

## **ESTERSON Sarah \* ODOE**

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**From:** ESTERSON Sarah \* ODOE  
**Sent:** Wednesday, April 25, 2018 1:45 PM  
**To:** Konkol, Carrie  
**Cc:** CORNETT Todd \* ODOE; WOODS Maxwell \* ODOE; RATCLIFFE Jesse D; 'JESSE.MARSHALL@nexteraenergy.com'; Solsby, Anneke; 'MIKE.PAPPALARDO@nexteraenergy.com'; 'Curtiss, Sarah Stauffer'  
**Subject:** Wheatridge Wind Energy Facility RFA2 ADR - ODOE Evaluation and Response  
**Attachments:** WRWAMD2 RFA2 ADR Evaluation and Response 2018-4-25.pdf

Carrie,

Please find the attached evaluation and response for the "Type B Review" Amendment Determination Request (ADR) for the Wheatridge Wind Energy Facility, Request for Amendment 2 of the Site Certificate, received on April 9, 2018. As indicated, the Department does not consider the reasons or level of analysis provided in the ADR to warrant a Type B review primarily because the proposed battery storage systems have not been previously evaluated for this facility or historically by Council for any EFSC-facility, and because of the historic level of public interest in EFSC-proceedings for this facility.

Pursuant to OAR 345-027-0057(7), you may refer the Department's determination to the Council for their concurrence, modification, or rejection. Additionally, an ADR may be re-submitted in conjunction with the preliminary request for amendment (pRFA). Submittal of an ADR in conjunction with the pRFA could support the Department's reevaluation of Type B review and the OAR 345-027-0057(8) factors by providing the full information as required in an RFA, in accordance with OAR 345-021-0100, and the certificate holder's evaluation of compliance with Council standards. It is important to note, however, that because the factors may be considered individually or in combination, the information contained in a pRFA would not likely change the Department's response for this facility based on the anticipated level of public interest and level of complexity.

Let us know if there are questions or comments.

Thanks,  
Sarah

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**From:** Konkol, Carrie [<mailto:Carrie.Konkol@tetrattech.com>]  
**Sent:** Monday, April 9, 2018 5:16 PM  
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**Subject:** Wheatridge Wind Energy Facility - RFA2 ADR

Good afternoon,

Attached is the Amendment Determination Request for the Wheatridge Wind Energy Facility Request for Amendment 2. We look forward to your determination of amendment review type.

Thank you,  
Carrie

**Carrie Konkol** | Senior Project Manager  
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# Oregon

Kate Brown, Governor



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April 25, 2018

Jesse Marshall, Project Director  
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Dear Mr. Marshall,

On April 9, 2018, the Oregon Department of Energy (ODOE or the Department) received NextEra Energy Resources, LLC’s (NextEra or certificate holder) Type B review amendment determination request (ADR) for Request for Amendment 2 (RFA 2) of the site certificate, submitted pursuant to OAR 345-027-0057(5). The ADR describes that RFA 2 would: request approval for construction and operation of a differing turbine model option; and, installation and operation of two battery storage systems (“proposed modifications”). The Department may consider, but is not limited to, the factors identified in OAR 345-027-0057(8) when determining whether to process an amendment request under Type B review. The Department’s evaluation of the OAR 345-027-0057(8) factors is presented below.

### *Amendment Review Process*

Energy Facility Siting Council (EFSC or Council) rules describe the process for Type A and Type B review of a request for amendment at OAR 345-027-0051. The table below summarizes key differences in the review phases/steps and timelines between the two processes. Council rules describe both processes in greater detail.

Review Phase/Step	Timeline	
	Type A	Type B
ODOE Issues Determination of Completeness on Preliminary Request for Amendment	Within 60 days	Within 21 days
ODOE Issues Draft Proposed Order	Within 120 days of notice of Determination of Completeness	Within 60 days of notice of Determination of Completeness
Public Hearing	At least 20 days after issuance of Draft proposed order	Not applicable
ODOE Issues Proposed Order	Within 30 days following the Public Hearing	Within 21 days of close of comment period on Draft Proposed Order

Review Phase/Step	Timeline	
	Type A	Type B
Deadline for Contested Case Requests	At least 30 days after issuance of Proposed Order	Not applicable
ODOE Review and Council Decision on Contested Case (CC) Requests	Next regularly scheduled Council meeting following deadline for CC requests	Not applicable
Contested Case Proceeding	At Council's discretion (no specific timeline)	Not applicable
Issuance of Final Order and Amended Site Certificate	Next regularly scheduled Council meeting following deadline for CC requests	Next regularly scheduled Council meeting following issuance of PO

As presented in the above table, the key procedural difference between the Type A and Type B review is that the Type A review includes a public hearing on the draft proposed order and an opportunity for a contested case proceeding. The key timing differences between Type A and Type B review are in the Department's determination of completeness of the preliminary amendment request, and the issuance of the draft proposed order and proposed order; it is important to note that Council rules authorize the Department to adjust the timelines for these specific procedural requirements, if necessary.

