



Oregon

Kate Brown, Governor



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Brian Walsh, Senior Developer
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Sent via email: brian.walsh@avangrid.com; matthew.hutchinson@avangrid.com;
ElaineAlbrich@dwt.com; carrie.konkol@tetrattech.com

Dear Mr. Walsh,

On May 4, 2018, the Oregon Department of Energy (Department) received the preliminary Request for Amendment 5 (pRFA5) and a Type B review amendment determination request (ADR), submitted pursuant to OAR 345-027-0057, for Golden Hills Wind Facility, LLC's existing Golden Hills Wind Project Site Certificate. The ADR describes that pRFA5 requests to amend Condition PRE-DC-01 and to construct and operate a differing turbine model option (increase turbine hub height from 311 to 404 feet, increase blade tip height from 521 to 650 feet, and reduce minimum blade tip clearance from 65 to 46 feet); increase temporary access road width (40 to 100 feet); and increase height of meteorological towers (311 to 404 feet) ("proposed modifications").

The Type A review is the standard or "default" site certificate amendment process. A certificate holder can request Department determination of the Type B review process, but the certificate holder has the burden of justifying the appropriateness of the Type B review process. 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
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 construct and operate a differing turbine model option that would increase turbine hub height from 311 to 404 feet, increase blade tip height from 521 to 650 feet, and reduce minimum blade tip clearance from 65 to 46 feet. The certificate holder also requests approval for modifications to previously approved related and supporting facility dimensions and specifications, respectively, including an increase in temporary access road width from 40 to 100 ft, and an increase in meteorological tower height from 311 to 404 ft. The certificate holder requests flexibility in final turbine model selected, including the previously approved and the proposed turbine model options. While a differing turbine model option is proposed, the certificate holder requests flexibility to construct and operate the previously approved maximum 125 turbines.

The certificate holder requests to amend an existing site certificate condition based on proposed

changes in turbine hub height, blade tip height, and blade tip clearance specifications; and, requests to remove a sub-condition requirement restricting maximum combined turbine metal weight.

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 level of public and agency interest. The procedural history and administrative record for the facility also support the evaluation of anticipated level of public and reviewing agency interest related to potential new or differing findings; new or amended conditions; and historic level of interest in facility siting proceedings.

It is within 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;

Golden Hills Wind Facility, LLC's ADR requests that the Department consider the proposed modifications to be minor. The ADR explains that there are no new resources to consider because the amendment request does not include a change in site boundary or micrositings corridor. The ADR explains that the proposed differing turbine model option would not result in greater visual impacts to scenic resources or noise impacts to noise sensitive receptors than previously evaluated on the record for the facility. The ADR describes that the requested site certificate condition amendment is minor because it modifies references to turbine specifications and removes non-relevant turbine metal weight restrictions.

The Department considers the proposed modifications to be complex for the following reasons. The proposed differing turbine model option represents the largest wind turbine, at a total turbine height of 650-feet, ever considered by the Department and Council. Based on review of pRFA5 submitted with the Type B review ADR, the Department is uncertain of the significance of the visual impact from the change in total turbine height (from 521 to 650-ft) compared to the Council's previous analysis for the Recreation, Scenic Resources, Protected Areas, and Historic, Cultural and Archeological Resources standards. Similarly, the Department is uncertain of the significance of the impact from the change in total turbine height (from 521 to 650-ft) to accepted farm practices and cost of farm practices under the Land Use standard, and to aircraft operators under the Public Health and Safety Standard for Wind Facilities; and, from the lowering of minimum blade tip clearance to members of the public under the Public Health and Safety Standard for Wind Facilities.

Because the proposed differing turbine model option represents wind turbine specifications not previously evaluated by Council for this facility or historically for any EFSC facility, 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;

Golden Hills Wind Facility, LLC's ADR requests that the Department consider the anticipated level of public interest to be low. The ADR includes a summary of comments received during the ASC phase and subsequent proceedings, and suggests that the nature of and minimal level of comments received on RFA3 and RFA4 related to wildlife impacts, turbine setbacks, and health and safety standards be used as a proxy for the anticipated level of public interest in the proposed modifications. The ADR presents an evaluation of the substantive nature of comments received and seems to argue that because Council was able to make affirmative findings after evaluation of comments received, that anticipated level of public interest in the proposed modifications be viewed as minimal.

