

PUBLIC NOTICE

Proposed Order on Application for Site Certificate for Boardman to Hemingway Transmission Line

Date Notice and Proposed Order Issued: July 2, 2020

Deadline to Request Party Status or Limited Party

Status: August 6, 2020, at 5:00 p.m.

Proposal: Application for Site Certificate (ASC) from Idaho Power Company (applicant) for the proposed Boardman to Hemingway Transmission Line (proposed facility). The proposed facility would be a 500-kilovolt (kV) transmission line extending approximately 273 miles in length, spanning five counties in Oregon and one in Idaho. For a detailed description, please see the Oregon Department of Energy's (Department) project website at the link below or ASC Exhibit B.

Proposed Facility Location: The proposed facility would cross five counties in Oregon: Morrow, Umatilla, Union, Baker, and Malheur. Specific locational maps can be found in ASC Exhibit C at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/B2H.aspx> and on the Department's online mapping tool: <https://tinyurl.com/EFSCmap>.

Purpose of Notice: This notice is provided in accordance with OAR 345-015-0230 to inform the public that the Department, staff to the Energy Facility Siting Council (EFSC or Council), issued a Proposed Order on the ASC for the Boardman to Hemingway Transmission Line on July 2, 2020, and to notify individuals or organizations that commented on the record of the Draft Proposed Order (DPO) public hearing of their right to participate in the contested case proceeding, as further detailed in Attachment 1 of this notice.

Proposed Order Recommendations: The Proposed Order includes changes from the DPO in red-line format, in response to comments raised on the record of the DPO, and recommends that EFSC approve the ASC and grant a site certificate, subject to recommended conditions. Revisions to recommended

site certificate conditions and findings of fact, as presented in the Proposed Order, are further detailed in Attachment 1 of this notice.

Procedural History: On September 28, 2018, the Department received a complete ASC from the applicant seeking Council approval to construct and operate the proposed facility. The Department issued a DPO on the ASC on May 22, 2019 and accepted public comments from May 22 through August 22, 2019. The applicant's opportunity to respond to comments on the DPO closed on November 7, 2019 – which represents the close of the record of the DPO public hearing. On June 18, 19, 20, 26 and 27, 2019, the- EFSC appointed Hearing Officer from the Office of Administrative Hearings, Alison Greene-Webster, conducted public hearings on the DPO in the vicinity of the proposed facility within each county. Members of the public had the opportunity to comment verbally on the record of the DPO at the public hearings. EFSC reviewed the DPO and comments received at its December 2019 and January 2020 EFSC meetings.

All comments received on the record of the DPO public hearing, including transcripts from the public hearings and applicant responses to the DPO, are provided on the Department's project website (hyperlink provided in *Additional Information* section below). Comments and issues raised on the record of the DPO, within Council jurisdiction, have been evaluated in the Proposed Order, presented in red-line format, as applicable.

Contested Case Process: Following issuance of the Proposed Order, EFSC must conduct a contested case proceeding on the ASC. Only those individuals or organizations that commented on the record of the DPO public hearing, either in person at the June 2019 public hearings, or in writing between May 22, 2019, and the close of the comment period on August 22, 2019, may request to participate in the contested case as a party or limited party under OAR 345-015-0016.

The requirements for requesting to participate in the contested case are further described in Attachment 1.

To raise an issue in the contested case, the issue must be within the jurisdiction of the Council and the person must have raised the issue on the record of the public hearings on the DPO, either verbally or in writing, with sufficient specificity for the Council, Department, and the applicant to respond to the issue. If an action recommended in the Proposed Order, including any recommended conditions of approval, differs materially from the action recommended in the Draft Proposed Order, the person may raise new issues within the jurisdiction of the Council that are related to such differences.

Deadline to Request Party Status or Limited Party

Status: August 6, 2020, at 5:00 p.m. Requests must be received in writing by the Hearing Officer by the deadline, as specified in Attachment 1.

Contested Case Proceeding: Unless rescheduled by the Hearing Officer, the contested case proceeding will begin with the filing of sworn, written direct testimony on October 9, 2020. The remainder of the contested case schedule will be determined by the Hearing Officer.

EFSC Decision Process: Following the contested case proceeding, the Council will issue a final order either granting or denying issuance of a site certificate for the proposed facility. The Siting Division Public Guide contains information on the EFSC process. To view this information on the Department's website, please use the following link: <http://tinyurl.com/EFSCPublicGuide>

Receipt of this Notice:

Please note that you may be receiving this notice for multiple reasons:

1. You own property within or adjacent to (within 500 feet) the site boundary. You will automatically receive all future EFSC notices for this proposed facility.
2. You have previously signed up via GovDelivery/ClickDimensions to receive email notices related to the Boardman to Hemingway Transmission Line or all EFSC project-related notices. You will automatically receive all future email notices per your request, unless you unsubscribe via ClickDimensions or by contacting ODOE.
3. You commented in person or in writing on the record of the DPO public hearing conducted under OAR 345-015-0220, discussed in this notice.
4. You requested to receive notices by mail and/or electronic delivery during the joint scoping meetings with the Department, the Bureau of Land Management and the U.S. Forest Service in August 2010.
5. You are the owner of noise sensitive property within ½-mile of the site boundary, and you are not receiving the notice for any of the above reasons, you are receiving this notice as a courtesy.

