



# Oregon

Kate Brown, Governor



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August 22, 2018

JJ Jamieson, Senior Director, Operations and Development  
Perennial Power Holdings, Inc.  
24 Waterway Ave, Suite 740  
The Woodlands, TX 77380

*Sent via email: [JJ.Jamieson@perennialpower.net](mailto:JJ.Jamieson@perennialpower.net); [pneil@rtpenv.com](mailto:pneil@rtpenv.com)*

RE: Type A Review Determination on Request for Amendment 1 of the Perennial Wind Chaser Station Site Certificate

Dear Mr. Jamieson:

On August 2, 2018 the Oregon Department of Energy (ODOE or the Department) received Perennial-WindChaser LLC's preliminary Request for Amendment (pRFA) 1 to the Perennial Wind Chaser Station site certificate. The Perennial Wind Chaser Station is an approved, but not yet constructed, natural gas facility comprised of up to four turbines with a maximum capacity of 415 megawatts. In accordance with the existing site certificate, construction must begin three years after the effective date of the site certificate (that is, before September 23, 2018) and construction must be completed by September 23, 2021. The pRFA requests to extend each of these construction deadlines by three years. As we informed you in an email on August 9<sup>th</sup>, because the facility was approved for construction in the site certificate prior to October 24, 2017, OAR 345-027-0085(5) requires that, if the Council grants the requested deadline extension, the new deadlines can be no more than two years from the deadlines currently in effect.

In its pRFA, Perennial-WindChaser LLC included a Type B review amendment determination request (ADR) and requested the Department's consideration of the Type B amendment review path based on the information included in the pRFA.

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. The Department concludes that the certificate holder has not justified the appropriateness of the Type B review process, and has determined that Type A review is the appropriate review process for the reasons discussed 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 maximum allowed timelines for 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.

*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. The listed factors are evaluated as follows:

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

Perennial-WindChaser LLC's Type B Review ADR states that it believes the proposed change is not complex; however, supporting analysis was not provided. As such, the Department is unable to evaluate the considerations in this factor.

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

Perennial-WindChaser LLC's Type B Review ADR suggests that the anticipated level of public interest is expected to be low; however, supporting analysis was not provided. As such, the Department is unable to evaluate the considerations in this factor.

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

Perennial-WindChaser LLC's Type B Review ADR suggests that the anticipated level of interest from agencies is expected to be low; however, supporting analysis was not provided. As such, the Department is unable to evaluate the considerations in this factor.

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

Perennial-WindChaser LLC's Type B Review ADR states that the potential impacts are known and presented in the pRFA, and that there is no significant adverse impact anticipated from the proposed change. However, no supporting analysis was provided for factor (d) as part of the Type B Review ADR, and the Department does not consider simply incorporating the pRFA by reference sufficient to justify the appropriateness of the Type B review process.

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

Perennial-WindChaser LLC's Type B Review ADR does not address this factor. As such, the Department is unable to evaluate the considerations in this factor.

*Amendment Type Determination*

The Department has reviewed the Type B Review ADR and considered the information provided by Perennial-WindChaser LLC to support the Department's analysis under the OAR 345-027-0057(8) factors. The Type B Review ADR does not provide supporting analysis for factors (a) through (d), but instead simply restates these factors in the negative. In addition, the Type B Review ADR does not address factor (e). Therefore, the Department determines that Type A review remains appropriate for this RFA as the default amendment review process.

Perennial has the right to refer the Department's determination to the Energy Facility Siting Council. Pursuant to OAR 345-027-0057(7), at the request of the certificate holder, the Department must refer its determination to the Council for concurrence, modification or rejection. Please inform the Department if Perennial requests to refer the determination to Council, and the Department will do so at an upcoming regularly-scheduled Council meeting.

Oregon Department of Energy

Please feel free to contact me with any questions or comments.

A handwritten signature in cursive script that reads "Katie Clifford".

Katie Clifford, Senior Siting Analyst

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