



# Oregon

Kate Brown, Governor



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September 18, 2020

David Lawlor, Director of Development  
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RE: Type B Review Amendment Determination Request for preliminary Request for Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate

Dear Mr. Lawlor,

Based on the analysis below, the Oregon Department of Energy (Department) concur with Wheatridge Wind II, LLC (certificate holder) that Type B review is justified for Request for Amendment 1 of the Wheatridge Renewable Energy Facility II site certificate.

On September 3, 2020, the Department received preliminary Request for Amendment 1 of the Wheatridge Renewable Energy Facility II Site Certificate (pRFA1 or preliminary amendment request), inclusive of a Type B Review Amendment Determination Request (Type B Review ADR) from Wheatridge Wind II, LLC (certificate holder).<sup>1</sup> The Department's evaluation of pRFA1 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 pRFA1 Type B Review ADR, the certificate holder requests that the Department consider the information contained in pRFA1 to substantiate the evaluation of the OAR 345-027-0357(8) factors.

The site certificate changes proposed in pRFA1 are entirely administrative, but result in allocation of previously approved facility components into an amended and two new site certificates with redefined site boundaries and two new certificate holders 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.

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<sup>1</sup> It is noted that certificate holder filed pRFA1 on August 18, 2020 without 6 attachments. Supplemental attachments to pRFA1 were filed on September 3, 2020, which is the date the Department considers pRFA1 filed.

### *Description of Proposed Modifications*

The certificate holder seeks Energy Facility Siting Council approval to split 550 megawatts (MW) of previously approved wind and solar facility components and site boundary into three facilities, under individual site certificates, resulting in an amended and two new site certificates. The three facilities would include WREFII (200 MW wind facility within 7,850 acre site boundary in Morrow County - under existing certificate holder ownership); Wheatridge Renewable Energy Facility III (WREFIII) (150 MW solar facility within 2,296 acre site boundary in Morrow County - under new certificate holder ownership, Wheatridge Solar Energy Center, LLC); and, Wheatridge Renewable Energy Facility East (WREFE) (200 MW wind facility within 2,956 acre site boundary in Umatilla County - under new certificate holder ownership, Wheatridge Wind East, LLC). The new certificate holders for WREFIII and WREFE are wholly-owned subsidiaries of the existing certificate holder owner, NextEra Energy Resources, LLC. The three facilities would share related or supporting facility components and would have overlapping site boundaries.

The preliminary amendment request describes that shared related or supporting facilities between WREFII and WREFIII 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. WREFE would not share any related or supporting facility components with WREFII or WREFIII.

### *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 pRFA1 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

pRFA1, 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 pRFA1 to necessitate a site certificate transfer, the administrative nature of pRFA1 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 pRFA1.

*(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 pRFA1, 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 pRFA1.

*(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 pRFA1, 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 pRFA1.

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

The Type B Review ADR requests that the Department consider the changes proposed in pRFA1 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 pRFA1 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 pRFA1 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.

<b>Table 1: Type A Review – Factor Assessment</b>		
<b>OAR 345-027-0357(8) Factors</b>	<b>Type A</b>	<b>Type B</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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**cc via e-mail distribution:**

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