Additional Information: Please contact Kellen Tardaewether, the Department representative, if you have questions or would like to schedule an appointment to review materials at kellen.tardaewether@oregon.gov or 503-373-0214. The public can also receive more information about the proposed facility and updates on the review process by using the following options:

- 1) **Oregon Department of Energy's webpage**
More details on the proposed Boardman to Hemingway Transmission Line Project, including the ASC, DPO and the Proposed Order, are available at no cost online at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/B2H.aspx>
- 2) **Updates by Email/Mail**
Sign-up for email updates on the proposed Boardman to Hemingway Transmission Line or other energy facilities under Council jurisdiction.

The Department's email update system is automated and allows interested members of the public to manage subscriptions to information received about ODOE projects and events. For more information, please visit: <https://tinyurl.com/ODOE-EFSC>.

To receive notices by U.S. Mail, please contact Michiko Mata at 503-378-3895, toll-free in Oregon at 800-221-8035, or email to michiko.mata@oregon.gov and request to be added to the hardcopy notice list.

3) In hardcopy

Hard copies of the ASC, DPO, and Proposed Order are available for public inspection at the following location at no cost. Hard copies will be provided at reasonable cost upon request to the Department.

Oregon Department of Energy
550 Capitol Street NE
Salem, OR 97301
Phone: (503) 373-0214
Email: Kellen.Tardaewether@oregon.gov

Please contact the Department to arrange viewing of hard copies of the ASC, DPO, and PO.

Accessibility information:

The Oregon Department of Energy is committed to accommodating people with disabilities. If you require any special physical or language accommodations, or need information in an alternate format, please contact Michiko Mata at 503-378-3895, toll-free in Oregon at 800-221-8035, or email to michiko.mata@oregon.gov.

ATTACHMENT 1: NOTICE OF CONTESTED CASE PROCEEDING & INFORMATION FOR INDIVIDUALS ELIGIBLE TO PARTICIPATE IN CONTESTED CASE PROCEEDING

Contested Case Proceeding on Proposed Order on Application for Site Certificate (ASC): The Energy Facility Siting Council must conduct a Contested Case proceeding on the Application for Site Certificate (ASC) in accordance with the applicable provisions of ORS chapter 183 and the Council's rules. The contested case proceeding applies to the Oregon Department of Energy's (Department) Proposed Order on an ASC, a document containing Department recommendations to Council on the ability of a proposed facility and applicant to satisfy applicable requirements. A Proposed Order on an ASC also includes the Department's evaluation of issues of law or fact raised on the record of the Draft Proposed Order (DPO) public hearing, where the DPO represents a previous version of the Department's recommendations to Council. Persons that commented on the record of the DPO public hearing(s) are eligible to request party status in a contested case proceeding to contest issues of law or fact the individual raised on the record of the DPO public hearing(s), yet believe have not been sufficiently addressed in the Department's Proposed Order on an ASC.

On July 2, 2020, the Department issued the *Proposed Order on the Application for Site Certificate for the Boardman to Hemingway Transmission Line* (Proposed Order), as required by ORS 469.370(4) and OAR 345-015-0230(2). The Proposed Order recommends that the Council grant the site certificate for the proposed facility subject to compliance with recommended conditions. The Proposed Order is available for download on the Department's website (<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/B2H.aspx>). Hard copies of the ASC, DPO, and Proposed Order are available for public inspection at Department's office at 550 Capitol Street NE in Salem, Oregon. Hard copies will be provided at reasonable cost upon request to the Department. Revisions incorporated into the Proposed Order from the DPO are presented in red-line format, to allow easy identification of changes.

Summary of Changes in Proposed Order to Recommended Site Certificate Conditions: In response to issues raised with sufficient specificity on the record of the DPO public hearings, within Council jurisdiction, the following recommended site certificate conditions were revised in the Proposed Order:

Organizational Expertise Condition 4 (Section IV.B. Organizational Expertise); Structural Standard Condition 1 (Section IV.C. Structural Standard); Soil Protection Condition 4 (Section IV.D. Soil Protection); Land Use Conditions 14, 16 and 17 (Section IV.E. Land Use); Protected Areas Condition 1 (Section IV.F. Protected Areas); Retirement and Financial Assurance Condition 5 (Section IV.G. Retirement and Financial Assurance); Fish and Wildlife Habitat Conditions 1, 3, 15, 16, 17, 18 and 19 (Section IV.H. Fish and Wildlife Habitat); Threatened and Endangered Species Condition 1 (Section IV.I. Threatened and Endangered Species); Scenic Resources Condition 2 (IV.J. Scenic Resources), Historic, Cultural, and Archaeological Resources Conditions 2 and 3 (Section IV.K. Historic, Cultural, and Archaeological Resources; Recreation Condition 1 (Section IV.L. Recreation); Public Services Conditions 1, 2, 5, 6 and 7 (Section IV.M. Public Services); Siting Standards for Transmission Lines Condition 5 (Section IV.P.1. Siting Standards for Transmission Lines); Noise Control Conditions 1, 2, 4 and 5 (Section IV.Q.1. Noise Control Regulations); Fish Passage Condition 1 (Section IV.Q.4. Fish Passage).