*Description of Proposed Modifications*

The certificate holder proposes to utilize a differing turbine model option with a 500.5 foot (ft) total turbine tower height (tower height plus blade length). The existing site certificate authorizes construction and operation of a turbine model with a maximum total tower height of 476 ft. The ADR explains that the proposed differing turbine model would increase blade length, hub height, rotor diameter and total turbine height; however, the increase in total turbine height is the only specification provided. The certificate holder requests flexibility in final turbine model selected, including the previously approved and the proposed turbine model options.

The certificate holder also proposes to install and operate 20 and 30 megawatt (MW) battery storage systems to be located adjacent to the approved but not yet constructed project substations, within previously surveyed areas and site boundary. The certificate holder identifies that the proposed battery storage systems would require amendment of an existing site certificate condition, specifying that the battery storage systems have a neutral finish to blend with surrounding conditions.

*Considerations for Determining Whether to Process an Amendment Request as Type B Review*

OAR 345-027-0057(8) provides a non-exhaustive list of factors the Department may consider in determining whether to process an amendment request under Type B review. In its review of the factors, the Department considers the anticipated regulatory review, potential environmental impacts, and uncertainties in completeness of an amendment request and level of public and agency interest. The procedural history and administrative record for the facility also support the evaluation of anticipated new or differing findings; new or amended conditions; and historic level of interest in facility siting proceedings.

It is the Department and Council's discretion to consider the factors individually or in combination in the evaluation of whether Type B review is warranted.

The listed factors are evaluated as follows:

*(a) The complexity of the proposed change;*

NextEra's ADR requests that the Department consider the proposed modifications to be non-complex. The ADR explains that the proposed modifications would allow use of technological advancements in wind turbine technology and battery storage. The certificate holder suggests that construction and operation of a newer turbine model should not be considered complex because it would not change overall facility capacity (500 MW) and that it could result in reduced impacts compared to those presented in the *2017 Final Order on the ASC* due to fewer total number of turbines; however, the certificate holder does not definitively state or commit to using fewer turbines, and it is unclear if RFA 2 would request a condition amendment to formally reduce the allowable number of turbines at the facility. The certificate holder further suggests that because the battery storage systems would be located adjacent to project substations, within the site boundary, and within areas previously surveyed, installation and operation of the battery storage systems should also not be considered complex. The certificate holder concludes that because the proposed modifications would be located within the previously approved micrositing corridor and site boundary, that there would be no impacts to any new resources.

The Department disagrees that the reasons and level of analysis provided by the certificate holder support a conclusion that the proposed modifications be considered non-complex. As described below, because the proposed battery storage systems are new components not previously evaluated by Council for this facility or historically for any EFSC facility, the anticipated level of public and reviewing agency interest, and based on the uncertainty of potential adverse environmental impacts, the Department considers the proposed modifications to be complex.

*(b) The anticipated level of public interest in the proposed change;*

NextEra's ADR requests that the Department consider the anticipated level of public interest in the proposed modifications to be low because the facility has been approved by Council, a site certificate has been issued, and because the proposed modifications are considered non-complex.

The Department disagrees that the reasons and level of analysis provided by the certificate holder support a conclusion that the anticipated level of public interest in the proposed modifications be considered low. For the proposed differing turbine model option, the Department anticipates a moderate level of public interest in potential new findings, not previously relied upon in the *2017 Final Order on the ASC* or *2017 Final Order on RFA 1*, under the Council's Fish and Wildlife Habitat standard and Public Health and Safety Standards for Wind Energy Facilities. The Department also anticipates a moderate level of public interest in the proposed new battery storage systems because they have not been previously evaluated for this facility or historically by Council for any approved facility. Lastly, the Department considers the level of historic public interest on this facility's prior proceedings in the evaluation of this factor. Because over 40 comments were received during the draft proposed order phase of the application and a contested case proceeding occurred, and 7 comments were received on the recent site certificate transfer request (RFA 1), the Department

anticipates a moderate level of general public interest in EFSC proceedings for this facility.<sup>1</sup>

*(c) The anticipated level of interest by reviewing agencies;*

NextEra's ADR requests that the Department consider the anticipated level of interest by reviewing agencies to be low because reviewing agencies previously evaluated the facility during the application phase and there are no changes in the site boundary. The ADR explains that the certificate holder has initiated coordination with the Department of Defense to address potential turbine height concerns within the amendment request.

