewing agency comments.

COVID-19 Updates

- State Agencies – State Agencies are in a status quo mode until August 31st and then there will be a reassessment. That means ODOE doors remain closed to the public but we can schedule a time for anyone to come in who wants to review applications or draft proposed orders and proposed order in person. Siting Division staff are also mostly teleworking but some do get into the office frequently.

- Re-opening Phases – Most Counties have entered into Phase 2 where there are increased opportunities for traveling and gathering. For example now there is the ability to have up to 50 people in an indoor space as long as 6 feet physical distancing is maintained. Under Phase 1 the limitation was 25 people.

- Council Activities – For Council meetings and public hearings they are doing their best to meet the needs of all stakeholders. For applicants and site certificate holders that meant getting projects reviewed and before Council in a timely fashion. For the public that meant ensuing there are meaningful opportunities for their input. And for everyone that means conducting business in a safe way. ODOE will continue to rely upon webinars and phones for anyone who does not feel safe participating in-person and they can be in-person when needed or required, but would adhere to all current social distancing requirements.

Today is the first day since the Pandemic that their Compliance Officer, Duane Kilsdonk is conducting in-person site visits. Mr. Kilsdonk is doing annual site visits for the Shepherds Flat North, Central and South Wind Farms. However, before being able to do that ODOE had to establish specific protocols for his safety and the people he is meeting with.

Special Legislative Session

The Governor convened a special legislative session earlier this week. The Legislature took up a limited number of bills that fell into three categories: Police Accountability; COVID Emergency Issues; and Holdover Issues. There were no bills that had direct or indirect impact on state jurisdictional energy facilities.

Council Member Howe addressed the Council to respond to a statement made during the May 21-22, 2020 Council meeting.

Council Member Howe stated the following:

Ms. Irene Gilbert followed up her verbal comments at our May meeting with a memo dated May 22nd to Director Benner and the Council. I feel there were some(in my opinion) fairly strong and inaccurate statements in her follow-up comments. These comments I'm making are in response.

Ms. Gilbert specifically refers to the Council's deliberations during our December meeting and our discussion of the Shepard's Flat North application to make changes to the length of the turbine blades after Gilliam County updated its land use ordinance set back requirements for wind facilities that are different than what was in place at the original approval. Our deliberations centered around the

requirements for an amendment to a Conditional Use Permit when a non-conforming structure is expanded.

Ms. Gilbert stated that our extended deliberations were spent trying to find a way to justify approval. I felt our deliberations were making sure the Council correctly identified the applicable County Code provisions to make sure that our decision was lawful and could withstand a legal challenge.

Ms. Gilbert stated that QUOTE "*the Council is placed in the unenviable position of having to accept recommendations from the Oregon Dept. of Energy as complete and factual when often they are neither*." END QUOTE

Ms. Gilbert is entitled to her opinion. But, for the record I wanted to say that I felt the staff did an excellent job providing the Council with the complete facts of the applicable Gilliam County Code provisions that helped the Council reach its decision in the Shepard's Flat North request for Amendment 2.

B. [5:00 p.m.] Rulemaking Hearing on Proposed Carbon Monetary Offset Rate Increase (Hearing) [1] – Christopher Clark, Rules Coordinator. The Council received public comments on the proposed increase to the Carbon Monetary Offset Rate under OAR 345-024-0580. The deadline to provide the Council with oral or written comments on the proposed rule is the close of the hearing. For more information visit the Rulemaking page.

Mr. Clark notified the Council members that one of the public comments received on the Rulemaking to Clarify the Standard for Contested Case Requests for Type A Amendments contained a timely request to extend the deadline for public comments under ORS 183.335(4).

Chair Jenkins asked Mr. Clark which agenda item they are extending the comment period?

Mr. Clark stated it was for Agenda Item C – Rulemaking Hearing on Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments.

Secretary Cornett clarified the 21 days from today would conclude the public comment timeframe, which is prior to the July EFSC meeting, and Council's review of the draft rules and comments will be put on the agenda for July meeting.

Chair Jenkins asked when the Department received the request to extend the comment period?

Mr. Clark replied that they received from Friends of the Columbia Gorge, and other organizations as combined comments on June 24th, 2020, which was also sent to Council the same day.

Council Member Howe asked if there is a requirement to extend the public comment period.

Mr. Clark confirmed it was because the request for an extension was received before the earliest date the rules could be effective, which was on June 24. The agency is compelled to grant the extension for a minimum of 21 days and no more than 90 days.

Hearing no objections from the Council, Mr. Clark clarified for the record that the deadline for written comments for Agenda Item C – Rulemaking Hearing on Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments on OAR 345-027-0371 is July 16th, at 5:30 pm. The written comment period for the other two rulemaking hearings they were presenting tonight will conclude today at 5:30 pm or at the close of the hearing. Mr. Clark provided additional comments on the conduct of the hearings under Agenda Items B through D.

[1] Audio for Agenda Item B = 00:02:15 – June 25, 2020

Public Comments on Proposed Carbon Monetary Offset Rate Increase:
Mr. Clark informed the Council that it had received 10 written comments from Glenn Sonne, Jynx Houston, Allyson Dugan, Linda Reedjik, Veronica Poklemba, Noelle Smith, Columbia Riverkeeper and other organizations, Cascade Policy Institute, a group of 380 Columbia Riverkeeper members, and the Multnomah County Office of Sustainability. Mr. Clark confirmed that the comments had been provided to the Council members.

Mr. Clark opened the hearing for oral testimony on the proposed rule change. The following people provided testimony during the public hearing:

Dan Serres, Conservation Director for Columbia Riverkeeper
Thanked EFSC staff for the opportunity to participate in the Rules Advisory Committee, and commended staff for the outline of the update to the rule in the staff report. Mr. Serres stated they supported the change to the offset rate for the following reasons:

- Staff has demonstrated the current rate is dramatically underpriced, and even with the increase to $2.85 per ton the offset rate would still be underpriced.
- This rulemaking is consistent with the Governor's Executive Order 20-04 which states that the agency should exercise all authority and discretion invested in them in law to help facilitate Oregon's achievement of the emissions of greenhouse gases set forth in the order.
- The rule is fiscally achievable and reasonable without causing undue burden, and that ODOE staff had made a clear case that the cost increases associated with rule change would be modest.. Mr. Serres further explained that Columbia Riverkeeper supports the use of the Social Cost of Carbon in the fiscal impact analysis to demonstrate that there are social benefits associated with carbon reductions. Executive Order 20-04 also provides additional support in achieving the climate change pollution reduction goals of the Paris Climate Accord, and that the proposed rule change would help meet these goals by reducing additional excess carbon emissions.

Vice Chair Grail asked if Council was still able to make comments or ask questions if Mr. Clark recessed the hearing.

Mr. Clark clarified that Council could ask clarifying questions of commenters or provide their own testimony during the hearing, but their opportunity to discuss comments and deliberate on the draft rules will occur during Friday's Agenda Item E.

Council Member Condon asked if questions regarding the written comments should be brought up at Friday's meeting.

Mr. Clark stated that written commenters may not be in attendance, and that Council would be able to ask additional questions of staff during deliberation.

There were no further comments and Mr. Clark recessed the Hearing.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

C. [p.m.] Rulemaking Hearing on Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments (Hearing) [2] – Christopher Clark, Rules Coordinator. The Council received public comments on the proposed change to OAR 345-027-0371(9) that is intended to clarify the standard for an issue to justify a contested case proceeding under the Type A amendment review process. The deadline to provide the Council

[2] Audio for Agenda Item C = 00:29:19 – June 25, 2020

with oral or written comments on the proposed rule is the close of the hearing. For more information visit the Rulemaking page.

Mr. Clark stated that the Council had received one written comment from Friends of the Columbia Gorge and other organizations opposing the propose rule change and requesting an extension of the public comment period. Mr. Clark clarified that the public comment period had been extended during Agenda Item B.

Mr. Clark opened the hearing for oral testimony on the proposed rule change. The following people provided testimony during the public hearing:

Gary Khan, Attorney on behalf of 11 environmental Organizations.
Mr. Kahn stated he was commenting on behalf of 11 environmental organizations, Northwest Environmental Defense Center, Oregon Natural Desert Association, Oregon Wild, Thrive Hood River, Columbia River Keeper, Wild Lands Defense, Greater Hells Canyon Preservation Council, Oregon Coast Alliance, Central Oregon Land Watch, Audubon Society of Portland, East Cascades Audubon Society. Together those groups comprise of almost 60,000 supporters that are interested in this process. They submitted a joint comment with Friends of the Columbia Gorge on June 24th. Mr. Kahn stated that the commenters are vigorously opposed to the proposed rule change. He stated the proposal would significantly increase the threshold that a person much meet to established a contested case hearing for a type A site certificate amendment application.

Mr. Kahn explained that the current standard is that an issue must raises a significant issue of fact or law that "may" affect the Council's determination that the facility, as amended would meet all applicable laws. The proposed rule would significantly change that to require the proponent to show that an issue is "reasonably likely" to affect the Council's determination. He stated this change is much more significant than a clarification to the rule as represented by ODOE staff. Mr. Kahn explained that the change would require a requester to present their entire case factual and legal at the beginning of the case, making the request much harder. He explained that often, the evidence isn't available to the public until a contested case is evoked allowing discovery to obtain documents and information from the applicant or any third party that may have information. Mr. Kahn stated that many of the projects are on private land making the information unavailable to the public until a contested case is requested. The process of the contested case grants the members of the public the right to request the information from the applicant, and with the proposed rule change would take this right away from the public.

Mr. Kahn argued that the current standard is appropriate from a policy and practical perspective., Hi cited Governor Brown's support for government transparency, which he believes is counter to the proposed rule change. because it would make it almost impossible for a member of the public to obtain the information to satisfy the higher standard.

Mr. Kahn stated that from a practical perspective, he believes the current standard is working, and that to his knowledge, no one has abused this process. Mr. Kahn added that he believes the issue has been exacerbated by the Department's position that a person requesting a contested case is prohibited from providing evidence beyond what was originally contained in comments on the rulemaking procedure [sic].
Mr. Kahn urged the Council to reject the proposed rule.

Nathan Baker, Senior Staff Attorney for Friends of the Columbia River Gorge
Mr. Baker supported Mr. Kahn's case to reject the proposed rule and urged Council to reject it as well. He commented regarding the procedure for this rulemaking going forward. He stated that at the start of the hearing the Council did granted their request to extend the comment period to July 16th at 5:30 pm, and it would postpone its final deliberation until the July Council meeting. Mr, Baker stated that the Council should still discuss this agenda item, but the action to be postponed until July. Mr. Baker argued that a a new notice should go out to the public notifying them of the extension, and requested a change to the content of the notice. They felt the notice was insufficient because the notice states that the proposed rule change is s a clarification, and that it

should indicates that this is a change to the standard. Mr. Baker also requested staff explain the history of the "may affect" language adopted in February 2000, what the operative standard before February 2000 was, and how did it change after February 2000. He cited specific language that was in the rules in February 2000 is no longer in the rules, and the intent of its removal should be looked into as well.

Council Member Condon asked Mr. Baker and Mr. Kahn if, when requesting a contested case, is it not being requested because there is belief that they are presenting material that may affect the Council's determination, and that the "reasonable likely" standard would have the same meaning in that regard.

Mr. Baker stated it would depend on the specific facts related to the case, but there could be situations the evidence is not in the hands of the person making the request. If raw data or survey's submitted by the applicant, it's only available through discovery. While the person making the request believes their issue is valid, only discovery and information gathering process will bring that documentation forward.

Mr. Kahn compared the contested case process to a civil case and stated it's like requiring them to explain in their opening argument of why they would win the case, and requiring the jury to make that determination without them hearing any evidence. That is the difference. The current process allows them to request a contested case, discover the information, then present the information to try and convince the Council of their argument.

Council Member Condon thanked the commenters for the clarification.

Irene Gilbert

Ms. Gilbert stated that she was present at the contested case hearing for the Helix Wind Farm expansion process that happened 8 or 10 years ago when the Council asked for changes to the amendment rules. She explained that at that time the Council felt they were compelled by rule to deny all contested case requests on the request for amendment. She stated the Council was concerned about the lack of availability for the public to have a contested case for amended site certificates. Ms. Gilbert explained that Between then and now the rules have moved in the opposite direction of allowing the public to request a contested case, and all contested case requests for amendments to wind, solar, or transmission lines have all been denied, and the rules were becoming more stringent and subjective and at the Council's discretion. Ms. Gilbert recommended that if the Council wanted the public to respect the process it would be loosening the rules so members of the public could challenge its decisions. Ms. Gilbert asserted that moving forward with this change only adds to the negative perception of the process by the public.

Ms. Gilbert also requested the Council consider that the Council denied multiple requests for changes to the proposed rules when they were adopted, and that changes requested by the public were deferred to rulemaking scheduled for 2022. She stated that it was not clear why the Council would move forward with this change.

Ms. Gilbert stated that she plans to respond the comment made by Council Member Howe, and may provide additional written comments.

Vice Chair Grail stated that what she heard Ms. Gilbert say is that none of the public comments during the rulemaking process were included. Vice Chair grail asked Mr. Clark if that was something he could address?

Mr. Clark replied he could clarify it tomorrow, but asked Ms. Gilbert to clarify her statement and if she is saying her written comments from 2017 were not included for the rulemaking in 2019.

Ms. Gilbert confirmed, but that her comment was that public comments made during the adoption of the new amendment rules were put off until 2022. She wasn't just referring to her comments, she was referring to all the comments that were made that were not included yet ODOE's were.

Mr. Clark thanked Ms. Gilbert and stated they would respond when the provide their evaluation tomorrow.

No further comments and Mr. Clark recessed the Hearing.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

D. Rulemaking Hearing on Proposed Solar Photovoltaic Facility Rules (Hearing) [3] – Christopher Clark, Rules Coordinator. The Council received public comments on proposed rules intended to clarify the application and interpretation of jurisdictional thresholds for solar photovoltaic power generation facilities. The deadline to provide the Council with oral or written comments on the proposed rules is the close of the hearing. For more information visit the Rulemaking page.

Mr. Clark stated the Council had received written comments from Renewable Northwest and OSIEA, and and from Obsidian Renewables, which have been provided to Council members.

No comments were provided, and Mr. Clark recessed the hearing.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

Mr. Clark provided an additional opportunity to provide testimony on any of the three rulemaking hearings.

Eric Jansen
Commenting regarding agenda item D, Mr. Jansen asked Council to clarify the next steps in the decision making process for the proposed rules to modify the definition of a facility. He understood that this may not be the final ruling, but asked what the next steps were.

Mr. Clark stated that during tomorrow's meeting Council will consider any written or oral comments including ones from today, deliberate, and potentially make their final decision. They also could postpone that decision if needed.

Mr. Jansen asked Mr. Clark what the best way for him to keep connected with the outcome of this issue?

Mr. Clark recommended Mr. Jansen attend the meeting tomorrow, and the website for the permanent order once a decision is made.

Secretary Cornett asked Mr. Clark to remind everyone how to sign up for public notices via email through Click Dimensions.

Mr. Clark demonstrated how to access the link to sign up for email updated on the ODOE website, and if anyone on the phone needed more information they could email him.

Mr. Clark closed all three Hearings. The comment periods for the Rulemaking Hearing on Proposed Carbon Monetary Offset Rate Increase and the Rulemaking Hearing on Proposed Solar Photovoltaic Facility Rules are now closed. The comment period for the Rulemaking Hearing on Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments will close on July 16th at 5:30 pm.

ADJOURN at 6:05 pm

[3] Audio for Agenda Item D = 00:56:54 – June 25, 2020

Friday, June 26, 2020 – Webex Zoom Teleconference

Call to Order: The meeting was called to order at 8:30 a.m. on June 26, 2020 by Chair Jenkins.

Roll Call: Council Chair Hanley Jenkins, Vice Chair Marcy Grail, Council Members Kent Howe, Mary Winters, Jordan Truitt and Cynthia Condon were present by teleconference.

Oregon Department of Energy representatives present by teleconference were Assistant Director for Siting/Council Secretary, Todd Cornett, Senior Policy Advisor Maxwell Woods, Senior Siting Analysts Chase McVeigh-Walker, Rules Coordinator Christopher Clark, and Division Assistant Michiko Mata. EFSC Counsel Patrick Rowe of the Department of Justice was also present by teleconference.

E. Carbon Monetary Offset Rate Update, Council Review of Comments & Possible Final Decision (Possible Action Item) [4] – Christopher Clark, Rules Coordinator. Council reviewed public comments received on the proposed increase to the Carbon Monetary Offset Rate under OAR 345-024-0580 and considered the adoption of permanent rules. For more information visit the Rulemaking page.

Mr. Clark provided an overview of the proposed rule change and public comments received on the record. Mr. Clark explained that the proposed rule would increase the Carbon Monetary Offset Rate from $1.90 to $2.85 per ton of carbon dioxide emissions in excess of the Council's Carbon Standard, and recommended the proposed rate increase be effective July 1, 2020.

Vice Chair Grail asked if the rules had to be effective July 1st, or if Council could specify a later date.
Mr. Clark replied that Council can specify any date on or after the date of filing.

Mr. Clark explained that the Council had received 10 written comments on the proposed rules, 8 of which were generally supportive.

He stated that one additional comment was received that objected to the use of variable pricing for carbon offsets that could be used to generate revenue for government. Mr. Clark clarified for the record that staff believes the carbon monetary offset rate is a fixed price and that the funds were provided to and managed by a third-party, not the agency.

Mr. Clark stated that the final comment from the Cascade Policy Institute recommended Council reject the proposed rule change based on concerns over potential impacts to ratepayers. Mr. Clark explained that staff addressed the comments in its issues document and that any impact on ratepayers would be very small and outweighed by the net social benefit described in the fiscal impact statement.

Council Member Condon asked for confirmation that when Mr. Clark did his analysis the average price per kilowatt hours was 9.05 cents and the difference or increase was .00017 percent, rather than cents?
Mr. Clark confirmed that was correct.

Council Member Condon asked if members from Investor Owned Utilities were on the RAC?
Mr. Clark confirmed that was correct.

[4] Audio for Agenda Item E = 00:02:58 – June 26, 2020

Council Member Condon asked if there was discussion at the RAC on whether the rate increase would be passed on to rate payers.

Mr. Clark stated that there was no direct discussion of how the increase would be passed on to rate payers, but there were no objections to the way that fiscal impacts were characterized or other impacts to the public that were identified other than what was already represented in the fiscal impact statement.