The Department agrees that the level of public interest in historic proceedings for the Golden Hills Wind Project is an available metric for the evaluation of this factor. However, the Department does not consider the substantive nature of the comments, or Council findings or responses to comments, to establish a basis for anticipating a minimal level of public interest, or in minimizing the importance of a level of public interest.

Because the proposed differing turbine model option represents wind turbine specifications not previously evaluated by Council for this facility or historically for any EFSC facility, and based on the uncertainty of potential adverse environmental impacts, the Department anticipates a moderate level of general public interest in this amendment request.

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

Golden Hills Wind Facility, LLC'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 subsequent EFSC proceedings. The ADR explains that the certificate holder expects the level of reviewing agency interest to be similar to RFA3, where two non-substantive reviewing agency comments were received, and one substantive comment was received from ODFW on wildlife issues. The ADR also describes that the certificate holder initiated consultation with the Oregon Department of Aviation, Department of Geology and Mineral Resources, and the U.S. Department of Navy.

Because pRFA5 was submitted in conjunction with the Type B review ADR, the Department initiated review with specifically identified reviewing agencies (Oregon State Historic Preservation Office, Oregon Department of Aviation, Oregon Department of Fish and Wildlife) and the Special Advisory Group (Sherman County Board of Commissioners). During its review of pRFA5, the Department identified specific issues, questions and impacts for each of these entities to consider and for which to provide responses.

Because the proposed differing turbine model option represents wind turbine specifications not previously evaluated by Council for this facility or historically for any EFSC facility, and based on the uncertainty of potential adverse environmental impacts and specific reviewing agencies identified by the Department where their technical expertise and review was requested, the Department anticipates a moderate level of interest from several reviewing agencies.

(d) The likelihood of significant adverse impact;

Golden Hills Wind Facility, LLC's ADR requests that the Department consider the likelihood of a significant adverse impact to be low because the differing turbine model option may result in fewer overall impacts due to fewer turbines operating onsite. However, the certificate holder specifically requests flexibility to maintain the previously approved maximum number (125) of turbines; therefore, the Department does not agree that the pRFA5 would reduce impacts to land from fewer turbines because the certificate holder is not requesting a reduction in the number of turbines that could be deployed at the facility.

The Department disagrees that the reasons included in the Type B review ADR and analysis included in pRFA5 support a conclusion that the likelihood of significant adverse impacts from the proposed modifications be considered low. As described under the OAR 345-027-0057(8)(a) factor, the proposed differing turbine model option represents the largest wind turbine, at a total turbine height of 650-feet, ever considered by the Department and Council. Based on review of pRFA5 with the Type B review ADR, the Department is uncertain of the significance of the visual impact from the change in total turbine height (from 521 to 650-ft) compared to the Council's previous analysis for the Recreation, Scenic Resources, Protected Areas, and Historic, Cultural and Archeological Resources standards. Similarly, the Department is uncertain of the significance of the impact from the change in total turbine height (from 521 to 650-ft) to accepted farm practices and cost of farm practices under the Land Use standard, to aircraft operators under the Public Health and Safety Standard for Wind Facilities; and, from the lowering of minimum blade tip clearance to members of the public under the Public Health and Safety Standard for Wind Facilities.

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

Golden Hills Wind Facility, LLC's ADR states that the proposed modifications would not increase the type and amount of mitigation established in its Habitat Mitigation Plan and Wildlife Monitoring and Mitigation Plan. The ADR refers to Sections 3 and 4 of pRFA5 to support its conclusions.

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

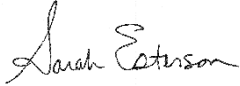
After reviewing the Type B review ADR and consideration of the OAR 345-027-0057(8) factors, the Department determines that pRFA5 be processed under Type A review. The Department bases its determination of Type A review on the following:

- The proposed modifications are considered complex;
- There is an anticipated moderate 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.

If Golden Hills Wind Facility, LLC disagrees, pursuant to OAR 345-027-0057(7) you may refer the Department's determination to the Council for their concurrence, modification, or rejection.

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

Sincerely,

A handwritten signature in cursive script that reads "Sarah Esterson".

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