The Department disagrees that the reasons and level of analysis provided by the certificate holder support a conclusion that the anticipated level of interest from reviewing agencies in the proposed modifications be considered low. The proposed battery storage systems have not been previously evaluated for this facility nor have they been historically evaluated by Council for any EFSC facility, and the turbine blade length and overall structure height would increase. Therefore, the Department anticipates a level of interest from several reviewing agencies including but not limited to Oregon Department of Fish and Wildlife, Morrow and Gilliam counties, local fire departments, Oregon Department of Aviation, Oregon Department of Environmental Quality, and Oregon Department of Geology and Mineral Industries.

*(d) The likelihood of significant adverse impact;*

NextEra's ADR requests that the Department consider the likelihood of a significant adverse impact to be low because the proposed modifications would be located within the previously approved micro-siting corridor, site boundary and in previously surveyed areas. The certificate holder further suggests that the differing turbine model option may result in fewer overall impacts, from those evaluated in the *2017 Final Order on the ASC*, due to fewer turbines operating onsite. However, as noted elsewhere in this evaluation, the certificate holder does not definitively state or commit to using fewer turbines, and it is unclear if RFA 2 would request a condition amendment to formally reduce the allowable number of turbines at the facility.

The Department disagrees that the reasons and level of analysis provided by the certificate holder support a conclusion that the likelihood of significant adverse impact from the proposed modifications be considered low. The ADR explains that the proposed differing turbine model option would result in a turbine with increased blade length, hub height, rotor diameter and total turbine tower height. While not required, the ADR did not include an impact assessment to support the Department's review of the proposed differing turbine model and potential impacts under the Council's Public Health and Safety Standards for Wind Energy Facilities or Fish and Wildlife Habitat standard, for example. The proposed differing turbine model option could result in differing structural risks and changes in blade safety from ice throw and ice shedding, and differing impacts to avian species. Moreover, because the proposed battery storage systems have not been previously evaluated for this facility nor have they been historically evaluated by Council for any facility, and because an impact assessment was not provided in the ADR, the Department is uncertain if there will be a potential significant adverse impact from the battery storage systems, particularly related to impacts and fire safety risk under the Council's Public Services standard.

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<sup>1</sup> Comments on the record of the draft proposed order and site certificate transfer request were received from both members of the public and reviewing agencies.

*(e) The type and amount of mitigation, if any.*

NextEra's ADR states that because the proposed modifications would be within the previously approved micrositing corridor and site boundary, and would not result in new impacts, substantial changes to existing habitat mitigation and revegetation plans are not expected.

The Department agrees that for the reasons described above, the proposed modifications are not likely to result in new mitigation for temporary and permanent habitat impacts.

*Amendment Type Determination*

After reviewing the ADR and consideration of the OAR 345-027-0057(8) factors, the Department determines that RFA 2 be processed under Type A review. The Department bases its determination of Type A review on the following:

- The proposed modifications are considered complex;
- There is an anticipated level of interest from members of the public and reviewing agencies in the proposed modifications;
- The likelihood of potential significant adverse impacts from the proposed modifications is uncertain, primarily resulting from the components not previously evaluated for the facility or historically by Council (e.g. proposed battery storage systems).

If NextEra disagrees, pursuant to OAR 345-027-0057(7) you may refer the Department's determination to the Council for their concurrence, modification, or rejection. Additionally, an ADR may be re-submitted in conjunction with the preliminary request for amendment (pRFA). Submittal of an ADR in conjunction with the pRFA could support the Department's reevaluation of Type B review and the OAR 345-027-0057(8) factors by providing the full information as required in an RFA, in accordance with OAR 345-021-0100, and the certificate holder's evaluation of compliance with Council standards. It is important to note, however, that because the factors may be considered individually or in combination, the information contained in a pRFA would not likely change the Department's response for this facility based on the anticipated level of public interest and level of complexity.

If there are any questions or comments, please feel free to contact me per the information below.

Sincerely,



Sarah Esterson, Senior Siting Analyst

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