Mr. Clark explained that a number of the comments in support of the proposed rule change contained detailed comments on particular aspects of the Department's analysis and Council's findings. He pointed out that Columbia Riverkeeper also recommended Council consider Oregon's commitment to meeting the goals of the Paris Climate Accord as an objective of this rulemaking.

Mr. Clark concluded his presentation and invited the Council's deliberation.

Vice Chair Grail stated she read all the comments, she felt the rate proposed was fair and reasonable. She read the comments from the Cascade Policy Institute and stated that like everyone else utilities have been affected by the COVID-19 pandemic. She felt the Council should increase the rate, but felt they should give more time than July 1st given the current state of affairs. She stated that most if not all utility companies were not allowed to cut power off for non-payment.

Secretary Cornett clarified that the rate increase would only apply to new projects, not existing facilities.

Chair Jenkins stated that it's important to know that none of the utilities have requested extensions of the effective date of the rule beyond July 1.

Vice Chair Grail stated that with that information she was no longer concerned about a July 1st effective date.

Council Member Winters stated that she was supportive of implementing policy underlying the Governor's Executive Order 20-04 and the Paris Agreement. She asked if this is something they need to state as a finding or part of the record?

Mr. Clark replied that either way was possible.

Council Member Winters asked Council if anyone else had any thoughts on this topic? She stated that the topic of limitations on the Council's authority to consider climate goals had come up before, and that she would like to express support for the climate goals, consistent with direction from the governor's office, the legislature, and the Council's stakeholders, as critical to our state.

Chair Jenkins stated he wasn't sure it was necessary for findings because the criteria for adopting this rule was that it be based on empirical evidence and economic achievability, and that maybe a statement from Council is more appropriate.

Council Member Winters agreed.

Council Member Howe stated his agreement to include support of the climate goals in the language of the motion, and that he was prepared to make a motion.

Council Member Howe motioned to adopt the permanent rule to increase the Carbon Monetary Offset Rate under OAR 345-024-0580 as presented by staff, addressing the Paris climate accord, consistent with environmental and public safety goals of the State.

Council Member Winters second.

Council Member Winters stated for the record that when they first discussed if there was empirical data, and she went back and reviewed it. Ms. Winters wanted it to be clear they did review it as there were comments regarding this.

Council Member Condon stated that it seemed to her the current rate was significantly under the market rate due to years of not updating the rules to raise the rate, and they aren't really achieving the goal of the offset.

Secretary Cornett confirmed, and stated that even if Council approves this increased rate they would still be under the current market rate. Mr. Clark did a good job at providing the information for the record, and unless the standard is eliminated based under cap and trade legislation this standard will continue. Annually they bring the rule making prioritization to Council, and this item will be on that list even though they can't impose another increase for 2 years showing intent. It will be at Council's direction if they want staff to begin the rulemaking at 2 years or begin prior so the effective date would be at the 2 year allowable timeframe.

Council Member Condon stated she strongly supported the change, and asked it would be more appropriate to change the statute to say the rate change couldn't be more than the current market place preventing them from getting behind the ball. She asked if there were something stronger the Council could do?

Secretary Cornett replied that Statutes certainly could be changed. While it can be done, he suspected there is a desire to continue and propose a larger carbon program than just this one component. He stated he wasn't sure if there would be any future gas plants proposed in the State to which this offset rate would be applicable. There are currently no investor owned utility integrated resource plans that have natural gas plants or carbon based energy facilities. This could be applicable to some independent power producers, but they don't know. He suspected more effort would go into a larger cap and trade program than updating the carbon statute. However, if Council wanted to propose a change, staff could raise it to the Governor's office to find out their interest.

Secretary Cornett asked Mr. Clark to confirm the motion by Council Member Howe incorporated the date of July 1, 2020 that the rule would become effective.

Mr. Clark confirmed, and he intended to file the rule change with the effective date of July 1, 2020.

Secretary Cornett asked Council if anyone had objection to the July 1, 2020 date before calling roll.

No objections from Council.

Motion carried.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

F. [9:08 a.m.] Rulemaking to Clarify Standard for Contested Case Requests for Type A Amendments, Council Review of Comments & Possible Final Decision (Possible Action Item)[5] – Christopher Clark, Rules Coordinator. The Council reviewed public comments received on the proposed change to OAR 345-027-0371(9) and considered the adoption of permanent rules. . For more information visit the Rulemaking page.

[5] Audio for Agenda Item F = 00:37:26 – June 26, 2020

Mr. Clark reminded Council that there was a request to extend the comment period an additional 21 days and no final decisions would be made until then but that Council could begin their discussion and review. Mr. Clark provided an overview of the proposed rule change and the history of the rulemaking process. Mr. Clark explained that the Council had received one written comment on the proposed rules as well as oral testimony from three commenters. All comments were opposed to the proposed rule change.

Council Member Winters stated that that in its Order interpreting the rule, Council found that "may" meant "in some degree likely" which was consistent with previous practice and the normal dictionary meaning, but in the proposed rule it's now "reasonably likely". She asked Mr. Clark to explain how the that change came about.

Mr. Clark replied that staff recommended using the term "reasonably likely" because that is evidentiary standard for applicants in other parts of the application process. He offered to present the citations of previous discussions for the July meeting if Council wanted to discuss it further. He commented that staff also felt the term "in some degree likely" is ambiguous and subject to various interpretations.

Council Member Winters stated that Council's intent was to clarify the meaning of "may" not to change the meaning of "may". She stated that she felt some environmental organizations go too far in saying Council has created a situation they have to weigh evidence or pre-judge, but that she is concerned that the average person may think the words "may" and "reasonably likely" mean the same thing. She felt that those terms could have different legal definitions, but didn't feel the Council was trying to change the standard. She asked for clarification that the intent was not to have Council litigate the evidence.

Mr. Clark confirmed the staff's intent when drafting the proposed rules was not to require a person requesting a contested case to present their full body of evidence at the time of the request, or for Council to adjudicate the merit of the issue at that time. It's to establish if there is a reasonable chance Council's decision would be affected. Mr. Clark proposed that if Council felt other language would be more consistent with what the standard means, it would be appropriate for Council to modify the language in the proposed rule based on the comments when they make their decision.

Council Member Winters stated that the commenters didn't provide any direction on actual language other than they liked the word "may", which is vague. She asked staff and legal counsel if there was a more clear standard with language pertaining to case law pertaining to agency rules? She didn't like the idea of arguing with the community who is most likely the one requesting a contested case or creating fear of our use of language. That was not their intent, they aren't trying to change the standard. She stated they needed to be careful with their words to avoid creating any unfounded concerns.

Legal Counsel Patrick Rowe agreed that the intent of the proposed rules is to clarify how the Council has interpreted the rule. He stated this was discussed at the January meeting and possibly one other subsequent meeting, and he would look to see if there was any case law and how other agencies might address a "may" type standard. He would report his findings to the Council at the July meeting.

Chair Jenkins supported that, and stated that he didn't feel Council should deliberate much further as they will still be receiving comments.

Vice Chair Grail stated that the presumption that the Council is trying to limit the public's participation bothered her. She stated that in casual conversation asking what the "may" means versus "reasonably likely," most people don't know that there is a difference. She felt it's important for their language to be clear, and for any person that is not experienced with Rules and Statutes to be able to understand them. She wanted to provide some clarity in the standard without creating the perception that the public's opportunity to challenge a Council decision could be limited based on a "technicality." She is very interested in what Mr. Rowe has to say in July.

Council Member Howe stated he agreed, and the Council is trying to clarify the word "may". He felt that "reasonably likely" does clarify it so it's not as broad as "may". He stated that he didn't think the Council was trying to be more restrictive, but was trying to give Council better guidance on what to use for a decision. He felt "reasonably likely" is less vague than "may". He stated that he was concerned that the comments made it seem Council was trying to make it more difficult at the front end in submitting arguments during the contested case process. He looked at "reasonably likely" in regards to how Council would make their decision, but shouldn't affect the way a person prepared the request.

Council Member Condon asked if a public member wanted a contested case, isn't that presentation an expectation that what they have to present "may" or "may reasonably likely" change Council's decision? She felt the response provided during the hearing was compelling and she didn't like the change from "may" to "reasonably likely" because she felt "reasonably" was ambiguous. She stated that "may" defined in the dictionary is possibility or probability, and most people know and understand that word and definition.

Chair Jenkins asked what the timing was for the notice for close of the written testimony, when did they have to give notice by? Chair Jenkins stated he wanted to make sure there was enough time to do the evaluation.

Mr. Clark replied that the Statute was vague regarding what notices require when an Agency extends a comment deadline and response to a petition under 183.385(4). He did refer to his Administrative Law Manual to research what the answer was, and all it required was to provide written notice to anyone previously noticed. However, there was no precise timeframe given, but it should be reasonably after and allowing sufficient notice to provide comments before the deadline. He planned to provide a written notice of the extended comment deadline by Monday, June 29, 2020.

Chair Jenkins asked if 14 days would be reasonable, July 6th?

Legal Counsel Patrick Rowe replied that the 6th could be tight considering the work load they have at the moment. However, if that is the direction Council provides they will get it done.

Mr. Clark clarified there were two separate issues. To extend the comment deadline there are no requirements for the Department to file a new notice with the Secretary of State. They just need to provide notice in writing to people previously noticed about the extension of the deadline. The second is if Chair Jenkins is suggesting that the Department needs to file a new proposed rulemaking with the Secretary of State, he felt there would be additional time constraints pushing out the comment period further. If notice was published July 6th, it wouldn't appear in the Secretary of State Bulletin until August 1. If we needed to provide a revised proposed rulemaking notice it would push out Council's deliberation until August.

Chair Jenkins stated they had two options, one is just re-noticing of the extended timeline for written comments. The second is if Mr. Rowe felt there was better language to use for the replacement of the word "may" they would have to issue a revised notice with the Secretary of State's office. If the second option is the direction they end up going everyone needs to understand this be pushed out until August.

Mr. Clark confirmed Chair Jenkins was correct. That if they gave notice of the extended deadline while receiving additional comments Mr. Rowe will have the opportunity to review the language, and it's something they could bring to Council's review at the July meeting to make a formal decision if they wish.

Chair Jenkins replied that all the Department needed today was consensus to re-notice the extended written comment period.

Mr. Clark confirmed that was correct.

Legal Counsel Patrick Rowe stated that reading the Statute under which the organizations requested the postponement of Council taking action, it states the agency shall postpone the date of its intended action no less than 21 and no more than 90 days to allow the requesting person an opportunity to submit data and arguments concerning the proposed action. Reading that strictly the only parties under the Statute that would be given the additional 21 days would be the requesting parties, not the public in general. In his quick look of case law he didn't see any case law interpretation of it. Their discussion has been to extend the 21 day comment period for all the public, which he felt Council had the authority to do. Pointing out this could be going beyond what the Statute requires.

Chair Jenkins stated he supported extending it to all the public.

Council Member Winters stated she understood the Statute, but agreed they should apply it to all the public.

Council Member Condon asked for clarification on the closing date.

Mr. Clark stated the comment period would close on July 16, at 5:30 pm. Deliberation is extended until the July meeting.

Council Member Condon stated she thought the public would have 14 days to comment, and that was the reason for the notice that they had 14 days to comment.

Mr. Clark replied that the comment period extension is actually 21 days, that July 16 is 21 days from last night. The noticing period is where the confusion was.

Council Member Condon stated she thought there should be plenty of time for the public to comment once the notice was received.

Council Member Winters stated she was confused, as she thought the new notice was only required if Council determined it was needed which they haven't determined yet. That would be up to Mr. Rowe to review with staff, correct?

Chair Jenkins replied that this was just additional time to comment on the existing language presented.

Council Member Condon asked if there was not an additional notice given that time was extended?

Chair Jenkins replied that is what this notice is.

Mr. Clark stated that in the rulemaking process there is requirement that the Department must file notice of proposed rulemaking with the Secretary of State, and also provide a notice to stakeholders that the notice has been filed with the Secretary of State. In this case they would not be filing a new notice of proposed rulemaking with the Secretary of State. In this case they would just be providing written confirmation that the comment deadline has been extended from what was previously published before to anyone that previously received the notice.

Chair Jenkins asked for consensus from Council. There were no objections and informed Mr. Clark they had had their direction.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

G. Public Comment Period [6] – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that was not otherwise closed for comment.

Irene Gilbert

Ms. Gilbert responded to Council Member Howe's comments in regards to an email she sent to Council regarding the Council's deliberation of the Shepherds Flat North Request for Amendment 2. Ms. Gilbert made the following points:

- Council must adhere to statutes because they take precedent over rule. Specifically, ORS 469.503 which states that Council decisions must be in compliance with statewide planning goals, exceptions & local comprehensive plans and local land use regulations in effect on the date the request is made.
- Nine turbines associated with the Shepherds Flat North were already infringing on the required setback of the Bonneville Power Administration's transmission line right of way.
- Council failed to follow the statutory requirements or their own rules when they allowed the nine turbines in proximity to the Bonneville Power Administration's transmission line right of way to increase their turbine blade lengths which is a public safety and health issue
- Because this was a Type B amendment the public did not have the opportunity to challenge Council's decision

H. [9:50 a.m.] Council Consideration of Need for Power for the Proposed Swan Lake North Pumped Storage Hydroelectric Project, in accordance with ORS 543.017(1)(e) (Action Item) [7] – Maxwell Woods, Senior Policy Advisor. Per ORS 543.017(1)(e), ORS 469.470(5), and OAR 690-051-0280, the Energy Facility Siting Council shall consult with and make recommendations to the Oregon Water Resources Commission regarding the need for power associated with hydroelectric projects with a nominal generating capacity of 25 MW or more. A proposal has been submitted to the Water Resources Commission and Oregon Water Resources Department for a pumped-storage hydroelectric power project in Klamath County, called the Swan Lake North Pumped Storage Hydroelectric Project.

Secretary Cornett informed Council that Mary Grainey, Hydroelectric Program Director from Oregon Water Resources Commission was in attendance, and available for any questions that Council may have.

Secretary Cornett gave Mary Grainey the opportunity to address the Council.

Ms. Grainey thanked Council for the opportunity and coordination with the consideration this type of project, as it seems to only come up once every 30 years.

Vice Chair Grail motioned that the Council make "no recommendation" as to the need for power from the Swan Lake North Pumped Hydropower Facility, consistent with the staff presentation.

Council Member Howe seconded.

Council Member Condon asked Mary Grainey that without a recommendation from Council given the Water Resource Commission has the same access to records as Council, do they look at the need for power as they interpret the documents?

Ms. Grainey replied that most of the info in the record leans towards a general need for power and general need for storage to manage the renewables connected to the grid. The information they have from the National Council and Oregon Department of Energy is all favorable. Unless something unfavorable is introduced to the record later, it's not something they had to develop the standard for.

[6] Audio for Agenda Item G = 01:13:06 – June 26, 2020

[7] Audio for Agenda Item H = 01:19:58 – June 26, 2020

Motion carried.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

I. **[10:21 a.m.] Solar PV Rulemaking, Council Review of Comments & Possible Final Decision Solar PV Rulemaking (Possible Action Item)**[8] – Christopher Clark, Rules Coordinator. The Council reviewed public comments received on the proposed rules intended to clarify the application and interpretation of jurisdictional thresholds for solar photovoltaic power generation facilities and considered the adoption of permanent rules. For more information visit the Rulemaking page.

Mr. Clark provided an overview of the proposed rules and the rulemaking process. Mr. Clark explained that there were two written comments on the proposed rules, and that comments contained several requests for Council to clarify the terms and provisions of the proposed rules. Mr. Clark stated that staff had included its recommended responses in the evaluation provided to Council. Mr. Clark suggested Council approve or modify staff's recommendations in the evaluation and formally recognize staff's clarifications provided. He didn't believe it was required if they chose not to.

Secretary Cornett stated they could go through the items being requested for clarification one by one, with Council giving a consensus or acknowledgement as they go through them. If they were consistent this can be incorporated into the motion if adopting the rules.

Chair Jenkins agreed and stated the Council would give consensus as they moved through each item.

Issue: Clarification of "other components" in proposed definition
Issue Summary: The proposed definition of "solar photovoltaic power generation facility" provides that a solar photovoltaic power generation facility includes "photovoltaic modules, mounting and tracking equipment, posts, electrical cabling, inverters, transformers, collection systems, fencing, and other components." Commenters requested that Council confirm that the term "other components" as used in the proposed rule would be limited to energy facility components that is intended to be a catch-all in case technology or construction techniques change over time" and "is not meant to capture what would otherwise be considered 'related or supporting facilities."

Staff Recommendation: Consistent with the commenters reading of the proposed rules, the term "or other components" is intended to allow flexibility to account for differences in energy facility design and changes in technology, but would only apply to components of a similar nature to those included in the list. Staff confirms that "other components" is not intended to apply to structures or equipment that would otherwise be considered to be related or supporting facilities.

Council had consensus with the staff recommendation.

Issue: Clarification of treatment of related or supporting facilities
Issue Summary: The proposed definition provides that "[r]elated or supporting facilities" are included in acreage calculations for determining EFSC jurisdiction but "are not otherwise considered to be components of the solar photovoltaic power generation facility." Commenters request clarification if the proposed rule is intended to

[8] Audio for Agenda Item I = 01:50:26 – June 26, 2020

exclude "related or supporting facilities" such as gen-tie lines, access roads, O&M buildings, and battery storage systems from the one-mile calculation presented in the proposed OAR 345-001-0010(56)(b)(A).

Staff Recommendation: The proposed rule language is intended to specify that related or supporting facilities located outside of the energy facility site boundary will only be considered in determining the total acreage used by the solar facility, but will not be considered in evaluating the proximity criteria for triggering a jurisdictional review. The rule is intended to allow Council to consider all land used by a solar facility when calculating acreage under ORS 469.300(11)(a)(D) without discouraging co-location of transmission infrastructure or other related or supporting facilities.

Council Member Howe asked how the rule would apply to shared battery storage .

Mr. Clark replied if the battery storage were proposed to be related or common facility, which is most common. Mr. Clark stated that the battery storage is often within the site boundary, and in that case it would be a moot question. He stated that if there was a big battery storage location between two distinct facilities this rule would not be used to determine the proximity criteria, but if it had a large footprint they may look at the area it uses to see if it surpasses the 1,920 acre threshold.

Council had consensus.