Persons Eligible to Request Party Status or Limited Party Status: Only Individuals and organizations that commented in person at the June 18, 19, 20, 26 or 27, 2019, DPO public hearings or commented in writing on the DPO by submitting a written comment between the issuance of the DPO on May 22, 2019, and the close of the public hearings on August 22, 2019, may request to participate as a party or limited party in a contested case proceeding on an application for a site certificate. Party status or limited party status in the contested case proceeding may be requested as provided in ORS 469.370(5) and OAR 345-015-0016.

To raise an issue in a contested case proceeding, the issue must be within the jurisdiction of the Council, and the person must have raised the issue in person or in writing on the record of the public hearings, unless the Department did not follow the requirements of ORS 469.370(2) or (3) or unless the action recommended in the Proposed Order, including any recommended conditions of approval, differs materially from the action recommended in the Draft Proposed Order, in which case the person may raise only new issues within the jurisdiction of the Council that are related to such differences.

If a person did not raise an issue verbally or in writing prior to the close of the record of the public hearings with sufficient specificity to afford the decision maker an opportunity to respond to the issue, the Hearing Officer shall not consider the issue in the contested case proceeding. To have raised an issue with sufficient specificity, the person must have presented facts verbally or in writing prior to the close of the record of the public hearings that support the person's position on the issue.

Contents of a Petition for Party or Limited Party Status: A petition for party or limited party status must comply with OAR 345-015-0016, and must include:

- Names and addresses of the petitioner and of any organization the petitioner represents;
- Name and address of the petitioner's attorney, if any;
- A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
- If the petitioner seeks to protect a personal interest in the outcome of the agency's proceeding, a detailed statement of the petitioner's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;
- If the petitioner seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the petitioner's qualifications to represent such public interest;
- A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified above;
- A short and plain statement of the issue or issues that the person desires to raise in the contested case proceeding; and,
- A reference to the person's comments at the public hearing showing that the person raised the issue or issues at the public hearing.

Submittal Requirements - Petition to Request for Party or Limited Party Status: Persons eligible to request party or limited party status in the contested case proceeding must submit a written petition to the Hearing Officer which must be received no later than **August 6, 2020 at 5:00 p.m.** Petitions may be submitted in writing via U.S. mail, email or fax before the 5:00 p.m. (PDT) deadline to the following address:

Alison Greene-Webster, Senior Administrative Law Judge
Oregon Department of Energy
550 Capitol Street NE, Salem, OR 97301
Fax: 503-373-7806
Email: OED_OAH_Referral@oregon.gov

Additionally, please submit an electronic copy of the petition to the Department's Siting Analyst at:

Email: kellen.tardaewether@oregon.gov

If the Hearing Officer does not receive the petition by **5:00 pm (PDT) on August 6, 2020**, the requesting person(s) will have waived any right to participate in the contested case. The petition must contain all of the information described in this notice.

Date of Prehearing Conference: Pursuant to OAR 345-015-0230(3)(a)(D), this notice must include the date of the prehearing conference. Following the Hearing Officer's Notice of Petitions and Opportunity for Petitioners to Respond (to petitions received), a prehearing conference will be conducted by the Council-appointed Hearing Officer from the Office of Administrative Hearings, Alison Greene-Webster, by telephone at **2:00 p.m. on September 25, 2020**, unless otherwise rescheduled by the Hearing Officer.

Persons requesting party status must:

- Appear at the prehearing conference, through legal counsel or persons authorized to represent them in the contested case hearing;
- Confirm the issues they would like to address in the contested case; and,
- Raise any issues regarding the contested case process, or such issues will be waived as provided in OAR 345-015-0083.

Following the prehearing conference, the Hearing Officer will issue an Order on Requests for Party Status, followed by a Case Management Order to all those granted party status. The Hearing Officer's Order on Requests for Party Status is final unless the requestor submits an appeal to the Council within seven days after the date of service. The Case Management Order will establish the schedule for the contested case proceeding.

Contested Case Proceeding: Unless rescheduled by the Hearing Officer through a prehearing order, the contested case proceeding will begin with the filing of sworn, written direct testimony on October 9, 2020 (date of the contested case hearing under ORS 469.370(4) and OAR 345-015-0230(3)(e)). The remainder of the contested case proceeding schedule will be determined by the Hearing Officer and will likely include submission of written rebuttal testimony and in-person cross-examination before the Hearing Officer.

Default: In accordance with ORS 469.370(6), if no one requests party status, the Proposed Order shall be forwarded to the Council and the contested case hearing shall be concluded. If a person submits a request for party status and fails to appear at the prehearing conference, the Council may issue a final order adverse to that person upon making the determinations required by ORS 469.503.