



Oregon

Kate Brown, Governor



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

Dear Mr. Hutchinson,

On April 20, 2020, the Oregon Department of Energy (Department) received preliminary Request for Amendment 5 of the Montague Wind Power Facility Site Certificate (pRFA5 or preliminary amendment request), inclusive of a Type B Amendment Determination Request (Type B ADR) from Montague Wind Power Facility, LLC (certificate holder). The Department's evaluation of pRFA5 completeness was 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 include: redefining site boundary area from 47,056 to 42,946 acres; expanding solar micrositing corridor area from 1,189 to 2,725 acres; constructing and operating new switching station; removing site certificate Condition 89(a); splitting of the existing site certificate into three new site certificates for facilities to be named Montague Wind, Montague Solar and Oregon Trail Solar; and, transferring of site certificates for Montague Solar and Oregon Trail Solar to new limited liability companies (LLC), Montague Solar, LLC and Oregon Trail Solar, LLC, both wholly owned subsidiaries of the current certificate holder owner, Avangrid Renewables, LLC. The preliminary amendment request also identifies related or supporting facilities that would be shared by the split facilities. Based on these proposed changes, the Department provides an evaluation of the OAR 345-027-0357(8) factors below.

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 certificate holder requests that the proposed changes, as presented in pRFA5, not be considered complex because there would be no new impacts or mitigation requiring new findings of compliance under any applicable standard or requirement. In summary, the certificate holder describes that:

- Area proposed for inclusion in the solar micrositing corridor is mostly (95 percent) within previously evaluated wind micrositing corridor and is the same land use and habitat type, Category 6 (dryland wheat), as the previously evaluated solar micrositing corridor
- Proposed new switching station is similar to previously evaluated facility components
- Proposed Condition 89 amendment would not result in new impacts and is supported by updated analysis
- Proposed splitting of site certificate into three new site certificates is administrative in nature

The Department provides the relevant dictionary definition of “complex” as: a whole made up of interrelated parts. The amendment request seeks approval of numerous changes including changes to the site boundary and micrositing corridor, facility layout, condition amendments, and facility split and sharing of facility components. One of the key differences between Type A and B review is the established timeframe for Department review (e.g. 21 versus 60 days for completeness review); the complexity factor provides a metric of time required for the Department’s evaluation. Even where proposed changes may not be expected to result in substantially different findings or analysis previously considered by Council, the number of changes proposed in an amendment request contributes to the Department’s review process and warrants a longer timeframe, as afforded in the Type A review process. Therefore, the Department considers pRFA5 to be complex.

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

The certificate holder requests that the anticipated level of public interest in pRFA5 be considered low, based on the nature and scope of comments predominately related to

potential impacts from wind turbines received during Request for Amendment 4, and not solar facility impacts, as is the focus of RFA5.

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. During Council proceedings in 2015 and 2018 for Request for Amendment 2 and Request for Amendment 4, the Department received comments related to Avangrid's ability to operate its facilities in compliance with requirements (Watson) and compliance with various requirements unspecific to wind or solar facility components (Gilbert). In addition, the Department has received ongoing inquiry from Ms. Joyce Weatherford on changes proposed in pRFA5. Therefore, based on prior and current public interest in the facility and certificate holder compliance with requirements, the Department anticipates at least a moderate level of public interest in pRFA5.

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

The certificate holder requests that the anticipated level of reviewing agency interest in pRFA5 be considered low because, while the site boundary is proposed to change, there is no new site boundary area proposed and very limited new micrositing corridor proposed, resulting in a low likelihood of new or unknown sensitive resources identified or impacted by pRFA5.

The Department is statutorily obligated to consult with reviewing agencies to support review by subject matter experts of the potential issues and impacts resulting from a proposed facility change. The Department anticipates, at a minimum, receipt of review comments on pRFA5 from Gilliam County Planning Department, Oregon Department of Aviation, Oregon Department of Fish and Wildlife, Oregon Department of Geology and Mineral Industries, Oregon Water Resources Department and Oregon Department of Land Conservation and Development. Therefore, reviewing agency interest is pre-established, regardless of the substance of comments or issues identified, at a moderate level.

(d) The likelihood of significant adverse impact;

The certificate holder requests that, based on the information and analysis provided in pRFA5, the Department consider that significant adverse impacts would be unlikely.

In pRFA5, the certificate holder identifies that the proposed changes would result in non-compliance with the 12 acre threshold established under OAR 660-033-0130(38)(H)(i)(C) and therefore requests Council grant an exception to the statewide policy embodied in Goal 3, Agricultural Lands. The Department has not fully evaluated the certificate holder's exception request, but views the exception request as representative of a significant adverse impact regardless of any similarities in previous goal exceptions granted by Council for the facility. Therefore, the Department considers that pRFA5 includes changes which could result in a significant adverse impact.

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

The certificate holder requests that the Department consider the changes proposed in pRFA5 not to result in new impacts or require new or different habitat or cultural resource related mitigation. In contrast, similar to the evaluation under OAR 345-027-0357(8)(d), the Department expects the certificate holder's exception request to include some degree of increased mitigation to support reasons for Council to grant the exception, including more landowner compensation to support the "minimal impacts to agriculture" reason; and, more incentives or programs designed to provide increased economic benefit to Gilliam County to support the "local economic benefit" reason. Therefore, the Department considers pRFA5 to include similar but increased levels of mitigation under, at a minimum, the Council's Land Use standard.

Amendment Type Determination

As presented in *Table 1: Type A Review – Factor Assessment*, the Department considers maintaining **Type A review to be appropriate** for pRFA5 because it is considered complex; there is a moderate level of anticipated public and reviewing agency interest; there is a likelihood of a significant adverse impact; and, changes to mitigation is 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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