Issue: Recommendation to reduce distance for "proximity" trigger

Issue Summary: The proposed rule language provides that projects proposed within one mile of an existing solar photovoltaic power generation facility "may be determined to be an expansion" of the existing facility. Commenters recommend Council reduce the one-mile radius to a quarter-mile to align with DLCD's solar siting rule.

Staff Recommendation: Staff recommended that Council preserve the one-mile radius for the "proximity" review trigger. The one-mile radius is consistent with the one-mile study area for impacts to agricultural practices found in the LCDC rule under OAR 660-033-0130(38)(h)(G) and (i)(D)**,** and accounts for differences in the way distance is measured in the Council process vs the LCDC process. Under the LCDC rules, distance is measured from the edge of the tract upon which the facility is sited, whereas under the proposed Council rules distance would be measured from the energy facility site boundary.

Mr. Woods stated he would like to clarify the word "site boundary" and what it referred to in EFSC Statutes. It included the EFSC facility as well the related and supporting facilities. That is distinct compared to what they were discussing in the proposed rules today. Which is the measurement point, the distance is from the facility or project as they defined those in terms. The related or supported facility in an EFSC review is brought into the site boundary, which is a defined term in the Statute.

Mr. Clark confirmed when they are talking about the 1-mile distance it's referring to the distance between the energy facility site boundary, not the facility site boundary. It can be confusing, but they are referring to just those components of the photovoltaic power generation facility or project.

Council Member Condon stated this is related to the first issue, a facility surrounded by a fence. The measurement would be from the fence?

Mr. Clark confirmed that was correct.

Council Member Howe stated he was in agreement in leaving it at the 1-mile distance consistent with the impact analysis.

Vice Chair Grail and Council Member Winters both agreed.

Council Member Truitt asked if the radius took in account for natural barriers?

Mr. Clark replied that question came up in RAC meetings and if it the distance could be topographical, but the intent was for the shortest distance between the two points looking at a map.

Council had consensus to retain the 1-mile distance.

Issue: Clarification of "common ownership" (Exhibit 1)

Issue Summary: The proposed rule provides that projects under common ownership with an existing solar photovoltaic power generation facility may be determined to be an expansion of the existing facility and that "[p]rojects connected to the same parent company or individuals will be considered to be in common ownership, regardless of the operating business structure." Commenters requested Council clarify if the phrase "connected to the same parent company or individuals" refers to projects connected by a common majority owner or owners, regardless of the structure or structures that insulate that owner from liability related to the project, or if it is also intended to capture debt lenders, tax equity investors, minority partners, and other entities involved in financing the project.

Staff Recommendation: The phrase "connected to the same parent company or individuals" is intended to be primarily to the relationship between project specific entities that are affiliated under a common ownership structure and share the same ultimate parent company or companies, regardless of whether ownership by the parent company is direct or through one or more intermediate subsidiaries. While the rule is not intended to capture debt lenders, tax equity investors or other entities involved solely in the financing of a project, under certain circumstances projects could potentially be connected through one or more minority owners.

Council Member Condon asked Mr. Clark to provide an example of where the common ownership would work? As she read the information she wondered if the commenters may were suggesting that there is a different parent company but common minority investors, and that's what they were afraid of.

Mr. Clark replied he felt the commenters were concerned about the rule being expanded to apply to anyone that has a financial stake in a project being considered an owner or any financial connection to a project implying common ownership. He gave an example that a tax equity investor would have some financial stake, but not typically thought of an equity owner in the project. The intent is to look at an LLC that is specific to a solar project, and referenced Wheatridge project that is now three separate projects under it's own subsidiary LLC. Those LLC's are ultimately owned by the same parent company, which would looked at under the same parent company. This is to prevent or avoid using shell companies to avoid regulation.

Council had consensus.

Issue: Clarification of "other proceeding" in proposed procedural rule (Exhibit 1,2)

Issue Summary: The proposed OAR 345-001-0250(1) provides that to find that a project is an expansion of an existing facility, "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." Commenters request that Council clarify what "other proceedings" could be used to make a determination.

Staff Recommendation: As commenters point out, the declaratory ruling process is intended to provide an expeditious process for determining legal issues, not for resolving factual disputes. If the parties necessary to the resolution of the declaratory ruling process are unwilling or unable to participate or agree to the facts in the matter, the Council would not be able to issue a declaratory ruling. If the Council felt that a petitioner's claim that a facility was being constructed or expanded in violation of ORS 469.320 had merit, the Council would likely have

the authority to pursue the fact finding through its own investigation to develop the evidentiary record needed to make a determination through an Order in other than a contested case.

Chair Jenkins asked Mr. Rowe if this needs to be further clarified or is it adequate with using "other"?

Legal Counsel Rowe stated that if they clarify in this proceeding people could go back to this record to understand Council's intent, which is outside of the declaratory ruling if the parties can't agree on the facts the Council would still review the jurisdictional issue under the enforcement authority. Stating that on today's record should be sufficient, but Council could also provide direction to staff to communicate that clearly in the minutes.

Chair Jenkins stated he felt it was adequate to have it in the record.

Secretary Cornett stated that the minutes will have sufficient detail on the record to clarify what the Council's intent was.

Council Member Condon preferred clarity in the rule itself, that it should be clear to the public what the intent was without doing significant research about a hearing that occurred 3 years ago. She was not familiar with the process and if that would mean it needed to go through the rulemaking process again, but is there a specific communication with the commenter answering those questions that is distinct separate from this record?

Mr. Clark replied that the stakeholders asked clarifying questions and the staff provided intent, but it is not part of the rulemaking record as it was an informal conversation.

Council Member Condon realized it would be in this record, but in addition to this is there a letter in response to the comments clarifying so they have it in their files for reference?

Mr. Clark stated they did not provide a written response, just an informal conversation. They did request that any formal request for clarification must be submitted to the Council in formal written comments.

Secretary Cornett stated they could provide a record of the information of what was occurring today to the stakeholders, and based on Council's direction staff could generate a specific letter based on their comments with what the Council did. Staff could also share the final adopted meeting minutes with them which would have the same information they could add to their record. Either option was acceptable as long as Council agreed clarifying language within the rules themselves was not needed.

Council Member Condon would be more comfortable with written communication.

Mr. Clark stated they would be more than happy to provide written communication should Council direct him to do so.

Chair Jenkins stated all the commenters asked is that Council address their concerns, and be clear what their intent was. He stated they felt Council had done that by going through and accepting staff's recommendations for each of the issues. He did agree that a letter would be appropriate.

Mr. Clark reminded Council this is a new rule and subject to the 5-year review requirements in the Administrative Procedures Act. Within 5-years they will need to conduct a review of the rule, and if they determine any additional clarification is needed or Council wanted to change the scope of tools they can use there is an opportunity to do that at that time.

Secretary Cornett stated the 5-year rule is the minimum requirement, and that should Council decide at 2-years or 3-years they find clarification is needed there is nothing that says Council can't do that review earlier than the 5-years.

Council had consensus.

Issue: Recommendation that petition by person other than Applicant or ODOE be dismissed
Issue Summary: A commenter recommended that a petition from a person other than the applicant or Department should be dismissed, and if not, asked if the applicant would be required to intervene.

Staff recommendation: Any person has the right to petition for a declaratory ruling under ORS 183.410, and that the Council would decide the merits of the petition and decide whether or not it will issue a ruling on a case by case basis. Staff notes that this is true under current law, and that the proposed rule does not create any right that does not otherwise exist.

Council had consensus.

Issue: Clarification of Council's Authority to Reject a Petition for Declaratory Ruling
Issue Summary: Commenters request clarification of whether the Council has authority under the declaratory-order process to reject a petition if Council staff determine that relevant parties do not agree regarding the underlying facts.

Staff Recommendation: An agency has complete discretion to issue a declaratory ruling or not in response to a petition under ORS 183.410. As noted above, the Council would not be able to issue a ruling if the persons needed to resolve the declaratory ruling were unable or unwilling to agree to the underlying facts.

Chair Jenkins asked Mr. Clark to explain the difference between a solar project and a solar facility in the proposed OAR 345-010-0250(3).

> Mr. Clark stated they have created a distinction between the two terms, which are also used interchangeably within the LCDC rules between project and facility. Mr. Clark explained that a "solar power generation facility" can be either a local jurisdictional facility or an EFSC jurisdictional facility. He explained that under the local process, anything issued a CUP would be considered to be a separate facility even if under the new standard it would be considered to be a components of a larger "energy facility" Staff have defined the term "proposed solar photovoltaic power generation project" to mean either the proposed development of an independent solar photovoltaic power generation project facility or the proposed modification or expansion of an existing solar photovoltaic power generation project facility

Council had consensus.

Issue: Clarification of "safe harbor provisions"
Issue Summary: Commenters request Council's clarification that under the "safe harbor" provisions of the proposed OAR 345-001-0250(3), the rule would not apply to existing facilities but only to new projects proposed within the distance specified under the proposed OAR 345-001-0010(56)(b)(A) of the existing facility and the proposed project is under common ownership with the existing or approved facility, in which case the new project may be reviewed under OAR 345-001-0250. Commenters further request clarification that this safe harbor applies to solar photovoltaic power generation facilities which are not "energy facilities" under ORS 469.300.

Staff Recommendation: The proposed rules would not apply to any existing solar photovoltaic power generation facility, regardless of whether or not the solar photovoltaic power generation facility is subject to Council jurisdiction, that has a land use permit issued by a local government on or before the date the rules become effective, unless new solar photovoltaic development which could be considered to be an expansion of that facility under the proposed rule is proposed. In that case, the rule would apply to the existing facility because the jurisdictional review would be needed to ensure that the facility is not being expanded in violation of ORS 469.320.

Issue: Expansion of "safe harbor" provisions

Issue Summary: Commenters recommend that the proposed OAR 345-001-0250(3) be amended to expand the safe harbor provisions to specify that the rules are not applicable to safe harbor projects. The commenters propose the following amendments to the proposed language:

> (3) **OAR 345-001-0250 shall not apply to** ~~The Council will not make a ruling on the applicability of ORS 469.300(1l)(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.~~

Staff Recommendation: Staff recommended Council reject the recommended amendment to the proposed rule language because it could suggest that a local jurisdictional facility could be expanded in violation of ORS 469.320 if it were permitted before the effective date of the rule.

Mr. Clark concluded his review of the public comments.

Vice Chair Grail motioned to adopt the permanent rules related to jurisdictional thresholds for solar photovoltaic power generation facilities as presented by staff.

Council Member Howe seconded.

Secretary Cornett recommended they add to the motion language their consensus clarifications to be reflected in the June meeting minutes.

Vice Chair Grail restated the motion to adopt the permanent rules related to jurisdictional thresholds for solar photovoltaic power generation facilities as presented by staff with the consensus clarifications reflected in the June meeting minutes.

Council Member Howe seconded.

Motion carried.

More information is located on the Council Meetings website for additional details pertaining to this presentation.

Meeting adjourned at 11:30 am

For more details visit the Council Meetings website.

CLARK Christopher * ODOE

From: Irene Gilbert <ott.irene@frontier.com>
Sent: Friday, June 26, 2020 10:32 AM
To: EFSC Rulemaking * ODOE
Cc: BENNER Janine * ODOE
Subject: Comment on Amendment Rule Amendment

My comment is that there is a significant difference from "may" meaning "possible" and "is reasonably likely to which was stated on the record by Mr. Howe to provide "limits".
The change means the council is provided significantly increased "discretion" in their decision. I clearly do not support this change, however, no matter what the outcome of the rulemaking, I am exceedingly concerned regarding the statement that this change was in part to provide council direction regarding the process that is already being used to make the decision. The council should not be using a standard other than the one in rules to make decisions. This issue has been a concern in the past due to interpretations that do not necessarily appear in the administrative rules. I encourage the council to discuss this concern.

For the council's consideration: I believe that the impetus for proposing this rule change may be based upon challenges to the Summit Ridge amendment denial of contested cases based upon the fact that the contested case request met the standard of "may" impact the decision.

I also did not hear any discussion regarding the fact that for the original Amendment Rule change or the current Amended Rule change none of the comments from the public were implemented. The only change that did occur was from a statement I made in a council meeting that the least the council could do is provide notice on their web site that they were going to use an amendment procedure that failed to provide any opportunity for the public to request a contested case. There were no changes to provide increased opportunity for pubic participation or to leave rules that in any way supported that. During the Friday meeting it was stated that ODOE would provide information regarding this comment. Perhaps that will occur during the July meeting. It will be a short discussion as there were none in spite of the many public comments received and in fact, there was no information provided regarding why none of the suggestions were implemented.

I recommend that the rulemaking revert back to the original rules in place prior to the rewrite which excluded the public from participating in Amended Site Certificate Contested Cases. Changes should reflect an actual presence of the public in the process. I was on the Amendment Rule Change Advisory Committee as one of two public representatives. Nothing in the rules reflected public participation in the process.

Irene Gilbert
2310 Adams Ave.
La Grande, Ore 97850
email: ott.irene@frontier.com

REEVES, KAHN, HENNESSY & ELKINS
ATTORNEYS · AT · LAW

H. PHILIP EDER (1927-2004)
TIFFANY A. ELKINS*
J. MICHAEL HARRIS
PEGGY HENNESSY*
GARY K. KAHN*
MARTIN W. REEVES*

*Also Admitted in Washington

P.O. BOX 86100
PORTLAND, OREGON 97286-0100
Please Reply To P.O. Box

TELEPHONE (503) 777-5473
FAX (503) 777-8566

direct e-mail:
gkahn@rke-law.com

July 15, 2020

Oregon Energy Facility Siting Council
c/o EFSC Rules Coordinator
Via email to EFSC.rulemaking@oregon.gov

Re: EFSC Rulemaking Hearing – Proposed Rules to Clarify Standard for Contested Case Requests for Type A Amendments

Dear Chair Jenkins and Council Members:

Thank you for extending the comment deadline to allow additional public comments on the above-referenced rulemaking. The following supplemental comments are submitted on behalf of Friends of the Columbia Gorge, Northwest Environmental Defense Center, Oregon Natural Desert Association, Oregon Wild, Thrive Hood River, Columbia Riverkeeper, WildLands Defense, Greater Hells Canyon Council, Oregon Coast Alliance, Central Oregon LandWatch, Audubon Society of Portland, and East Cascades Audubon Society (collectively, "Commenters").

1. The Council should terminate this rulemaking.

As Commenters have previously stated and will further explain below, we vigorously oppose the removal of the "may affect" language from the threshold standard at OAR 345-027-0371(9) for Council decisions on whether to conduct a contested case proceeding on site certificate amendments reviewed under the "Type A" process. Not only would such a rule change be ill-advised on the merits, this rulemaking proceeding itself is an unnecessary, inefficient use of the Council's resources. The Council has recently completed three rulemaking proceedings in as many years involving its procedural rules for reviewing proposed amendments to site certificates (*i.e.*, the rules in OAR chapter 345, division 27), and is scheduled to review all of the same rules yet again in 2022. It is unclear why the Council would want to devote its time and resources on the current rulemaking, just to focus on a couple of specific words in one rule subsection now, given that the Council will be looking at all of these rules again in less than two years. Commenters are unaware of any immediate or urgent reason to review or revise the threshold standard for contested cases now. If there is any perceived sense of urgency, it is illusory. The current rulemaking should be terminated.

2. The Council should retain the "may affect" language in the rules.

As Commenters and others have explained, the "may affect" language in OAR 345-027-0371(9) is a fair and appropriate standard that has been in the Council's rules for twenty years. To replace it now with a new standard, such as "reasonably likely to affect" or "in some degree likely to affect," would impose new, unfair burdens on persons requesting contested cases, and would decrease transparency and opportunities for public participation. Furthermore, as Commenters have previously explained, imposing such new burdens could prove difficult or even impossible to meet at

the relatively early stage in the review process when a contested case is requested (for example, in some instances before relevant evidence would or could be available).

In addition, changing the rules to require the Council to prejudge,[1] before a contested case begins, whether specific issues are "reasonably likely" or "in some degree likely" to affect the ultimate outcomes on the merits, would be unfair to everyone involved—including the general public, the persons requesting a contested case, the site certificate holders, the hearings officer (if a contested case is held), and the Council itself. For example, if and when the Council decides that issues raised by interested persons are "reasonably likely to affect" the ultimate outcome, could that decision influence the proceedings, so that the issues do in fact affect the outcome? Conversely, if the Council decides that the issues are *not* "reasonably likely to affect" the outcome, could that decision influence subsequent judicial review, for example by enhancing judicial deference to EFSC's ultimate decisions on the merits, even where specific issues were not adequately vetted via contested cases? Asking the Council to prejudge the issues in these ways would be akin to polling the members of a jury in a criminal trial, immediately after opening arguments, whether they believe a defendant is "reasonably likely" to ultimately be found guilty, and only allowing the trial to move forward if the jury votes in the affirmative. It makes no sense for the Council to make such a weighty decision at such an early stage in the process—or in a vacuum, before relevant evidence may exist. The Council should retain the "may affect" standard in the rules.

It should also be noted that the language at OAR 345-027-0371(9) already imposes a burden on persons requesting a contested case to raise one or more "significant" issues:

> 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.

Thus, persons requesting a contested case must already meet this burden of raising "significant" issues.[2] The Council should not add to that existing burden by replacing the "may affect" language with new language, which would make it even harder for concerned members of the public to ever obtain a contested case, thus frustrating public participation and decreasing transparency in the Council's decision-making processes. The Council should retain the "may affect" language and should terminate this rulemaking.

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[1] The Council has previously described its determinations of what is "reasonable" as "judgmental decision[s]": "The Council's determination of what is 'reasonable' is not a factual or legal issue that can be addressed through a contested case proceeding. It is a judgmental decision by the Council on what it meant by 'reasonable effort' when it imposed the condition." EFSC, Final Order, *In re Thermal Power Plant Site Certificate for the Hermiston Power Project Request for Amendment No. Four* at 20 (May 4, 2001).

[2] EFSC's rules define "significant" as "having an important consequence, either alone or in combination with other factors, based upon the magnitude and likelihood of the impact on the affected human population or natural resources, or on the importance of the natural resource affected, considering the context of the action or impact, its intensity and the degree to which possible impacts are caused by the proposed action. Nothing in this definition is intended to require a statistical analysis of the magnitude or likelihood of a particular impact." OAR 345-001-0010(52).

3. Before making any "clarifying" amendments to the procedural standards in its rules, the Council should first examine the legislative history of these rules.

