

SITING OF ENERGY FACILITIES IN OREGON

EFSC How to Participate in the Public Process

The Roles of ODOE and EFSC

The Energy Facility Siting Council decides whether to approve or deny site certificates. EFSC is an independent body of seven volunteers appointed by the Governor and confirmed by the Senate. Council members cannot work for, be retirees of, or have any financial interest, in any organization operating or interested in establishing an energy facility. This includes companies that own existing or proposed facilities under EFSC's jurisdiction.

EFSC has the authority to approve large-scale energy facilities, which generally include:

- **Wind farms** generating 105 megawatts or more
- **Solar photovoltaic power facilities** covering more than 100 acres of high value farmland, cultivated land, non-cultivated lands in class I-IV (NCSS/USDA), or 320 acres on other land
- **Natural gas, biomass or solar thermal generating plants** generating 25 megawatts or more
- **Geothermal generating plants** generating 38.85 megawatts or more
- **High voltage transmission lines** more than 10 miles long, with a capacity of 230 kilovolts and located in more than one jurisdiction (with some exceptions)
- **Natural gas storage facilities** and some gas pipelines

The Governor and legislature have charged the Oregon Department of Energy with implementing the state's energy goals and policies based on Oregon statutes. The Energy Siting Division serves as staff to EFSC. The Siting team facilitates the process, using established state standards to evaluate applications and make recommendations to EFSC. These standards ensure that the construction, operation, and retirement of each approved facility are consistent with the protection of the public interest and the state's natural resources. These resources include (but are not limited to) protected areas, land use, fish and wildlife habitat, soils and scenic resources.

The siting process can take more than a year. EFSC has ongoing regulatory authority over approved facilities. ORS 469.300(11) offers more information about EFSC's jurisdiction.

Anyone interested in receiving e-mail notices for any or all energy projects and/or general siting council announcements should sign up at ODOE online: <http://tinyurl.com/EFSC-email>.

The Site Certificate Process

Notice of Intent

An applicant submits a Notice of Intent to ODOE, which provides preliminary and general information about the proposed facility. ODOE and other government agencies use the NOI to identify a facility's potential affects, required permits and applicable agency requirements. The NOI provides the first opportunity for the public to comment on a project. Some proposed energy facilities may qualify for an expedited process that does not require an NOI. For more information, visit Oregon.gov/energy/facilities-safety/facilities.

- **Public Information Meeting on the NOI**

The project applicant may choose to host an informational meeting to introduce the project concept and solicit feedback.

Project Order

ODOE prepares a Project Order based on an evaluation of the NOI and comments received from the public, government agencies and tribes. This document informs the applicant of all applicable statutes, rules and local ordinances that apply to the project, and what the applicant must address in the Application for Site Certificate. The Project Order is not a final order and ODOE or EFSC may amend it at any time to account for facility modifications or changes in rules.



Application for a Site Certificate

The application must include a detailed description of the site, the proposed facility and anticipated impacts. ODOE distributes the preliminary application to reviewing agencies. These agencies – such as the Oregon Department of Fish & Wildlife, Oregon Department of Transportation, Department of Environmental Quality, tribes and local governments – advise ODOE on the sufficiency of the information included in the application as it relates to their requirements and applicable permits. ODOE requests additional information from the applicant if needed. ODOE also announces the receipt of the preliminary application on its website and lists locations where the public may review hard copies.

Once ODOE determines that the application includes enough information for evaluation, the preliminary application becomes a complete application. The application is available to the public on the ODOE website and at local depositories.

- **Public Meeting on the Complete Application**

After ODOE determines the application complete, it notifies the public and schedules a public meeting. At the meeting, ODOE explains the application review process and the applicant provides details about the proposed facility.

Draft Proposed Order

ODOE prepares the Draft Proposed Order after evaluating the application against applicable Council standards. The Draft Proposed Order includes ODOE's conclusions on whether the proposed facility complies with the standards and its recommended site certificate conditions for constructing, operating and retiring a facility.

- **Public Hearing on the Draft Proposed Order**

ODOE issues a public hearing notice. Anyone who wants to participate beyond this point in the process must:

1. Raise an issue, either in person at the public hearing, or by submitting a written comment to ODOE before the deadline given in the notice.
2. Describe the issue with sufficient specificity for EFSC, ODOE and the applicant to respond, and include facts supporting the person's position on the issue.

People who comment on the Draft Proposed Order during this time are eligible to be considered for party status in the contested case proceeding.

Proposed Order

EFSC reviews the Draft Proposed Order during a public meeting but does not take additional comment from the applicant, the public or reviewing agencies. Based on comments received, and EFSC's direction, ODOE issues a Proposed Order and sends a Notice of Contested Case to those who appeared in person at the public hearing or who submitted a written comment by the comment deadline.

- **Contested Case Proceeding**

EFSC appoints an independent hearing officer to conduct the proceeding. Anyone other than the applicant and ODOE who wants to participate must request party status from the hearing officer. The hearing officer will grant party status only to people who commented in person at the public hearing or who submitted a timely and specific comment. The hearing officer issues a Proposed Contested Case Order after closing the proceeding.

Final Order

EFSC evaluates the Proposed Contested Case Order and decides whether to issue a Final Order. At least four members of the Council must vote to approve a Site Certificate. Once EFSC issues the Final Order, those who participated in the contested case have 30 days to apply for a rehearing with EFSC and within 60 days, petition the Oregon Supreme Court.

