



Oregon

Kate Brown, Governor



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RE: Type B Review Amendment Determination Request for preliminary Request for Amendment 5 of the Wheatridge Wind Energy Facility Site Certificate

Dear Mr. Pappalardo,

On March 6, 2020, the Oregon Department of Energy (Department) received preliminary Request for Amendment 5 of the Wheatridge Wind Energy Facility Site Certificate (pRFA5 or preliminary amendment request), inclusive of a Type B Amendment Determination Request (Type B ADR) from Wheatridge Wind Energy, LLC (certificate holder). The Department's evaluation of pRFA5 completeness will be issued under separate cover. When determining whether to process an amendment request under Type B review, the Department may consider, but is not limited to, the factors identified in OAR 345-027-0357(8). To support review of these factors, it is recommended that certificate holders' submit the preliminary amendment request. As is referenced in the pRFA5 Type B ADR, the certificate holder requests that the Department consider the information contained in pRFA5 to substantiate the evaluation of the OAR 345-027-0357(8) factors.

The site certificate changes proposed in pRFA5 are entirely administrative, but result in allocation of previously approved facility components into two new site certificates with redefined site boundaries, facility name changes, and one new certificate holder but no change in certificate holder owner, NextEra Energy Resources LLC (NEER). Based on these proposed changes, the Department provides an evaluation of the OAR 345-027-0357(8) factors below.

Description of Proposed Modifications

The certificate holder seeks Energy Facility Siting Council approval to split the previously approved site certificate, which authorized construction and operation of up to 500 megawatts

(MW) of wind energy facility components and up to 150 MW of solar energy facility components, within an approximately 13,000 acre site boundary extending in both Morrow and Umatilla counties, into two site certificates, to be maintained by the existing certificate holder and a new certificate holder, Wheatridge Wind II, LLC, with NEER as certificate holder owner of both new site certificates. One site certificate would include up to 100 MW of previously approved wind energy generation equipment, named Wheatridge Renewable Energy Facility I (WREFI), owned by the current certificate holder; the second site certificate would include the remaining previously approved 400 MW of wind energy generation equipment and 150 MW solar energy generation equipment, named Wheatridge Renewable Energy Facility II (WREFII), owned by a new certificate holder - Wheatridge Wind II, LLC.

The preliminary amendment request describes that shared related or supporting facilities between WREFI and WREFII would include the previously approved collector substation, communications and Supervisory Control and Data Acquisition System, access roads and temporary staging areas. The Operations and Maintenance Building would be shared by both facilities, but would only be a related or supporting facility to WREFII.

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

OAR 345-027-0357(8) provides a non-exhaustive list of factors the Department may consider in determining whether to process an amendment request under Type B review. When evaluating whether Type B review is warranted, the Department may consider these factors individually or in combination along with information provided in the preliminary amendment request, if submitted in tandem.

The listed factors are evaluated as follows:

(a) The complexity of the proposed change;

The Type B Review ADR requests that the Department consider pRFA5 to be non-complex because the proposed changes are administrative and would not result in new areas or resources which have not been previously evaluated by Council.

The Department provides the relevant dictionary definition of “complex” as: not easy to understand or explain: not simple. Even where a proposed change is not technologically complex, there may be complexity in conducting the regulatory applicability review if, for example, a Request for Amendment involves a new technology or a type of change that has not previously been subject to significant analysis by the Department or Council. Based on review of pRFA5, the Department agrees with the certificate holder and considers the proposed changes not to be complex from a regulatory, technology or explanatory position.

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

The Type B Review ADR identifies that there may be public interest in the amendment, but that, based on the level and type of public comments received on the record of historic Council proceedings for the facility, it would largely be in support rather than opposition given that the amendment request would not result in changes to impacts previously evaluated by Council.

When assessing the public interest factor, the Department considers whether previous Council proceedings for the subject facility or other similar facilities included comments raising issues related to the changes proposed. In the July 2017 Final Order on Request for Transfer for this facility, Council received 4 public comments on the proposed change. While the Department does not consider pRFA5 to necessitate a site certificate transfer, the administrative nature of pRFA5 and a transfer request are similar. Based on prior public interest (public comments) on administrative changes for this facility, the Department anticipates at least a moderate level of public interest in pRFA5.

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

The Type B Review ADR identifies that there may be reviewing agency interest in the amendment, but that, based on the level and type of reviewing agency comments received on the record of historic Council proceedings for the facility, it would largely be in support rather than opposition given that the amendment request would not result in changes to impacts previously evaluated by Council.

Based on review of pRFA5, while the Department has coordinated with Umatilla and Morrow counties on the proposed changes, substantive interest from reviewing agencies is not anticipated for this amendment given the administrative scope. Therefore, the Department agrees with the certificate holder and concludes a low level of reviewing agency interest in pRFA5.

(d) The likelihood of significant adverse impact;

The Type B Review ADR requests that the Department consider there to be little likelihood of significant adverse impacts from the proposed changes. Based on the administrative scope and the Department's preliminary review of pRFA5, the proposed changes would primarily result in a non-substantive review of the Council's Organizational Expertise and Retirement and Financial Assurance standards. In other words, the Department will verify that the proposed site certificate split accurately accounts for, in terms of operations, maintenance, compliance, and decommissioning, all facility components, including those that are shared; but, considers this review not to result in substantive changes to recommended conditions or findings. Therefore, the Department agrees with the certificate holder's assertion that there is little likelihood of significant adverse impacts from changes proposed in pRFA5.

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

The Type B Review ADR requests that the Department consider the changes proposed in pRFA5 not to result in new impacts or require new or different mitigation. For the same reasons identified under OAR 345-027-0357(8)(d), the Department agrees with the certificate holder's assertion that the proposed changes in pRFA5 would not necessitate new or different mitigation under any applicable Council standard.

Amendment Type Determination

As presented in *Table 1: Type A Review – Factor Assessment*, the Department considers **Type B review appropriate** for pRFA5 because it is not considered complex; there is a low level of anticipated reviewing agency interest; there is little likelihood of a significant adverse impact; and, there are no changes to required mitigation expected.

| Table 1: Type A Review – Factor Assessment | | |
|---|---------------|---------------|
| OAR 345-027-0357(8) Factors | Type A | Type B |
| (a) The complexity of the proposed change | | X |
| (b) The anticipated level of public interest in the proposed change | X | |
| (c) The anticipated level of interest by reviewing agencies | | X |
| (d) The likelihood of significant adverse impact | | X |
| (e) The type and amount of mitigation, if any | | X |

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

Sincerely,



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