In our prior comments, Commenters requested that the Council refrain from amending the "may affect" language in its rules until it first examines the legislative history behind this language, as well as the Council's interpretation and application of this language over time. In response, Department Staff stated that "[w]e are not aware of any requirement for a rulemaking notice to contain a detailed analysis or legislative history supporting the rulemaking action." (ODOE, Staff Summary and Evaluation of Public Comments at 1 (June 25, 2020).)

Commenters agree that EFSC is not under a legal obligation to review and analyze the legislative history of a rule before amending it. However, Commenters' request was apparently misinterpreted. We requested a review and analysis of the legislative history in this instance not because we believe it is legally required, but because this entire rulemaking proceeding has been framed as a mere "clarification" of an existing EFSC rule. In order to "clarify" a rule, EFSC should first know the intent behind that rule. Accordingly, the Council should review the legislative history and past implementation of the "may affect" language at OAR 345-027-0371(9).

Similarly, at the June 26, 2020 EFSC meeting, the Council asked ODOE Staff and EFSC's legal counsel to examine alternative rule language that might already be in use by other agencies in similar circumstances. If the Council will be reviewing what other agencies are doing or have done, the Council should also know what rule language EFSC itself has used in the past, and how that language has changed over time. Accordingly, Commenters will set forth below a history of how EFSC's rule language for determining when to hold a contested case on proposed site certificate amendments has changed over time.

The "may affect" language was first adopted by the Council on February 2, 2000, via a rulemaking order numbered EFSC 1-2000,[3] and was codified at OAR 345-027-0070(6) (2000).

Prior to 2000, EFSC's standards for determining whether to hold a contested case on a proposed certificate amendment read as follows:

> The Council shall determine **whether any issue identified in a request for a contested case proceeding is significant as defined in OAR 345-001-0010 or otherwise justifies a contested case proceeding**.
>
> (a) If the Council finds that the request **identifies an issue that is significant or that otherwise justifies a contested case proceeding**, the Council shall conduct a contested case proceeding according to the applicable provisions of OAR 345-015-0002 to OAR 345-015-0085 limited to the issues that the Council found significant or sufficient to justify the proceeding.

[3] In footnote 1 of our prior written comments, Commenters inadvertently mislabeled EFSC Order 1-2000 as Order 2-2000.

OAR 345-027-0070(4) (1999); *see also* EFSC Order 2-1999. Thus, prior to 2000, the Council's rules allowed it to authorize a contested case whenever a person raised a "significant issue," or in the alternative whenever a person raised any other issue that, despite not being significant, nevertheless "justifie[d] a contested case proceeding." OAR 345-027-0070(4) (1999).

In its rulemaking in 2000, the Council announced that it was adopting "new language [that] gives the Council guidance in determining whether to grant a request for a contested case." EFSC Order 1-2000 at 2. In this new language, the Council originated the "may affect" standard, along with contextual language effectively requiring the Council, in determining whether the "may affect" standard is met, to take as "true" the factual allegations of the person requesting the contested case:

> To determine that an issue justifies a contested case proceeding under section (7), 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 an applicable standard. If the Council determines that **even if the alleged facts are taken as true the outcome of the Council's determination would not change**, but that conditions of performance might need revision, the Council may deny the request and may adopt appropriate conditions. If the Council does not have jurisdiction over the issue raised in the request, the Council shall deny the request.

OAR 345-027-0070(6) (2000) (emphasis added); *see also* EFSC Order 1-2000.

The contextual language directing the Council, in determining whether to hold a contested case, to take "as true" the factual allegations of the person requesting the contested case was modified slightly over time, but remained in the Council's rules as of 2017, as shown in the following rule language dated September 2017:

> To determine that an issue justifies a contested case proceeding under section (8), 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 an applicable standard. If the Council finds that **the request would not affect the Council's determination if the alleged facts were found to be true** but that those facts could affect a site certificate condition, the Council may deny the request and may adopt appropriate conditions. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

OAR 345-027-0070(7) (2017) (emphasis added).

In 2017, the Council attempted a "wholesale re-write" of OAR chapter 345, division 27, including the language of OAR 345-027-0070 (2017), but the Oregon Supreme Court held these attempted rules "invalid." *Friends of the Columbia Gorge v. EFSC*, 365 Or 371, 446 P3d 53 (2019).

Finally, in early 2020, EFSC adopted permanent rule revisions to the above-quoted language of OAR 345-027-0070, and relocated this rule to OAR 345-027-0370. The rule now reads as follows:

> After identifying the issues properly raised the Council must determine whether any properly raised issue justifies a contested case proceeding on that issue. 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. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

OAR 345-027-0371(9) (2020) (emphasis added).

In this current version of the applicable rules, EFSC retained the "may affect" language, but omitted the contextual language directing the Council to take "as true" the factual allegations of the person requesting the contested case. It is unclear whether the omission of the latter language was intentional or inadvertent, because EFSC did not provide any legislative guidance on that specific issue in its rulemaking order. *See* EFSC Order 1-2020. Nevertheless, this language accompanied the "may affect" language in EFSC's rules for twenty years, and thus provided context regarding the original intent of the "may affect" language.

The legislative history recited above sheds some light on the intent behind and meaning of the Council's procedural standards for determining whether to hold a contested case on a proposed site certificate amendment. Given that foundational parts of those standards have been in the rules for twenty years and remain in the rules today, this legislative history is relevant and applicable when interpreting the Council's current rules.

Under the Council's current rules, the Council must answer two key questions in determining whether to hold a contested case to resolve properly raised issues. First, the Council must determine whether any of the issues are "significant." Second, if any of the issues are deemed significant, the Council must then determine whether the allegations asserted under each of these issues, if ultimately proven true via a contested case, "may affect" the Council's ultimate determination of whether the energy facility will comply with the applicable laws and Council standards. If the answer to both of these questions is "yes," then a contested case will be held to allow the identified issues to be fully vetted through the adversarial setting afforded by a contested case proceeding. In such instances, the Council will abstain from making its ultimate determinations on any disputed significant issues of fact or law until after it receives recommendations from a hearings officer on how to resolve these issues. This is exactly how the Council's rules are designed and were intended to work. The "may affect" language is integral to this procedural framework, and should be retained in the rules.

Finally, the rulemaking notice for this matter cites the "Final Order Regarding Application of OAR 345-027-0371(9) dated February 14, 2020" as one of the documents that may be relied upon for this rulemaking. That order, without citing any evidence or supporting examples, asserts that "[w]hen considering requests for contested case regarding a proposed order on a site certificate amendment subject to Type A review, Council's practice is to consider whether the request is reasonably likely to affect the Council's determination as to whether the facility complies with applicable laws and Council standards." (Final Order Regarding Application of OAR 345-027-0371(9) at 3.) Commenters dispute this statement, which fails to accurately describe what is required under the

Council's current rules, as well as the Council's current practice. In addition, even if this were an accurate description of the Council's current practice, the statement is expressly limited to the processing of requests in Type A matters, which were not lawfully created until August 22, 2019, less than one year ago.[4] Moreover, the "Final Order Regarding Application of OAR 345-027-0371(9)" has been appealed and is currently the subject of litigation. *Friends of the Columbia Gorge v. EFSC*, No. 20CV13611 (Multnomah County Circuit Court). Thus, this order is undergoing judicial review, and is potentially subject to reversal, remand, or withdrawal in that judicial review process. The Council should refrain from relying on this order given that it is currently under appeal and, at best, describes a current practice implementing rules adopted less than one year ago. Rather than relying on this order, the Council should examine and rely on the twenty-year legislative history of the "may affect" language discussed above.

4. If the Council does not terminate this rulemaking, the only clarifying change that should be made to the rule language at OAR 345-027-0371(9) is to replace the word "that" with "whether," in order to avoid any implication in the rule language that the Council will ultimately approve proposed amendments to site certificates.

As discussed above, Commenters urge the Council to terminate this rulemaking proceeding. But if any change is made to the language in the threshold standards at OAR 345-027-0371(9), it should be to make the following grammatical correction to the rule:

> 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**~~ **whether** 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.

The problem with the word "that" in the quoted rule language is that it could be read as presupposing that the Council will, in fact, make a "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). But it would be inappropriate to imply or presuppose that the Council will ultimately determine that the facility complies with the applicable laws and rules. Indeed, the Council's rules elsewhere require the Council to *deny* a proposed amendment if the site certificate holder fails to meet its burden of demonstrating that the facility, with the proposed change, will comply with the applicable laws and rules. *See, e.g.*, OAR 345-027-0375(1), (2). The word "whether" should be substituted for the word "that" in this rule, in order to avoid any preliminary implication that the Council will ultimately determine that the facility with the proposed amendment will comply with the law (and that the Council will ultimately approve the proposed amendment). The concept embodied by the word "whether" was always intended in this rule; the rule should be revised to make that clear.

[4] EFSC attempted to adopt new rules creating the Type A procedure in 2017, but in doing so violated the Oregon Administrative Procedures Act, rendering these attempted rules "invalid." *Friends of the Columbia Gorge v. EFSC*, 365 Or 371, 446 P3d 53 (2019). New rules creating the type A procedure were not lawfully adopted until August 22, 2019, when the Council adopted new temporary rules via Order No. EFSC 9-2019.

Recommendation: Replace the word "that" with the word "whether" in OAR 345-027-0371(9), as shown above.

5. Conclusion

For the reasons stated above and in our prior comments, the Council should promote transparency and opportunities for public participation by retaining the current language in OAR 345-027-0371(9) and by rejecting the proposed rule revision, which would substantially change the threshold standards for requesting and determining whether to hold a contested case. If any change is made to the language of OAR 345-027-0371(9), it should be to replace the word "that" with "whether," as Commenters have outlined above.

Thank you for your time and consideration.

Sincerely,

REEVES, KAHN, HENNESSY & ELKINS

Gary K. Kahn, OSB No. 814810
Of Attorneys for Commenters Friends of the Columbia Gorge, Northwest Environmental Defense Center, Oregon Natural Desert Association, Oregon Wild, Thrive Hood River, Columbia Riverkeeper, WildLands Defense, Greater Hells Canyon Council, Oregon Coast Alliance, Central Oregon LandWatch, Audubon Society of Portland, and East Cascades Audubon Society

FRIENDS OF THE COLUMBIA GORGE

Nathan J. Baker, OSB No. 001980
Senior Staff Attorney, Friends of the Columbia Gorge

cc (via email): Clients
Patrick Rowe, Oregon Department of Justice
Todd Cornett, Oregon Department of Energy

ODOE Rule Change Comments

I am writing to protest Oregon Department of Energy's proposed rulemaking change. I have commented on similar efforts in the past, and I am deeply distressed to see that these sleazy efforts to undermine the democratic process in Oregon continue.

Our family moved to Oregon when Tom McCall was Governor. Our children were raised in Oregon and it's no surprise that we now find ourselves at family gatherings wondering aloud "What happened to Oregon? What do we have to be proud of? Thanks goodness for Mississippi or we'd be at the bottom in education. Where is the integrity of government agencies?"

Last year I listened to Todd Cornet maundering hours of obfuscation masquerading as "information" to Senator Olson's legislative committee as it investigated precisely this kind of bureaucratic chicanery. It's disgusting. There is not one credible defense of this proposed change in wording from "may" to "is likely to." This change will in no measure increase EFSC transparency. It will not simplify or clarify citizens' access to the regulatory process. It not only 'may' but 'is likely to' further impede citizens' efforts to protect their property from needless exploitation.

By tweaking a bit of wording here and there, the agency plans to assure corporations that their plans will prevail over any citizen comments or objections, no matter how valid they may be. This is a trick for a cheap magic show. I'm disappointed and disgusted. I pay my taxes for state government agencies to serve the citizens of Oregon, not to support pusillanimous bureaucrats who are in thrall to industry lobbyists. Shame on you!

Lois Barry
PO Box 566
La Grande, OR 97850

541-963-3562

July 16, 2020

Dear Council Members,

I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the state of Oregon. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues. In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

	A	B	C	D	E	F	G
1	**First Name**	**Last Name**	**Email Address**	**City**	**State Code**	**Zip Code**	**Comment**
2	Paul	Caggiano	prcaggiano@gmail.com	Portland	OR	97203-3141	
3	Ann	Watters	twofivestars@comcast.n	Salem	OR	97301-4352	
4	Lucile	Brook	babbles@nehalemtel.net	Nehalem	OR	97131-0136	I agree 100% with the above letter. iIwould like to add that it is high time, way past time, that the power structure that rules this country start thinking more about the health and safety of humanity, the health of our environment, and less about their pocketbooks. Let's invest in a safe, clean future for all life! Respectfully yours
5	Ian	Shelley	ianjs@comcast.net	Portland	OR	97225-6902	
6	Alyssa	Deardorff	alyssadear@me.com	Molalla	OR	97038-9215	
7	Katherine	Wright	kmhgw@yahoo.com	West Linn	OR	97068-1651	

	A	B	C	D	E	F	G
8	Sarah	Prowell	sprowell@ix.netcom.com	Portland	OR	97239-2154	We, the affected public, need meaningful engagement in all future energy facility permits. The oversight agency's current proposal would greatly reduce our ability to engage up-front with our concerns and comments before any of these proposed facilities are approved to move forward. In these times of climate change it is more important than ever that we participate in energy facility plans to ensure that they meet the will and priorities of We The People of Oregon, who will live with the consequences of potentially damaging energy facility decisions by your agency. It's more important now than ever to be vigilant in protecting our environment, our safety, and our mitigation of dangerous energy facility impacts to our climate. I urgently ask you to abandon your newly proposed changes, which substantially deny the public to have a meaningful say, before facility plans are unilaterally approved by your agency. I stand with Columbia Riverkeeper's position on this dangerous proposal.

	A	B	C	D	E	F	G
9	Dena	Turner	denaturn62@gmail.com	Portland	OR	97215-2805	Public comment is an integral part of democracy. Do not shut out the public. Shutting down public comment is like shutting down free speech. It is un-American.
10	Randall	Webb	lawrkw@comcast.net	Portland	OR	97210-3490	
11	Jean	Svadlenka	storm33@sonic.net	Wilsonville	OR	97070-8761	

	A	B	C	D	E	F	G
12	April	Atwood	hissrattlesnap@yahoo.co	Portland	OR	97202-5442	Dear Council Members, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the state of Oregon, and am strongly opposed to the so-called ‚ÄúRulemaking to Clarify Standard for Contested Case Requests on Type A Amendments.‚Äù This proposal severely undermines transparency and public participation in the Council‚Äôs review processes, and should be immediately terminated. The proposed rule language would delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple ‚Äúclarification,‚Äù the notice misleads the public and buries what is actually under consideration. If the proposed rule change goes through, it would impose new, unfair burdens on the public. This would squelch public participation and decreasing transparency. The Council should
13	Tamara	Westbrook	2tamara2me@gmail.com	West Linn	OR	97068-4831	Stay strong, our earth depends on us!
14	Amy	Roberts	homerjim82@gmail.com	Albany	OR	97321-9637	
15	Satya	Vayu	satyavayu@gmail.com	Portland	OR	97215-1618	

	A	B	C	D	E	F	G
16	Robert	Carothers	bobcarothers@comcast.r	Lake Osweg	OR	97035-4551	Please retain ‚Äúmay affect‚Äù language.
17	Bill	O'Brien	wobobr123@yahoo.com	Beaverton	OR	97005-1360	
18	Janice	Karpenick	jkarpenick@gmail.com	Portland	OR	97229-6383	Weakening these rules is a bad idea, we need to everything in our power to provide transparency and inclusion. Please continue to stand for protection of the public.
19	Michael	Wilson	michaelamarwilson@gm	Portland	OR	97214-2651	When it comes to using natural resources, careful public deliberation is necessary. Everyone has a stake and ought to be consulted. Haste makes waste.
20	Jamie	Shields	jfillmore66@gmail.com	Portland	OR	97229-8985	
21	Don	Jacobson	donjphoto@gmail.com	Portland	OR	97201-6304	
22	lorraine	foster	lorraine@spiretech.com	Portland	OR	97202-6533	I fully concur with the above statements. Lorraine Foster
23	Jean	Rosenbalm	jean.rosenbalm@gmail.c	Beaverton	OR	97007	

	A	B	C	D	E	F	G
24	John	McSwigan	mcswigan@gmail.com	Hillsboro	OR	97124-5044	Orgon should be a leader in the fight against expanding fossil fuel use and the public needs access to address concerns about new foul fossil fuel projects.
25	Lise	Hull	castlesu@aol.com	Bandon	OR	97411-9651	
26	Gregory	Monahan	gregorymonahan29@gm	Portland	OR	97219-2015	Weakening the public,Äôs right to protect the environment is just flat wrong!
27	Teresa	DeLorenzo	tde@teleport.com	Astoria	OR	97103-8469	We need clear, fair procedures that are totally transparent, and actively engage the public.
28	dana	Bleckinger	wooflevi@yahoo.com	Yachats	OR	97498-0904	
29	Ron	Ennis	ronfennis@gmail.com	Portland	OR	97213-1247	Equal rights for all
30	Paulette	Meyer	meyer4842@comcast.ne	Portland	OR	97215-3414	
31	Mark	McCormick	markmccormickart@gma	Portland	OR	97206	
32	Patty	Larsen	pklaaslarsen@yahoo.com	Astoria	OR	97103-6436	

	A	B	C	D	E	F	G
33	Carolina	Hood	cvhood@gmail.com	Eugene	OR	97402-3730	What terrible intensity of greed must be involved that perverts an organization that was created to protect our environment to now want to enable its ruin?
34	Valerie	Blackmore	bobval22@comcast.net	Columbia C	OR	97018-0453	
35	Cheryl	Erb	awdsn@gmx.com	Salem	OR	97301-2547	
36	Deborah	Honthaner	honthand@yahoo.com	Portland	OR	97223-3670	It,Äôs time to STOP trying to make this change, the Oregon Supreme Court said No!
37	Catherine	Keys	valkate@comcast.net	Medford	OR	97501-9070	
38	D	Stirpe	dolcezza077@yahoo.com	Portland	OR	97214-1633	
39	Rick	Ray	columbiariverkeeper@ric	Troutdale	OR	97060-9380	

	A	B	C	D	E	F	G
40	Jeffrey	White	rogue576@gmail.com	Forest Grov	OR	97116-8523	This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.
41	Anna	Cowen	annaysun@yahoo.com	Portland	OR	97266-2532	
42	Ryan	Schwartz	losetheshoes@gmail.com	Portland	OR	97213-5410	
43	Dana	Weintraub	mrdanaweintraub@tutar	Beaverton	OR	97003-4249	
44	Joel	Porter	joelypozole@gmail.com	Portland	OR	97293-0515	
45	Phoenix	Oaks	peaceloveandart89@gma	Portland	OR	97217-2360	

	A	B	C	D	E	F	G
46	Kima	Garrison	kimasuegarrison@gmail.	Portland	OR	97211-6341	The public needs accountability, transparency, and the right to include input on anything that directly affects ALL OF US!
47	Richard	Jaffe	rljaffe@gmail.com	Portland	OR	97229-2599	I Have read and agree with this prepared statement. Please do not change these standards.
48	Matthew	Barmann	chiakacomm@mac.com	Hood River	OR	97031-1211	
49	Susan	Vosburg	fgtaxsusan@gmail.com	Gales Creel	OR	97117-9419	
50	Kyle	Rolnick	charo33@centurylink.net	Lorane	OR	97451-0999	
51	Melissa	Rehder	misslissr@yahoo.com	Portland	OR	97206-9067	

	A	B	C	D	E	F	G
52	David	Grant	d2avid@charter.net	Medford	OR	97504-9734	You,Äôve heard from the Oregon Supreme Court, and now you are hearing from the public: changing your administrative rules in order to circumvent the possibility of valid public input and concern is not in the public interest, nor in the interest of the environment. This proposed rule change is typical of the influence of energy companies on the current federal administration. It is not in fact in the country,Äôs overall interest at all. Try doing the right thing. Your children and grandchildren will thank you.
53	Diana	Pope	diana.s.pope@gmail.com	Portland	OR	97212-5345	

	A	B	C	D	E	F	G
54	Francisco	Gadea	frankie0004260@gmail.c	Portland	OR	97212-2356	Please do right by the people of the state and be more transparent not less!!!
55	Steve	Sheehy	sheehy.s@charter.net	Klamath Fa	OR	97603-8303	
56	Jean	Culp	jazcfhc@gmail.com	Bandon	OR	97411-6362	The Oregon Energy Facility Siting Council needs to realize that the people are demanding more of a voice in these vital decisions, not less. We must start NOW to demand better care of our Earth. The people know that our health and future depends on it.

	A	B	C	D	E	F	G
57	Laura	Hanks	laura.hanks@comcast.ne	Portland	OR	97222-2325	This is an important issue to me because of climate change. Over the past three years, EFSC has repeatedly tried to weaken the rules governing the review of large energy projects throughout the state of Oregon, despite being told by the Oregon Supreme Court that EFSC broke the law in doing so. Now EFSC is considering yet another proposal to further weaken these regulations and reduce public participation. This is unacceptable. We are already at the tipping point in terms of fossil fuel use and climate disaster. Please stop this ill-advised rule change.
58	Tora	Bengochea	tormichab@yahoo.com	Grants Pass	OR	97527-9721	There are no jobs on a dead planet!

	A	B	C	D	E	F	G
59	Cathie	Bell	cathiebell@gmail.com	Portland	OR	97218-2407	How fast we are becoming so obviously fascist!
60	Pamela	Vasquez	cayetanatabullo@gmail.c	Salem	OR	97305-3062	
61	Victoria	Holzendorf	vinvanmo@yahoo.com	Lake Oswe	OR	97034-4118	
62	Benton	Elliott	benton.elliott@gmail.cor	Eugene	OR	97401-3986	Please strengthen, not weaken, rules for large energy projects in Oregon. We need to protect what remains of our state's natural heritage.
63	Gretchan	Jackson	gretchan.jackson@gmail.	Portland	OR	97215-3637	Don't thwart my ability to see what's going and to contribute and participate in the process.
64	John	Barger	john@johnbarger.com	Portland	OR	97206-8418	

	A	B	C	D	E	F	G
65	Linore	Blackstone	llblackstone@comcast.ne	Portland	OR	97213-2113	Oh for Earth's sake. What is your ethic? All flourishing is mutual. Humans are the only species with agency. Why are you so interested in seeing the earth and its bounty as commodity? What you do is destructive.
66	Eric	Lambart	eric-crk@nomeaning.org	Portland	OR	97217-5834	
67	Drew	BRADBURY	drewbradbury@gmail.cor	Portland	OR	97204-2831	
68	Diana	Boom	dianajeffers44@gmail.co	Lake Osweg	OR	97034-3043	
69	Dennis	Smith	cgagen@spiretech.com	Enterprise	OR	97828-1249	
70	Stephen	Bachhuber	srbachhuber1@gmail.cor	Portland	OR	97202-2717	
71	John	Reynolds	johnxr@protonmail.com	Portland	OR	97222-7938	
72	Larry	Morningstar	manapranabanana@gma	Talent	OR	97540-7005	
73	Cindy	Allen	womaninthehood@gmail	Hood River	OR	97031	
74	Jamie	Melton	jamie@columbiariverkee	Portland	OR	97217-4053	
75	David	Nichols	davemult@aol.com	Portland	OR	97213-3021	

	A	B	C	D	E	F	G
76	Brent	Rocks	brent_rocks@comcast.ne	Portland	OR	97201-6132	fossil fuel projects are a losing proposition with energy company's stock prices falling and bankruptcy's in the fracking industries show this is the end of Oil as we know it.
77	John	Schumann	jschumann8@earthlink.n	Portland	OR	97212-2708	The ‚Äúmay affect‚Äù language has been in the Council‚Äôs rules for twenty years, and it establishes a level playing field for the public to participate in the Council‚Äôs review process. There is no need to change this long-standing language, which is fundamental to the Council‚Äôs rules. The old adage applies here: ‚Äúif it ain‚Äôt broke, don‚Äôt fix it.‚Äù The ‚Äúmay affect‚Äù language should be retained.

	A	B	C	D	E	F	G
78	Jan	Polychronis	jp21florida@gmail.com	The Dalles	OR	97058-0639	
79	Ann	Turner	annturnerpdx106@gmail.	Portland	OR	97211-5770	
80	Nora	Polk	nora.mattek@gmail.com	Portland	OR	97206-6605	
81	Kay	Nolan	kaynell47@gmail.com	Gresham	OR	97030-6919	The public needs to be able to easily participate in any energy infrastructure in Oregon and beyond. Especially in areas like the Columbia River, where impacts are felt on many levels to the health of the river. Thanks
82	Craig	Mackie	beachbum@nehalemtel.r	Nehalem	OR	97131-9665	Any attempt to weaken the participation of citizens in the decision making process should not be allowed!
83	Kelly	O'Hanley	kohanley@gmail.com	Portland	OR	97213-4056	
84	Cale	Christi	cale.austin@gmail.com	Chiloquin	OR	97624-9711	
85	Beth	Levin	bethagl@yahoo.com	Portland	OR	97213-2415	
86	Barbara	Krupnik-Gold	bkgold2@gmail.com	Portland	OR	97216-3501	
87	Craig	Heverly	heverlyjc@hevanet.com	Portland	OR	97202-3757	
88	David	Edwards	david@riverbird.com	Eugene	OR	97404-1292	This expresses my feelings exactly!

	A	B	C	D	E	F	G
89	Mary	Peterson	mary.peterso@gmail.com	Newport	OR	97365-9605	This is the only earth we have. Keep it safe.
90	Anne-Marie	Claire	amclaire_2000@yahoo.c	Portland	OR	97212-5249	Thank you for considering my input on this rule making. I have over 20 years of working experience in the energy field. It is so important as citizens, to be fully informed about energy projects that affect our economy, environment. Please support public participation and transparency in the decision-making process by retaining the ‚Äúmay affect,Äù language in the rules. Anne-Marie Claire
91	Dan	Jaffee	dsjaffee@gmail.com	Portland	OR	97211-5011	
92	joan	viers	joan@wbcable.net	Hubbard	OR	97032-9200	
93	John	Nettleton	jpn5710@yahoo.com	Portland	OR	97202-3276	
94	Katelyn	Entzeroth	katelyn@entzeroth.com	Portland	OR	97225-1383	

	A	B	C	D	E	F	G
95	Sandi	Cornez	sandicornez@gmail.com	Portland	OR	97219-5208	The public must have the right to participate thus increasing moe transparency in the system.
96	Linda	Bolduan	lindabolduan@comcast.n	Lake Osweg	OR	97034-6447	
97	Rae	Gholson	dorothydisko@gmail.com	Vancouver	WA	98661-4103	
98	Lori	Kunkel	kunkelpdx@comcast.net	Portland	OR	97203-5021	
99	Susan	Heath	forbux@hotmail.com	Albany	OR	97322-8898	
100	kent	Sugnet	kent@fossilcartel.com	Portland	OR	97215-3527	
101	Capt. Peter	Wilcox	peter@decarbthepassage	Portland	OR	97211-1074	Weakening citizen voices in large energy project siting is an extremely dumb idea in a climate crisis like Oregonian's and the rest of humanity are facing right now!
102	Susan	Haywood	susansaphone2@yahoo.c	Portland	OR	97210-3526	Marginalizing public input seems to be the goal of those trying to take advantage of this perilous time in history. We must fight for transparency and making our voices heard.
103	Charles	Townsend	charlesntownsend@gmai	Portland	OR	97212-3162	

	A	B	C	D	E	F	G
104	Mary	Davis	cysliders@aol.com	Portland	OR	97206-7856	
105	Diana	Talcott	diana.talcott@gmail.com	Portland	OR	97202-2208	
106	Hugh	Cochran	hughc97404@gmail.com	Eugene	OR	97404-1944	
107	Joann	Macey	jomace123@gmail.com	Portland	OR	97224-3381	It is unconscionable to try to keep the public from for EFSC to try to do this to the public under the circumstances we are living in. They are trying to subvert the law and the public from knowing and responding to proposals. I say no to any changes to standing regulations whatsoever.

CLARK Christopher * ODOE

From: Irene Gilbert <ott.irene@frontier.com>
Sent: Thursday, July 16, 2020 2:50 PM
To: EFSC Rulemaking * ODOE
Cc: Fuji Kreider; Lois Barry; Jim Kreider; Charlie Gillis; Nathan Baker
Subject: Public Comments on Amendment Rule Decision

Follow Up Flag: Follow up
Flag Status: Completed

At the last EFSC meeting, Marcia Grail requested that ODOE provide information confirming or showing that my comment that none of the public comments regarding either the 2017 or most recent major change in the Amendment Contested Case Rules were incorporated. That was not done. Prior to making a decision regarding the most recent change further restricts public involvement in the Contested Case Process, ODOE needs to provide the requested information.

GREEN ENERGY INSTITUTE
Lewis & Clark Law School

10015 S.W. Terwilliger Boulevard
Portland, Oregon 97219
Phone: (503) 768-6741 Fax: (503) 768-6671
E-Mail: ars@lclark.edu

July 16, 2020

Oregon Energy Facility Siting Council
c/o EFSC Rules Coordinator
Via email to EFSC.rulemaking@oregon.gov

Re: Comments on Proposed Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments

Dear Chair Jenkins and Council Members:

The Green Energy Institute at Lewis & Clark Law School is a nonprofit energy and climate law and policy institute within Lewis & Clark's top-ranked environmental, natural resources, and energy law program. Our team of attorneys and law students work to design comprehensive legal and policy strategies to support a swift transition to a clean and renewable energy system. We appreciate the opportunity to comment on the Energy Facility Siting Council's (EFSC or the Council) Proposed Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments.

Despite the immediate harms caused by the current pandemic, climate change continues to present the greatest long-term threat to the health and wellbeing of Oregonians and the natural environment. To address this threat, the Green Energy Institute is committed to developing and supporting policies that help facilitate the decarbonization of Oregon's energy system. In accordance with these objectives, we feel it is essential that EFSC maintain a fair, transparent, and accessible process for evaluating proposed site certificate amendments for energy facilities in Oregon. We believe that EFSC's proposed rule amendment would undermine transparency and public participation in the Council's review processes and we strongly urge the Council to reject this proposed amendment to its existing rules.

As a preliminary matter, we wish to emphasize that we disagree with the Council's representation of the proposed amendment as a simple clarification of its existing standard. In practice, the proposal would raise the threshold for determining whether a contested case proceeding is justified and would thus substantially limit opportunities for the public to seek review of proposed orders for Type A amendments. The Council's proposal therefore reflects a *modification* of its existing standards, rather than a clarification of its interpretation of those standards. Moreover, by representing the proposed amendment as a procedural clarification rather than a modification of an existing rule, the Council failed to adequately notify potentially interested stakeholders of the implications of its action and likely deterred some stakeholders from commenting on this rulemaking.

The type and location of new energy infrastructure has considerable implications for the health and wellbeing of Oregon's citizens and its natural environment, and members of the public should be given ample opportunity to meaningfully participate in EFSC's siting processes. Contested case proceedings are an essential tool for enabling members of the public to seek review of the Council's site certificate amendment decisions. Under the current rules, the public has the right to request a contested case hearing, and if such a request raises significant issues that "may affect" the Council's ultimate determination of whether the energy facility will comply with existing laws and regulations, the Council must conduct a contested case proceeding to resolve those issues. The existing standards reflect an appropriate burden of proof for contested case requests for proposed site certificate amendments.

In contrast, under the Council's proposed rule amendment, concerned members of the public would be required to show that the issues raised in their requests are "reasonably likely to affect" the Council's final determination. This new standard would impose substantial and unwarranted burdens on the public. The Council is effectively proposing to make preliminary determinations on the legal merits of issues raised in requests for contested case hearings before examining supporting evidence or providing an opportunity to adjudicate those issues. This would turn the established decision-making process on its head, restricting public participation and decreasing transparency.

The Council's proposal reflects a notable departure from Oregon's existing administrative procedures, which aim to facilitate public participation in agency decision-making processes. For example, Oregon's Model Rules of Procedure for Contested Cases allow any person to request a contested case proceeding by demonstrating "a personal or public interest that could reasonably be affected by the outcome of the proceeding."[1] In other words, under Oregon's Model Rules, agencies are urged to allow a contested case to proceed if the outcome could reasonably affect a personal or public interest. Under the Council's proposal, in contrast, a contested case would only proceed when a member of the public demonstrated a high likelihood that the proceeding would cause EFSC to alter its initial determination regarding a facility's legal compliance. This would require members of the public to satisfy a new, elevated burden of proof that would be difficult or even impossible to meet. The proposal would particularly burden individuals and organizations that lack legal training or access to legal resources by raising the threshold for them to successfully initiate a contested case. The Council's proposed amendment would therefore serve to stifle public participation, rather than facilitate it.

The Council's proposal would also impose a higher threshold for review than those established by the Oregon legislature. Under Oregon's Administrative Procedures Act, "any person adversely affected or aggrieved by an order or any party to an agency proceeding is entitled to judicial review of a final order."[2] The Oregon Supreme Court has noted that the legislature made a deliberate decision to allow "any person" to seek judicial review of a government action.[3] Additionally, the court has clarified that "the legislature envisioned broad public participation in the energy facility siting process itself."[4] By imposing a higher threshold for review than the

[1] OR. ADMIN. R. § 137-003-0005(7)(a).
[2] OR. REV. STAT. § 183.480(1).
[3] *See* Kellas v. Dept. of Corrections, 341 Or. 471 (2006).
[4] *Id.* at 481.

standard established through Oregon's Administrative Procedures Act, the Council's proposed amendment would restrict opportunities for public participation in energy facility siting processes.

Finally, the Council's proposed rule amendment potentially conflicts with Governor Brown's recent executive order on greenhouse gas (GHG) emissions and climate change. In EO 20-04, Governor Brown declared that "GHG emissions present a significant threat to Oregon's public health, economy, safety, and environment" and that "all agencies with jurisdiction over the sources of GHG emissions will need to continue to develop and implement programs that reduce emissions to reach the state's GHG goals."[5] In accordance with these findings, EO 20-04 directed all relevant agencies, including the Oregon Department of Energy, to "exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals."[6] EFSC has jurisdiction over fossil fuel-fired power plants that produce large quantities of GHG emissions, and therefore has an obligation under the EO to exercise its siting authority and discretion to help reduce power sector emissions. If the Council restricts access to contested case proceedings, it could prevent concerned members of the public from challenging proposed amendments to site certificates for natural gas-fired power plants. This unfortunate outcome could lead to an increase in GHG emissions in Oregon in direct contravention of the Governor's climate directives.

We strongly urge the Council to terminate the proposed rulemaking and retain the "may affect" standard in the current regulations. We appreciate your consideration of our comments.

Sincerely,

Amelia Schlusser
Staff Attorney
Green Energy Institute at Lewis & Clark Law School

[5] Executive Order 20-04 (2020).
[6] *Id.* § 3(a).

Stop B2H Coalition
60366 Marvin Road
La Grande, Oregon 97850
www.stopb2h.org
info@stopb2h.org

July 16, 2020

Chris Clark
EFSC Rules Coordinator
Oregon Department of Energy/Energy Facility Siting Council
550 Capitol St. NE
Salem Oregon 97301
Email: EFSC.rulemaking@oregon.gov

CLARIFICATION OF STANDARD FOR ISSUE TO JUSTIFY A CONTESTED CASE IN TYPE A AMENDMENT REVIEW

Dear Council:

The Stop B2H Coalition ("STOP") is a nonprofit public interest organization with more than 700 individual members/supporters and 8 organizational members. STOP was formed to prevent an unneeded 300 mile 500kV transmission line from being built through Eastern Oregon by looking for alternatives to building the transmission line. If a site certificate is approved for B2H, we are fairly sure that Idaho Power and their partners, PacifiCorp, and the Bonneville Power Administration, will be coming to the council for Type A Amendments. This rule change will impact our ability to participate in significant changes, aka amendments, to the site certificate when requested. We need to maintain an open public process that values inclusion, not exclusion, as this rule amendment is proposing.

According to the Notice of Proposed Rulemaking:

> The purpose of the rule amendment is to clarify the Council's standard for determining whether an issue raised in a Type A Amendment Review justifies a Contested Case proceeding. The Council interprets the term "may" in section (9) of this rule to mean that a person must raise an issue that "is in some degree likely to" affect the Council's determination as to whether the facility complies with applicable laws and Council standards. To be consistent with the Council's interpretation and past application of the rule, and to be consistent with other rules that convey a similar standard of proof for Council findings, the term "may" in section (9) of the rule is replaced with the term "is reasonably likely to."

The change in the term from "may" to "is reasonably likely to" is not a clarification. It is a wholesale change in the standard for allowing the public access to a contested case. In a legal sense "may" is commonly interpreted as "expressing a possibility" or "permitted to." The Peoples Law Dictionary defines "may" as a choice to act or not, or a promise of a possibility. In other words, this change is a clear intentional action to further restrict the public from access to the contested case process. There is no relationship between something being "possible" and it being "likely."

In a staff report dated March 13, 2020, there is an acknowledgement that "may affect" and "reasonably likely to affect" are two different standards. The March Staff Report equates "may affect" with "in some degree likely to affect" and acknowledges that this standard could "include any non-zero probability." (Mar. 13, 2020 Staff Report at 2.) It also describes the proposed rule change to "reasonably likely to" as being "consistent with other rules which convey a *standard of proof*." (*Id.* (emphasis added).) If the "reasonably likely to affect" language indeed imposes a standard of proof similar to other rules, then this is a substantive change to the applicable standard in this rule--and again, this is NOT a clarification.

The procedure for obtaining a contested case on an amended site certificate is already restrictive for the public. Creating a rule to limit the questions that council deliberates for contested cases runs counter to why the governor appointed public representatives to the council. That is to listen to more questions and get the full story. Council decisions have a 20+ year horizon and due diligence would suggest listening to the maximum number of positions possible in decision making, rather than limiting them would be prudent.

In fact, the legislature requires EFSC to allow the public to fully participate in EFSC's review processes for siting decisions. This was confirmed in 1977 by the Oregon Supreme Court in *Marbet v. PGE*, 277 Or. 447, 561 P.2d 154 (1977). In that case, the Court confirmed that "the important decisions of public policy entrusted to the Energy Facility Siting Council are not to be treated as a dispute between opposing private interests" and decided that EFSC must provide "procedures that allow for the presentation of views and data on the issues involved." The Supreme Court also held that EFSC should use the contested case process to make "judgments about technological feasibility, economic projections, costs, safety, environmental consequences, and similar probabilities that will call for factual information and agency expertise, and judgments about the relative importance of conflicting goals, about values and priorities, in short, policy judgments." For EFSC to modify its rules now to make it even harder for the public to even request a contested case—let alone actually participate in a contested case—would violate these principles espoused by the Oregon Supreme Court.

More recently, in the case *Blue Mountain Alliance v. Energy Facility Siting Council*, 353 Or. 465, 300 P.3d 1203 (2013), the Oregon Supreme Court interpreted the phrase "may affect" in EFSC's rules (the exact phrase involved here) to mean what it says: "Thus, the question under OAR 345–027–0070(7) is whether the council erred in determining that petitioners raised no significant issue of fact or law that **may have affected** the council's determination under ORS 469.503(1) that the facility, with Amendment # 2, would meet an applicable council-adopted

standard arising under ORS 469.501." In other words, the Court applied the "may affect" language exactly as it is written—not some other alternative language like "reasonably likely to affect" or "in some degree likely to affect."

The legislature never intended to eliminate contested cases on amended site certificates, but ODOE and EFSC have created rules that have been so subjective that no one is being allowed to access the process. The result has been that the public at large is excluded from challenging any decisions unless they are wealthy enough to pay the $50,000 to $100,000 needed to appeal directly to the Oregon Supreme Court when council decisions do not comply with state statutes and rules.

The Oregon Department of Energy failed to move forward any of the recommendations from the public or organizations representing the public interests in past rulemaking proceedings on this issue. The recommendations will not even be considered until at least 2022. Now, barely 5 months later, the Oregon Department of Energy is proposing rules that will require the public to in effect prove their contested case not only could result in a change, but it likely would result in a change -- **and do it in their request to be heard.**

This is an increased burden of proof as it would require the council to evaluate that the information presented is "reasonably likely to affect" the outcome before hearing the facts. All the facts at this time will not be known because that is what a contested case does – gets the facts out. Discovery in front of a hearing officer with the ability to question others involved in the process creates a knowledge base that the council needs in order to make a fair and informed decision. This rule change denies that process.

Before implementing any additional changes to these rules recommended by ODOE, we recommend the council consider the many comments from the public objecting to the rules as they currently are written and make changes that will allow for the public to actually have access to Contested Case proceedings, not just give that appearance. **This current rule change should not be approved.** The entire Contested Case Amendment rule changes should be reevaluated to make them more accessible, not more difficult, for the public to participate.

Please keep us informed on the status of this rulemaking process. Thank you for your consideration.

Regards,

Jim Kreider, Co-Chair
Stop B2H Coalition
60366 Marvin Road
La Grande, Oregon 97850
jim@stopb2h.org

CLARK Christopher * ODOE

From: Carol Douglass <Carol.Douglass.222628936@p2a.co>
Sent: Friday, July 10, 2020 9:03 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Carol Douglass
821 Columbia St
Hood River, OR 97031

CLARK Christopher * ODOE

From: Sara Grigsby <Sara.Grigsby.218850998@p2a.co>
Sent: Friday, July 10, 2020 9:04 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sara Grigsby
37201 NE Benfield Loop
Corbett, OR 97019

CLARK Christopher * ODOE

From: Robert Kimbro <Robert.Kimbro.221453544@p2a.co>
Sent: Friday, July 10, 2020 9:05 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Robert Kimbro
7625 SW Wilson Ave
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Judith Lienhard <Judith.Lienhard.218828443@p2a.co>
Sent: Friday, July 10, 2020 9:05 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Judith Lienhard
4455 SW 94th Ave
Portland, OR 97225

CLARK Christopher * ODOE

From: Monica Gilman <Monica.Gilman.221502981@p2a.co>
Sent: Friday, July 10, 2020 9:07 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Monica Gilman
25525 S Laura Ln
Estacada, OR 97023

CLARK Christopher * ODOE

From: Jaclyn Easton <Jaclyn.Easton.268778435@p2a.co>
Sent: Friday, July 10, 2020 9:08 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Jaclyn Easton
155 Liberty St NE
Salem, OR 97301

CLARK Christopher * ODOE

From: Thomas Keys <Thomas.Keys.218828317@p2a.co>
Sent: Friday, July 10, 2020 9:12 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Thomas Keys
1103 SE 21st Ct
Gresham, OR 97080

CLARK Christopher * ODOE

From: Joel Kay <Joel.Kay.218871481@p2a.co>
Sent: Friday, July 10, 2020 9:13 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Joel Kay
10707 SE Stanley Ave
Milwaukie, OR 97222

CLARK Christopher * ODOE

From: Sara Simon-Behrnes <Sara.SimonBehrnes.276332403@p2a.co>
Sent: Friday, July 10, 2020 9:13 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sara Simon-Behrnes
7331 NE Sacramento St
Portland, OR 97213

CLARK Christopher * ODOE

From: Linda Browning <Linda.Browning.228140887@p2a.co>
Sent: Friday, July 10, 2020 9:13 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Linda Browning
7855 SW Matheny Dr
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Jay Maxwell <Jay.Maxwell.220213424@p2a.co>
Sent: Friday, July 10, 2020 9:17 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Jay Maxwell
1432 SW College St
Portland, OR 97201

CLARK Christopher * ODOE

From: Bonnie New <Bonnie.New.261663952@p2a.co>
Sent: Friday, July 10, 2020 9:18 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

I'm writing to urge you to reject the proposal to weaken regulations for reviewing large energy facilities. I live in Hood River, part of the Gorge NSA, and am very much affected by decisions that are made regarding large energy facilities in Oregon - including transport of fuels on and along the river, and air, water, and soil pollution from fossil fuel processing and use. the public should have a significant role in reviewing such facilities, and the proposal is designed to thwart that.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Bonnie New
4045 Stonegate Dr
Hood River, OR 97031

CLARK Christopher * ODOE

From: John Eskridge <John.Eskridge.218942563@p2a.co>
Sent: Friday, July 10, 2020 9:21 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Eskridge
18265 SE Vista View Ct
Sandy, OR 97055

CLARK Christopher * ODOE

From: Grant Fujii <Grant.Fujii.218846182@p2a.co>
Sent: Friday, July 10, 2020 9:23 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Grant Fujii
5906 N Depauw St
Portland, OR 97203

CLARK Christopher * ODOE

From: Cory Buckley <Cory.Buckley.218837704@p2a.co>
Sent: Friday, July 10, 2020 9:25 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Cory Buckley
11338 SW 91st Ct
Tigard, OR 97223

CLARK Christopher * ODOE

From: Lynne Coward <Lynne.Coward.249765854@p2a.co>
Sent: Friday, July 10, 2020 9:25 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

My primary concern is that EFSC is a Public agency thwarting the public to be a part of the decision process. This is another step to rubbing out respect and trust in LAW. Trust is basic. It is not about winning or loosing a decision, but about knowing and trusting the rules by which a decision is made. A public agency is the people's only defense against well-financed private interests.

Regards,
Lynne Coward
1427 NE 17th Ave
Portland, OR 97232

CLARK Christopher * ODOE

From: Regna Merritt <Regna.Merritt.328767034@p2a.co>
Sent: Friday, July 10, 2020 9:26 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Regna Merritt
260 NW Pittock Ave
Portland, OR 97210

CLARK Christopher * ODOE

From: Doug Richardson <Doug.Richardson.328767539@p2a.co>
Sent: Friday, July 10, 2020 9:27 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

Transparency to the public is key with regard to long term planning that will impact our lives and our environment and implement use of a variety of energy resources into the future. As a long time resident of this region and a visitor to the Columbia Gorge area I want my energy officials to protect my opportunity to take full advantage of our natural resources...certainly not merely to exploit them at the risk of depriving us unknowingly of information that will preclude us from offering pertinent input to the process. As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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Thank you for considering my comments,

Regards,
Doug Richardson
8122 N Jersey St
Portland, OR 97203

CLARK Christopher * ODOE

From: Sally Reichmuth <Sally.Reichmuth.328767881@p2a.co>
Sent: Friday, July 10, 2020 9:27 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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Thank you for considering my comments,

Regards,
Sally Reichmuth
607 Hazel Ave
Hood River, OR 97031

CLARK Christopher * ODOE

From: Maxine Sheets-Johnstone <Maxine.SheetsJohnstone.218922592@p2a.co>
Sent: Friday, July 10, 2020 9:28 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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Thank you for considering my comments,

Regards,
Maxine Sheets-Johnstone
330 King St
Yachats, OR 97498

CLARK Christopher * ODOE

From: Michael Robinson <Michael.Robinson.228705538@p2a.co>
Sent: Friday, July 10, 2020 9:28 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Michael Robinson
28979 Hurlburt Rd
Corvallis, OR 97333

CLARK Christopher * ODOE

From: Jan Thorpe <Jan.Thorpe.328768691@p2a.co>
Sent: Friday, July 10, 2020 9:29 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Jan Thorpe
PO Box 80443
Portland, OR 97280

CLARK Christopher * ODOE

From: Sarah Cook <Sarah.Cook.220037970@p2a.co>
Sent: Friday, July 10, 2020 9:30 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sarah Cook
316 E 13th St
The Dalles, OR 97058

CLARK Christopher * ODOE

From: Geoff Carr <Geoff.Carr.284554723@p2a.co>
Sent: Friday, July 10, 2020 9:31 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian a member of Friends of the Columbia River Gorge and thus as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in the Oregon Energy Facilities Siting Council maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process

by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Geoff Carr
3435 NE 20th Ave
Portland, OR 97212

CLARK Christopher * ODOE

From: Rick Ray <Rick.Ray.218835607@p2a.co>
Sent: Friday, July 10, 2020 9:35 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

My family lives in the Columbia River Gorge National Scenic Area. As an Oregonian and as a supporter of the Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process

by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rick Ray
30777 NE Hurt Rd
Troutdale, OR 97060

CLARK Christopher * ODOE

From: Michael Fieldnikki <Michael.Fieldnikki.228135793@p2a.co>
Sent: Friday, July 10, 2020 9:35 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Michael Fieldnikki
534 SW 3rd Ave
Portland, OR 97204

CLARK Christopher * ODOE

From: George Cummings <George.Cummings.218828182@p2a.co>
Sent: Friday, July 10, 2020 9:37 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
George Cummings
3816 NE 17th Ave
Portland, OR 97212

CLARK Christopher * ODOE

From: Paige Unangst <Paige.Unangst.228141264@p2a.co>
Sent: Friday, July 10, 2020 9:39 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Paige Unangst
12935 SW Cherry Blossom Ct
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Geoff Laroche <Geoff.Laroche.228268020@p2a.co>
Sent: Friday, July 10, 2020 9:45 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Geoff Laroche
16070 SW Waxwing Way
Beaverton, OR 97007

CLARK Christopher * ODOE

From: Nora Polk <Nora.Polk.218830071@p2a.co>
Sent: Friday, July 10, 2020 9:49 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Nora Polk
6405 SE 62nd Ave
Portland, OR 97206

CLARK Christopher * ODOE

From: Merle Clifton <Merle.Clifton.218831395@p2a.co>
Sent: Friday, July 10, 2020 10:05 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Merle Clifton
4457 NE Campaign St
Portland, OR 97218

CLARK Christopher * ODOE

From: Larry Martin <Larry.Martin.237893693@p2a.co>
Sent: Friday, July 10, 2020 10:08 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Larry Martin
3715 Arrowhead Ave
Hood River, OR 97031

CLARK Christopher * ODOE

From: Marianne Nelson <Marianne.Nelson.218829073@p2a.co>
Sent: Friday, July 10, 2020 10:09 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Marianne Nelson
1644 SE Rex St
Portland, OR 97202

CLARK Christopher * ODOE

From: michael Ryan <michael.Ryan.268690658@p2a.co>
Sent: Friday, July 10, 2020 10:10 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.
I have hiked in the Gorgr for many, and am fearful that the proposed rule changes will negatively impact my Gorge hiking experience.
Thank you for considering my comments,

Regards,
michael Ryan
2891 SW Fairview Blvd
Portland, OR 97205

CLARK Christopher * ODOE

From: Christine Farrington <Christine.Farrington.328787753@p2a.co>
Sent: Friday, July 10, 2020 10:11 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Christine Farrington
1119 SW Myrtle Dr
Portland, OR 97201

CLARK Christopher * ODOE

From: Bill kirkland <Bill.kirkland.233382810@p2a.co>
Sent: Friday, July 10, 2020 10:13 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Bill kirkland
4050 SW Bancroft St
Portland, OR 97221

CLARK Christopher * ODOE

From: Sally Stevens <Sally.Stevens.218828551@p2a.co>
Sent: Friday, July 10, 2020 10:29 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sally Stevens
9935 SE Grant Ct
Portland, OR 97216

CLARK Christopher * ODOE

From: Sherry Hanrahan <Sherry.Hanrahan.328797301@p2a.co>
Sent: Friday, July 10, 2020 10:36 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and American, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because Democracy is important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes. The official rulemaking notice is misleading and therefore fails to advise me and other members of the public how our current rights would be affected.
According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules but the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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Finally
I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sherry Hanrahan
6412 SE 63rd Ave
Portland, OR 97206

CLARK Christopher * ODOE

From: Colleen Wright <Colleen.Wright.218837029@p2a.co>
Sent: Friday, July 10, 2020 10:55 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Colleen Wright
4160 Chapman Way
Lake Oswego, OR 97035

CLARK Christopher * ODOE

From: Kelly OHanley <Kelly.OHanley.218879997@p2a.co>
Sent: Friday, July 10, 2020 10:59 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Kelly OHanley
6134 NE Alameda St
Portland, OR 97213

CLARK Christopher * ODOE

From: Howard Shapiro <Howard.Shapiro.218848568@p2a.co>
Sent: Friday, July 10, 2020 11:03 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

Rule number 1 of Oregon's Land Use Planning Goals requires public input and this proposed amendment interferes with this goal and should not be pursued.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Howard Shapiro
2545 SW Terwilliger Blvd
Portland, OR 97201

CLARK Christopher * ODOE

From: Mark McCormick <Mark.McCormick.221530223@p2a.co>
Sent: Friday, July 10, 2020 11:08 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Mark McCormick
5602 SE Lexington St
Portland, OR 97206

CLARK Christopher * ODOE

From: Steven Bruckner <Steven.Bruckner.221465055@p2a.co>
Sent: Friday, July 10, 2020 11:24 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Steven Bruckner
2448 NW Westover Rd
Portland, OR 97210

CLARK Christopher * ODOE

From: patricia Hutchinson <patricia.Hutchinson.328815328@p2a.co>
Sent: Friday, July 10, 2020 11:32 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
patricia Hutchinson
4241 NE Laurelhurst Pl
Portland, OR 97213

CLARK Christopher * ODOE

From: Patricia Rau <Patricia.Rau.284535706@p2a.co>
Sent: Friday, July 10, 2020 11:47 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Patricia Rau
3169 Royce Way
Lake Oswego, OR 97034

CLARK Christopher * ODOE

From: Antoinette Peterson <Antoinette.Peterson.220134369@p2a.co>
Sent: Friday, July 10, 2020 11:51 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Antoinette Peterson
7118 SE Steele St
Portland, OR 97206

CLARK Christopher * ODOE

From: John Hall <John.Hall.220200473@p2a.co>
Sent: Friday, July 10, 2020 12:06 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Hall
2141 NW Walmer Dr
Portland, OR 97229

CLARK Christopher * ODOE

From: Dave Shelman <Dave.Shelman.220128195@p2a.co>
Sent: Friday, July 10, 2020 12:12 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Dave Shelman
36141 SE Hurlburt Rd
Corbett, OR 97019

CLARK Christopher * ODOE

From: Carol Clark <Carol.Clark.218831197@p2a.co>
Sent: Friday, July 10, 2020 12:19 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

I hike, camp, and bird watch throughout the Gorge and it is important to me that these energy projects are put where they will have the least impacts on migratory birds and resources such as wild rivers.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Carol Clark
3221 NE Schuyler St
Portland, OR 97212

CLARK Christopher * ODOE

From: KB Mercer <KB.Mercer.228135838@p2a.co>
Sent: Friday, July 10, 2020 12:21 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
KB Mercer
10811 SE Schiller St
Portland, OR 97266

CLARK Christopher * ODOE

From: Galil Accuardi <Galil.Accuardi.249592649@p2a.co>
Sent: Friday, July 10, 2020 12:22 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Galil Accuardi
27698 E Welches Rd
Mount Hood Village, OR 97067

CLARK Christopher * ODOE

From: Galil Accuardi <Galil.Accuardi.249592649@p2a.co>
Sent: Friday, July 10, 2020 12:24 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Galil Accuardi
27698 E Welches Rd
Mount Hood Village, OR 97067

CLARK Christopher * ODOE

From: Barbara Coleman <Barbara.Coleman.261541551@p2a.co>
Sent: Friday, July 10, 2020 12:33 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

Do not weaken the rules governing the review of large energy projects in Oregon. The public has a right to know about and comment on such projects.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Barbara Coleman
2226 NE Hancock St
Portland, OR 97212

CLARK Christopher * ODOE

From: Michael Wolf <Michael.Wolf.220220219@p2a.co>
Sent: Friday, July 10, 2020 12:34 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Michael Wolf
3126 NE 7th Ave
Portland, OR 97212

CLARK Christopher * ODOE

From: Sandra Joos <Sandra.Joos.219793379@p2a.co>
Sent: Friday, July 10, 2020 12:48 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sandra Joos
4259 SW Patrick Pl
Portland, OR 97239

CLARK Christopher * ODOE

From: Barbara Traver <Barbara.Traver.228934183@p2a.co>
Sent: Friday, July 10, 2020 12:54 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Those who live in and who recreate in the Gorge should have a strong voice in where projects are sited to limit impacts on wildlife, community health, climate, and the beauty of the region (which is a national treasure).

Thank you for considering my comments,

Regards,
Barbara Traver
3740 SE Washington St
Portland, OR 97214

CLARK Christopher * ODOE

From: Paula Wood <Paula.Wood.219504360@p2a.co>
Sent: Friday, July 10, 2020 12:55 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Paula Wood
23831 NE Treehill Dr
Wood Village, OR 97060

CLARK Christopher * ODOE

From: carole beauclerk <carole.beauclerk.218896998@p2a.co>
Sent: Friday, July 10, 2020 12:58 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
carole beauclerk
1500 SW Park Ave
Portland, OR 97201

CLARK Christopher * ODOE

From: David May <David.May.328840591@p2a.co>
Sent: Friday, July 10, 2020 1:04 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

Beyond what is below, delay for full public participation will not stop projects that on balance are beneficial.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
David May
1803 SW Hawthorne Terrace
Portland, OR 97201

CLARK Christopher * ODOE

From: James Marquard <James.Marquard.221449071@p2a.co>
Sent: Friday, July 10, 2020 1:07 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
James Marquard
9329 NW Old Skyline Blvd
Portland, OR 97231

CLARK Christopher * ODOE

From: Roland Begin <Roland.Begin.218900109@p2a.co>
Sent: Friday, July 10, 2020 1:10 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Roland Begin
2722 SW Huber St
Portland, OR 97219

CLARK Christopher * ODOE

From: Stephen Castles <Stephen.Castles.309233631@p2a.co>
Sent: Friday, July 10, 2020 1:19 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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Because large energy facilities are likely to become stranded assets in the future, there is a public interest in ensuring that the companies proposing the facility have the resources in reserve to maintain and, ultimately, to decommission

the facility.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Stephen Castles
2011 Lonely Ln
Mosier, OR 97040

CLARK Christopher * ODOE

From: Raymond Lewis <Raymond.Lewis.328844335@p2a.co>
Sent: Friday, July 10, 2020 1:20 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Raymond Lewis
2415 NE 25th Ave
Portland, OR 97212

CLARK Christopher * ODOE

From: Craig Heverly <Craig.Heverly.218834932@p2a.co>
Sent: Friday, July 10, 2020 1:24 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Craig Heverly
3712 SE 9th Ave
Portland, OR 97202

CLARK Christopher * ODOE

From: Dan Jaffee <Dan.Jaffee.218834338@p2a.co>
Sent: Friday, July 10, 2020 1:28 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Dan Jaffee
4723 NE 14th Ave
Portland, OR 97211

CLARK Christopher * ODOE

From: Anthony Skowlund <Anthony.Skowlund.228134884@p2a.co>
Sent: Friday, July 10, 2020 1:42 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Anthony Skowlund
18 Aquinas St
Lake Oswego, OR 97035

CLARK Christopher * ODOE

From: Ben Asher <Ben.Asher.219298856@p2a.co>
Sent: Friday, July 10, 2020 2:19 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Ben Asher
900 NE 81st Ave
Portland, OR 97213

CLARK Christopher * ODOE

From: Stephen Bachhuber <Stephen.Bachhuber.218831061@p2a.co>
Sent: Friday, July 10, 2020 2:48 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

In addition I consider the proposed EFSC rule change proposal to be an example of bureaucratic unresponsiveness. The courts have already addressed the issue and found similar proposals to be unacceptable. Why are we here again? This rule change will end up in court if it progresses. The only winners there will be the lawyers and litigation will cost the taxpayer dearly. Abandon this proposal.

Thank you for considering my comments,

Regards,
Stephen Bachhuber
3428 SE 9th Ave
Portland, OR 97202

CLARK Christopher * ODOE

From: Marguery Zucker <Marguery.Zucker.221660968@p2a.co>
Sent: Friday, July 10, 2020 3:07 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Marguery Zucker
1966 Orchard St
Eugene, OR 97403

CLARK Christopher * ODOE

From: Leigh Schwarz <Leigh.Schwarz.228185392@p2a.co>
Sent: Friday, July 10, 2020 3:07 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Leigh Schwarz
5858 S Riveridge Ln
Portland, OR 97239

CLARK Christopher * ODOE

From: Janet Weil <Janet.Weil.325039503@p2a.co>
Sent: Friday, July 10, 2020 3:08 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I want to know what is going on in this beautiful but somewhat fragile area. I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin.

I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

The official rulemaking notice fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand.

Nor do I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process.
In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules.

Thank you for considering my comments,

Regards,

Janet Weil
8320 SW Apple Way
Portland, OR 97225

CLARK Christopher * ODOE

From: Ruth Flemming <Ruth.Flemming.218831007@p2a.co>
Sent: Friday, July 10, 2020 3:17 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments, I spend a lot of time outdoors in Oregon. I don't want to see the environment or wildlife threatened. Some of these changes could be permanent. Climate change is real and the more we have, the more forest fires we will have. We can't afford to lose our forests or wildlife or houses or lives by forest fire. Water needs to be clean. Many towns and cities use local water ways to source their water supply.

Regards,
Ruth Flemming
10320 NE 20th Cir
Vancouver, WA 98664

CLARK Christopher * ODOE

From: Joan Stevens <Joan.Stevens.328876439@p2a.co>
Sent: Friday, July 10, 2020 3:30 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Joan Stevens
2545 SW Terwilliger Blvd
Portland, OR 97201

CLARK Christopher * ODOE

From: Evelyn Bishop <Evelyn.Bishop.228139997@p2a.co>
Sent: Friday, July 10, 2020 3:36 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

I enjoy the Deschutes and the area. Please don't detract from This wild and scenic river. As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process

by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Evelyn Bishop
13932 NE Beech St
Portland, OR 97230

CLARK Christopher * ODOE

From: Helen Jaskoski <Helen.Jaskoski.221463741@p2a.co>
Sent: Friday, July 10, 2020 3:56 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Helen Jaskoski
PO Box 66074
Portland, OR 97290

CLARK Christopher * ODOE

From: Mauria McClay <Mauria.McClay.218952120@p2a.co>
Sent: Friday, July 10, 2020 4:00 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Mauria McClay
8125 NE Wygant St
Portland, OR 97218

CLARK Christopher * ODOE

From: Heather Marsh <Heather.Marsh.273603423@p2a.co>
Sent: Friday, July 10, 2020 4:17 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Heather Marsh
44 Eagle Crest Dr
Lake Oswego, OR 97035

CLARK Christopher * ODOE

From: Heidi Welte <Heidi.Welte.219295778@p2a.co>
Sent: Friday, July 10, 2020 4:20 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Heidi Welte
18880 SW Hart Rd
Beaverton, OR 97007

CLARK Christopher * ODOE

From: Dan Blair <Dan.Blair.232047507@p2a.co>
Sent: Friday, July 10, 2020 4:22 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As Oregonians and supporters of the Columbia River Gorge National Scenic Area, my wife and I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. The values inherent in the Gorge National Scenic Area designation are important to us. Issues such as the health of humans and wildlife, scenic views, and the very real threats presented by climate change, are priorities for us. Thus we are strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." In a nutshell, this proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

Our first concern with this rulemaking is that the official rulemaking notice is very misleading. It fails to advise us and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and obfuscates what is actually under consideration. That is not a "clarification" -- it is an outright modification! We object.

Then consider this: the contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

BUT -- if the proposed rule change goes through, new, unfair burdens would be imposed on the public. Under the proposed rule, concerned members of the public would be required to demonstrate, at the time they request a contested case, that the issues they raise are "reasonably likely to affect" the Council's review. Think about that! This places an unfair and inappropriate burden on everyone involved, because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. It should be apparent to all reasonable people that this would turn the established decision-making process on its head, squelching public participation and decreasing transparency. Again, we object.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would bar the door on such public participation opportunities, by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be considered fair or appropriate.

Nor would we support changing the "may affect" language in the rules to some other, new replacement verbiage. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. You know that old adage "if it ain't broke, don't fix it"? This is a classic example. The

“may affect” language should be retained.

In conclusion, my wife and I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking. There are other more worthy issues requiring the Council's focus, its valuable time and resources.

We trust you will give our comments your most serious and thoughtful consideration.

Regards,
Dan Blair
PO Box 330
Joseph, OR 97846

CLARK Christopher * ODOE

From: Don Jacobson <Don.Jacobson.218828704@p2a.co>
Sent: Friday, July 10, 2020 4:31 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Don Jacobson
2545 SW Terwilliger Blvd
Portland, OR 97201

CLARK Christopher * ODOE

From: Blaine Ackley <Blaine.Ackley.219172224@p2a.co>
Sent: Friday, July 10, 2020 4:32 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Blaine Ackley
655 NE 67th Ave
Hillsboro, OR 97124

CLARK Christopher * ODOE

From: Alice Shapiro <Alice.Shapiro.221486115@p2a.co>
Sent: Friday, July 10, 2020 4:38 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

The Columbia Gorge is a treasure and must be protected from damaging energy projects. Oregon law demands that public have input.
Thank you for considering my comments,

Regards,
Alice Shapiro
2545 SW Terwilliger Blvd
Portland, OR 97201

CLARK Christopher * ODOE

From: Diane Dulken <Diane.Dulken.218845543@p2a.co>
Sent: Friday, July 10, 2020 5:01 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Diane Dulken
1844 SE Cesar Estrada Chavez Blvd
Portland, OR 97214

CLARK Christopher * ODOE

From: Cheri Ceridwen <Cheri.Ceridwen.221979802@p2a.co>
Sent: Friday, July 10, 2020 5:34 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

I love hiking in the Columbia River Gorge, and supporting local businesses when I do so. I need to know any energy projects won't deteriorate the beautiful habitat and resources in the Gorge or nearby communities.

Thank you for considering my comments.

Regards,
Cheri Ceridwen
2020 NW Northrup St
Portland, OR 97209

CLARK Christopher * ODOE

From: John Koenig <John.Koenig.218830387@p2a.co>
Sent: Friday, July 10, 2020 5:44 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Koenig
3968 Brae Burn Dr
Eugene, OR 97405

CLARK Christopher * ODOE

From: Delores Porch <Delores.Porch.218833663@p2a.co>
Sent: Friday, July 10, 2020 6:06 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Delores Porch
1212 34th Ave SE
Albany, OR 97322

CLARK Christopher * ODOE

From: donald dickson <donald.dickson.268776464@p2a.co>
Sent: Friday, July 10, 2020 6:12 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
donald dickson
10543 SW River Dr
Tigard, OR 97224

CLARK Christopher * ODOE

From: Jan Polychronis <Jan.Polychronis.220161666@p2a.co>
Sent: Friday, July 10, 2020 6:38 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Jan Polychronis
101 W 2nd St
The Dalles, OR 97058

CLARK Christopher * ODOE

From: CONNIE Butler <CONNIE.Butler.220136790@p2a.co>
Sent: Friday, July 10, 2020 6:50 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
CONNIE Butler
6405 N Burrage Ave
Portland, OR 97217

CLARK Christopher * ODOE

From: Diana Richardson <Diana.Richardson.243248881@p2a.co>
Sent: Friday, July 10, 2020 6:54 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Diana Richardson
1905 SW Sunset Blvd
Portland, OR 97239

CLARK Christopher * ODOE

From: Barbara Manildi <Barbara.Manildi.218847802@p2a.co>
Sent: Friday, July 10, 2020 7:06 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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Thank you for considering my comments,

Regards,
Barbara Manildi
3525 Red Cedar Way
Lake Oswego, OR 97035

CLARK Christopher * ODOE

From: Gail Massoll <Gail.Massoll.228317025@p2a.co>
Sent: Friday, July 10, 2020 7:27 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Gail Massoll
922 NW 11th Ave
Portland, OR 97209

CLARK Christopher * ODOE

From: Laurel Turner <Laurel.Turner.220142469@p2a.co>
Sent: Friday, July 10, 2020 7:35 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Laurel Turner
11333 SE Powell Ct
Portland, OR 97266

CLARK Christopher * ODOE

From: Karen Fletcher <Karen.Fletcher.328945289@p2a.co>
Sent: Friday, July 10, 2020 7:58 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Karen Fletcher
5040 SE Henry St
Portland, OR 97206

CLARK Christopher * ODOE

From: Lorna Atherton <Lorna.Atherton.273813574@p2a.co>
Sent: Friday, July 10, 2020 8:43 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Lorna Atherton
473 NE 25th St
Gresham, OR 97030

CLARK Christopher * ODOE

From: Michael Wilson <Michael.Wilson.220725723@p2a.co>
Sent: Friday, July 10, 2020 8:46 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Michael Wilson
1405 SE Taylor St
Portland, OR 97214

CLARK Christopher * ODOE

From: Bill O'Brien <Bill.OBrien.242143824@p2a.co>
Sent: Friday, July 10, 2020 9:25 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Bill O'Brien
12520 SW Gem Ln
Beaverton, OR 97005

CLARK Christopher * ODOE

From: Brian Winter <Brian.Winter.328958672@p2a.co>
Sent: Friday, July 10, 2020 9:37 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Brian Winter
5656
Portland, OR 97219

CLARK Christopher * ODOE

From: David Griffith <David.Griffith.228463014@p2a.co>
Sent: Saturday, July 11, 2020 12:49 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
David Griffith
2700 SE 160th Ave
Portland, OR 97236

CLARK Christopher * ODOE

From: Phillip Norman <Phillip.Norman.328990324@p2a.co>
Sent: Saturday, July 11, 2020 6:02 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Phillip Norman
1764 Bonniebrae Dr
Lake Oswego, OR 97034

CLARK Christopher * ODOE

From: Ted Light <Ted.Light.231074139@p2a.co>
Sent: Saturday, July 11, 2020 6:07 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Ted Light
612 SE 48th Ave
Portland, OR 97215

CLARK Christopher * ODOE

From: stephen couche <stephen.couche.228136495@p2a.co>
Sent: Saturday, July 11, 2020 7:08 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
stephen couche
4718 SE 31st Ave
Portland, OR 97202

CLARK Christopher * ODOE

From: David Michalek <David.Michalek.218942392@p2a.co>
Sent: Saturday, July 11, 2020 7:53 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
David Michalek
25 Eugene St
Hood River, OR 97031

CLARK Christopher * ODOE

From: Deb Lawless <Deb.Lawless.249779138@p2a.co>
Sent: Saturday, July 11, 2020 8:35 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Deb Lawless
3035 NE 62nd Ave
Portland, OR 97213

CLARK Christopher * ODOE

From: Andrea Partenheimer <Andrea.Partenheimer.278508613@p2a.co>
Sent: Saturday, July 11, 2020 8:39 AM
To: EFSC Rulemaking * ODOE
Subject: [Fortimail Spam Detected] Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Andrea Partenheimer
1915 NE 70th Ave
Portland, OR 97213

CLARK Christopher * ODOE

From: Carol Randell <Carol.Randell.218864650@p2a.co>
Sent: Saturday, July 11, 2020 8:51 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Carol Randell
8320 SW Maverick Terrace
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Rhett Lawrence <Rhett.Lawrence.220137168@p2a.co>
Sent: Saturday, July 11, 2020 9:54 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rhett Lawrence
6445 N Commercial Ave
Portland, OR 97217

CLARK Christopher * ODOE

From: Connie Price <Connie.Price.329025667@p2a.co>
Sent: Saturday, July 11, 2020 9:58 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Connie Price
16919 NW Stoller Dr
Portland, OR 97229

CLARK Christopher * ODOE

From: Jan Kelley <Jan.Kelley.329026927@p2a.co>
Sent: Saturday, July 11, 2020 10:03 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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Thank you for considering my comments,

Regards,
Jan Kelley
2825 SW Upper Dr
Portland, OR 97201

CLARK Christopher * ODOE

From: Kyle Haines <Kyle.Haines.220132569@p2a.co>
Sent: Saturday, July 11, 2020 10:53 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Kyle Haines
2685 Swyers Dr
Hood River, OR 97031

CLARK Christopher * ODOE

From: Paul Caggiano <Paul.Caggiano.218855885@p2a.co>
Sent: Saturday, July 11, 2020 11:56 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Paul Caggiano
8578 N Oswego Ave
Portland, OR 97203

CLARK Christopher * ODOE

From: Roger Kofler <Roger.Kofler.221447343@p2a.co>
Sent: Saturday, July 11, 2020 12:39 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

We need to remember that public lands are just that; they belong to all American citizens. To attempt to remove the public from the management process of their own lands doesn't make any sense to me.

Thank you for considering my comments,

Regards,
Roger Kofler
17177 SE Jennings Crest Ln
Milwaukie, OR 97267

CLARK Christopher * ODOE

From: Susan Haywood <Susan.Haywood.329073385@p2a.co>
Sent: Saturday, July 11, 2020 2:32 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments at this important time in history when we are fighting a pandemic and restructuring our policing forces. We the people must have a forum on how to implement policies for a greener planet. Please don't make rules that tie our hands.

Regards,
Susan Haywood
2146 NW Everett St
Portland, OR 97210

CLARK Christopher * ODOE

From: Erica Maranowski <Erica.Maranowski.220149462@p2a.co>
Sent: Saturday, July 11, 2020 2:48 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Erica Maranowski
22 NE 2nd Ave
Portland, OR 97232

CLARK Christopher * ODOE

From: Rob Parker <Rob.Parker.228298153@p2a.co>
Sent: Saturday, July 11, 2020 3:23 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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Thank you for considering my comments,

Regards,
Rob Parker
826 N Blandena St
Portland, OR 97217

CLARK Christopher * ODOE

From: Pamela Allee <Pamela.Allee.329084662@p2a.co>
Sent: Saturday, July 11, 2020 3:48 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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Thank you for considering my comments,

Regards,
Pamela Allee
7425 N Portsmouth Ave
Portland, OR 97203

CLARK Christopher * ODOE

From: Sherry Meier <Sherry.Meier.237825472@p2a.co>
Sent: Saturday, July 11, 2020 3:50 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

I'm an avid user of Oregon's wild places and it's extremely important to me to know that these energy projects won't impact these outstanding and remarkable resources.

Thank you for considering my comments,

Regards,
Sherry Meier
4161 Post Canyon Dr
Hood River, OR 97031

CLARK Christopher * ODOE

From: Leif Schmit <Leif.Schmit.309165925@p2a.co>
Sent: Saturday, July 11, 2020 3:58 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Leif Schmit
10816 NE Skidmore St
Portland, OR 97220

CLARK Christopher * ODOE

From: Leslie Allen <Leslie.Allen.329096489@p2a.co>
Sent: Saturday, July 11, 2020 4:23 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

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valuable time and resources elsewhere.

Thank you for considering my comments,

Leslie Allen

Regards,
Leslie Allen
24407 E Welches Rd
Mount Hood Village, OR 97067

CLARK Christopher * ODOE

From: Marilyn Stinnett <Marilyn.Stinnett.228136783@p2a.co>
Sent: Saturday, July 11, 2020 4:49 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Marilyn Stinnett
1089 W Yapoah Crater Dr
Sisters, OR 97759

CLARK Christopher * ODOE

From: Lloyd Vivola <Lloyd.Vivola.221457199@p2a.co>
Sent: Saturday, July 11, 2020 5:47 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Lloyd Vivola
12120 SE Foster Pl
Portland, OR 97266

CLARK Christopher * ODOE

From: Jan Golick <Jan.Golick.329124144@p2a.co>
Sent: Saturday, July 11, 2020 5:50 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Jan Golick
140 E 35th Ave
Eugene, OR 97405

CLARK Christopher * ODOE

From: Mary Bailey <Mary.Bailey.221460889@p2a.co>
Sent: Saturday, July 11, 2020 6:31 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Mary Bailey
3131 NW Clubhouse Dr
Bend, OR 97701

CLARK Christopher * ODOE

From: Paul Hanrahan <Paul.Hanrahan.309506700@p2a.co>
Sent: Saturday, July 11, 2020 7:14 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Paul Hanrahan
2411 SE Ella Ave
Milwaukie, OR 97267

CLARK Christopher * ODOE

From: Kathleen Boylan <Kathleen.Boylan.329159182@p2a.co>
Sent: Saturday, July 11, 2020 8:03 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Kathleen Boylan
7626 SE Martins St
Portland, OR 97206

CLARK Christopher * ODOE

From: Walt Mintkeski <Walt.Mintkeski.218849981@p2a.co>
Sent: Sunday, July 12, 2020 8:44 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. I am very opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

The official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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The proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

I do not support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I request the Council to support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Walt Mintkeski
6815 SE 31st Ave
Portland, OR 97202

CLARK Christopher * ODOE

From: BENJAMIN WARD <BENJAMIN.WARD.221515455@p2a.co>
Sent: Sunday, July 12, 2020 10:29 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
BENJAMIN WARD
4014 SE Ash St
Portland, OR 97214

CLARK Christopher * ODOE

From: Rebecca Clark <Rebecca.Clark.220552121@p2a.co>
Sent: Sunday, July 12, 2020 12:41 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rebecca Clark
5035 N Depauw St
Portland, OR 97203

CLARK Christopher * ODOE

From: Joana Kirchhoff <Joana.Kirchhoff.297717638@p2a.co>
Sent: Sunday, July 12, 2020 3:29 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Joana Kirchhoff
3414 NE 73rd Ave
Portland, OR 97213

CLARK Christopher * ODOE

From: Katleen Batie <Katleen.Batie.329412261@p2a.co>
Sent: Sunday, July 12, 2020 4:07 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Katleen Batie
20400 NW Quail Hollow Dr
Portland, OR 97229

CLARK Christopher * ODOE

From: Diane Craig <Diane.Craig.228204345@p2a.co>
Sent: Sunday, July 12, 2020 5:07 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Diane Craig
8525 SW Davies Rd
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Mary Hayden <Mary.Hayden.228154378@p2a.co>
Sent: Sunday, July 12, 2020 8:39 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Mary Hayden
18347 S Redland Rd
Oregon City, OR 97045

CLARK Christopher * ODOE

From: Emille Laffite <Emille.Laffite.249804643@p2a.co>
Sent: Sunday, July 12, 2020 8:43 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Emille Laffite
11700 SW Allen Blvd
Beaverton, OR 97008

CLARK Christopher * ODOE

From: Monica Donley <Monica.Donley.329486675@p2a.co>
Sent: Sunday, July 12, 2020 9:03 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Monica Donley
1610 NE 65th Ave
Portland, OR 97213

CLARK Christopher * ODOE

From: Edward Cleary <Edward.Cleary.329519245@p2a.co>
Sent: Monday, July 13, 2020 1:18 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Edward Cleary
19150 SW Murphy Ct
Beaverton, OR 97007

CLARK Christopher * ODOE

From: Fuji Kreider <Fuji.Kreider.262018236@p2a.co>
Sent: Monday, July 13, 2020 8:31 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Governor's Clean Energy plans and recetn climate policy, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in our beautiful state. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules.

While we must save the planet, we should not destroy valuable wildlife and other natural resources in the process. These must remain in balance and the public transparency and participation is essential to maintaining this balance! The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Fuji Kreider
60366 Marvin Rd
La Grande, OR 97850

CLARK Christopher * ODOE

From: James Stratton <James.Stratton.249705652@p2a.co>
Sent: Monday, July 13, 2020 10:45 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I am concerned that EFSC's proposed rulemaking is NOT maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Public participation is key to all government land use decisions and you should be making it easier for citizens to engage, not harder.
Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
James Stratton
1925 W 24th Ave
Eugene, OR 97405

CLARK Christopher * ODOE

From: Laura Hanks <Laura.Hanks.220434005@p2a.co>
Sent: Monday, July 13, 2020 1:19 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Laura Hanks
6281 SE Deering Ct
Milwaukie, OR 97222

CLARK Christopher * ODOE

From: John Christensen <John.Christensen.238539415@p2a.co>
Sent: Monday, July 13, 2020 2:11 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

I urge the Siting Council to reject the proposed rule change that would significantly weaken the standard by which citizens can request a "contested case" for large energy projects. As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Christensen
39825 SE Gordon Creek Rd
Corbett, OR 97019

CLARK Christopher * ODOE

From: Rochelle Nedeau <Rochelle.Nedeau.232504996@p2a.co>
Sent: Monday, July 13, 2020 4:30 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rochelle Nedeau
6016 S Idaho St
Portland, OR 97221

CLARK Christopher * ODOE

From: Rick Ray <Rick.Ray.218835607@p2a.co>
Sent: Monday, July 13, 2020 8:11 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As a resident and supporter of the Columbia River Gorge National Scenic Area, and as an Oregonian, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rick Ray
30777 NE Hurt Rd
Troutdale, OR 97060

CLARK Christopher * ODOE

From: Susan Geer <Susan.Geer.262002936@p2a.co>
Sent: Monday, July 13, 2020 8:18 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Susan Geer
906 Penn Ave
La Grande, OR 97850

CLARK Christopher * ODOE

From: David Komlosi <David.Komlosi.262002936@p2a.co>
Sent: Monday, July 13, 2020 8:20 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
David Komlosi
906 Penn Ave
La Grande, OR 97850

CLARK Christopher * ODOE

From: Gretchen Valido <Gretchen.Valido.330083670@p2a.co>
Sent: Monday, July 13, 2020 9:57 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian in Deschutes County and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration. This is a blatantly unfair tactic.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Because my friends and family enjoy recreating on the Deschutes River, we have a vested interest in knowing what energy projects might affect this wild and scenic river. I am not opposed to all energy projects, I just want them to be properly sited in ways that do not diminish our natural heritage or impinge unfairly on private property. Action on Climate Change and preservation of our old growth forests are essential.

Thank you for considering my comments,

Regards,
Gretchen Valido
19681 Ridgewood Dr
Bend, OR 97701

CLARK Christopher * ODOE

From: Gregory Monahan <Gregory.Monahan.261547410@p2a.co>
Sent: Monday, July 13, 2020 10:24 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

I urge you to START thinking about future generations and STOP thinking about corporations. Stop trying to weaken the laws requiring environmental impact statements for energy projects.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Gregory Monahan
7225 SW 13th Ave
Portland, OR 97219

CLARK Christopher * ODOE

From: Todd Weigand <Todd.Weigand.330088152@p2a.co>
Sent: Monday, July 13, 2020 10:25 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Todd Weigand
404 N East St
Joseph, OR 97846

CLARK Christopher * ODOE

From: Billy Oskay <Billy.Oskay.330091743@p2a.co>
Sent: Monday, July 13, 2020 10:52 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Billy Oskay
PO Box 66
Corbett, OR 97019

CLARK Christopher * ODOE

From: casey cunningham <casey.cunningham.249711277@p2a.co>
Sent: Monday, July 13, 2020 11:17 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
casey cunningham
7037 NE 8th Ave
Portland, OR 97211

CLARK Christopher * ODOE

From: Steve Feldman <Steve.Feldman.330110363@p2a.co>
Sent: Tuesday, July 14, 2020 4:14 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Steve Feldman
PO Box 948
La Grande, OR 97850

CLARK Christopher * ODOE

From: Walter Englert <Walter.Englert.330158488@p2a.co>
Sent: Tuesday, July 14, 2020 7:28 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Walter Englert
3525 SE Insley St
Portland, OR 97202

CLARK Christopher * ODOE

From: Kathleen Weight <Kathleen.Weight.330170051@p2a.co>
Sent: Tuesday, July 14, 2020 7:57 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Kathleen Weight
1010 W 28th Ave
Eugene, OR 97405

CLARK Christopher * ODOE

From: John Milbert <John.Milbert.330199302@p2a.co>
Sent: Tuesday, July 14, 2020 8:52 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Milbert
1812 Jefferson Ave
La Grande, OR 97850

CLARK Christopher * ODOE

From: Leslie Gatton <Leslie.Gatton.330214557@p2a.co>
Sent: Tuesday, July 14, 2020 9:24 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Leslie Gatton
4449 Dancing Ground Rd
Santa Fe, NM 87507

CLARK Christopher * ODOE

From: Debra Higbee-Sudyka <Debra.HigbeeSudyka.330262789@p2a.co>
Sent: Tuesday, July 14, 2020 10:34 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

My family and I often camp near the Columbia Gorge I am concerned with this change in the process for evaluating energy projects. We enjoy bird watching, and the Gorge is an important migratory bird corridor. Given that the world's bird populations are already stressed by the effects of climate change, it's important that citizens are allowed to comment on harmful projects. Thank you for the opportunity to comment.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Debra Higbee-Sudyka
4750 SW Nash Ave
Corvallis, OR 97333

CLARK Christopher * ODOE

From: mary Camp <mary.Camp.330379500@p2a.co>
Sent: Tuesday, July 14, 2020 1:02 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
mary Camp
2100 Thompson Creek Rd
Selma, OR 97538

CLARK Christopher * ODOE

From: Denis White <Denis.White.330402189@p2a.co>
Sent: Tuesday, July 14, 2020 1:49 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Denis White
PO Box 835
Corvallis, OR 97339

CLARK Christopher * ODOE

From: John Nettleton <John.Nettleton.220135719@p2a.co>
Sent: Tuesday, July 14, 2020 2:21 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
John Nettleton
4311 SE 37th Ave
Portland, OR 97202

CLARK Christopher * ODOE

From: Veronica Poklemba <Veronica.Poklemba.330433365@p2a.co>
Sent: Tuesday, July 14, 2020 2:55 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Veronica Poklemba
4417 SE Crystal Springs Blvd
Portland, OR 97206

CLARK Christopher * ODOE

From: Cynthia Enlow <Cynthia.Enlow.330460301@p2a.co>
Sent: Tuesday, July 14, 2020 3:59 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Cynthia Enlow
1460 NW Ashley Dr
Albany, OR 97321

CLARK Christopher * ODOE

From: Kirsten Johnson <Kirsten.Johnson.330501035@p2a.co>
Sent: Tuesday, July 14, 2020 5:47 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

Hello. I am concerned about democratic processes, and the ability for the public to meaningfully interact with huge projects that will affect the health of land and people for future generations. We should be encouraging fair, open, and transparent processes; not trending towards making BIG decisions behind closed doors. I know it means more work, more kinks, slower timelines... but it is THE RIGHT THING TO DO.

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is

fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Kirsten Johnson
401 Aquarius Way
La Grande, OR 97850

CLARK Christopher * ODOE

From: Rebecca Picton <Rebecca.Picton.330570174@p2a.co>
Sent: Tuesday, July 14, 2020 10:32 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Rebecca Picton
1780 NW 17th St
Corvallis, OR 97330

CLARK Christopher * ODOE

From: Mike Brinkley <Mike.Brinkley.330629133@p2a.co>
Sent: Wednesday, July 15, 2020 7:21 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Mike Brinkley
2582 W 28th Ave
Eugene, OR 97405

CLARK Christopher * ODOE

From: Anne March <Anne.March.330633624@p2a.co>
Sent: Wednesday, July 15, 2020 7:35 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. I camp and walk a great deal on public lands in Oregon, and I feel that our open, un-degraded lands are our greatest state treasure. Moving forward, wild and scenic rivers and viewscapes will only become greater assets to our state. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

My first concern with this rulemaking is that the official rulemaking notice is very misleading and therefore fails to advise me and other members of the public how our current rights would be affected. According to the official notice, this rulemaking is merely intended to make a "clarification" to the existing rules. However, the actual proposed rule language would instead delete the current threshold standard for determining whether there should be contested cases and would replace it with a substantially different standard. By framing this substantial change as a simple "clarification," the notice misleads the public and buries what is actually under consideration.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the “may affect” language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Anne March
206 Main Ave
La Grande, OR 97850

CLARK Christopher * ODOE

From: Ann Brown <Ann.Brown.330641364@p2a.co>
Sent: Wednesday, July 15, 2020 7:58 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

The burden of proof should fall on those who seek to profit from a project, not those who will be harmed. We will be living with these projects for a long time, so full access to all the evidence about need and also consequences of these projects must heard.
In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

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In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Ann Brown
53313 Highway 203
Union, OR 97883

CLARK Christopher * ODOE

From: Sue Craig <Sue.Craig.330703220@p2a.co>
Sent: Wednesday, July 15, 2020 10:49 AM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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The contested case process is an immensely important tool in the Council's rules for examining and ultimately getting to the truth of whether a proposed project will comply with the law, and for allowing the public to meaningfully participate in that review. Under Council rules that have been in place for decades, the public has the right to request a contested case, and if such a request raises issues that "may affect" the Council's ultimate determination of whether the energy project complies with the law, then a contested case will be held to resolve those issues.

In contrast, if the proposed rule change goes through, it would impose new, unfair burdens on the public. Under the proposed rule, concerned members of the public would be required to demonstrate—at the time they request a contested case—that the issues they raise are "reasonably likely to affect" the Council's review. This new burden would be unfair and inappropriate because it would require the Council to prematurely evaluate the ultimate merits of the issues, based on limited or no evidence, before a contested case is held to adjudicate those issues. This would turn the established decision-making process on its head, squelching public participation and decreasing transparency.

In fact, the proposed new "reasonably likely to affect" standard for justifying a contested case could in many situations be impossible to meet at such an early stage in the process. For example, the public may need a contested case in order to obtain critical evidence that lies only in the hands of energy developers, or may need to hire expert witnesses to submit sworn testimony, subject to cross-examination, in a contested case. The proposed rule change would forever shut the door on such public participation opportunities by penalizing the public for not yet having that evidence in hand. Such a rule change could hardly be deemed fair or appropriate.

Nor would I support changing the "may affect" language in the rules to some other new language. The "may affect" language has been in the Council's rules for twenty years, and it establishes a level playing field for the public to participate in the Council's review process. There is no need to change this long-standing language, which is fundamental to the Council's rules. The old adage applies here: "if it ain't broke, don't fix it." The "may affect" language should be retained.

In conclusion, I ask the Council to please support public participation and transparency in the decision-making process by retaining the "may affect" language in the rules. The Council should terminate this rulemaking so that it may focus its

valuable time and resources elsewhere.

Thank you for considering my comments,

Regards,
Sue Craig
27233 Huey Ln
Eugene, OR 97402

CLARK Christopher * ODOE

From: Jules Moritz <Jules.Moritz.330821869@p2a.co>
Sent: Wednesday, July 15, 2020 1:36 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

Members of the Energy Facility Siting Council,

As an Oregonian and as a supporter of the Columbia River Gorge National Scenic Area, I have an interest in EFSC maintaining a fair and open process for evaluating proposed site certificate amendments for energy facilities in the Columbia River Basin. Because these values are important to me, I am strongly opposed to the so-called "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments." This proposal severely undermines transparency and public participation in the Council's review processes, and should be immediately terminated.

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Thank you for considering my comments,

Regards,
Jules Moritz
8285 NW Mitchell Dr
Corvallis, OR 97330

CLARK Christopher * ODOE

From: Lois Barry <Lois.Barry.330836638@p2a.co>
Sent: Wednesday, July 15, 2020 2:20 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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Thank you for considering my comments,

Regards,
Lois Barry
PO Box 566
La Grande, OR 97850

CLARK Christopher * ODOE

From: Damon Motz-Storey <Damon.MotzStorey.330947509@p2a.co>
Sent: Wednesday, July 15, 2020 9:35 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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Thank you for considering my comments,

Regards,
Damon Motz-Storey
5835 NE 33rd Ave
Portland, OR 97211

CLARK Christopher * ODOE

From: Michael Dianich <Michael.Dianich.218847190@p2a.co>
Sent: Wednesday, July 15, 2020 10:30 PM
To: EFSC Rulemaking * ODOE
Subject: Please Terminate "Rulemaking to Clarify Standard for Contested Case Requests on Type A Amendments"

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Michael Dianich
42740 E Larch Mountain Rd
Corbett, OR 97019